

NANCY Y. OTANI

IBLA 81-322

Decided September 17, 1981

Appeal from decision of New Mexico State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application. NM 42761.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

Failure to complete properly information required on a simultaneous oil and gas lease application renders the application defective and requires rejection of the application based upon the mandatory requirements in 43 CFR 3112.2-1. These requirements are strictly applied and, therefore, an affirmative answer to the question on the application concerning the applicant's interest in any other application with respect to the same parcel, even though resulting from inadvertent error, renders the application defective.

APPEARANCES: Nancy Y. Otani, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Nancy Y. Otani has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated January 6, 1981, rejecting appellant's simultaneous oil and gas lease application, NM 42761, because she indicated on her application that she had an interest in another application filed for the same parcel.

Appellant's application was drawn with first priority for parcel NM 752 at a simultaneous oil and gas lease drawing held on October 21, 1980. Appellant checked the box marked "Yes" in response to the following question on her application: "(f) Does the undersigned have any interest in any other application filed for the same parcel as this application?"

In her statement of reasons for appeal, appellant contends that this was an "inadvertent error" and that she does "not have any interest in any other application filed for the same parcel NM 752 as this application." In support of this contention she submitted with her appeal 103 applications, or copies of applications, of the 104 applications 1/ she filed in the New Mexico October 1980 simultaneous oil and gas lease drawing. Only the application in question was filed for parcel NM 752. Appellant states that the missing application was returned prior to the drawing for failure to include a parcel number. 2/ See 43 CFR 3112.5(a)(5). 3/

It is well established that BLM must reject all simultaneous oil and gas lease offers filed, by the same person with respect to a particular parcel, because such multiple filings give the applicant an unfair advantage over the other applicants by increasing his chances of being awarded the lease. See, e.g., Mae R. Colvin, 42 IBLA 266 (1979); Rupert Hickman, 36 IBLA 353 (1978); Arthur H. Davison, 23 IBLA 15 (1975). 4/

Pursuant to 43 CFR 3112.2-1(f), "No person or entity shall hold, own or control any interest in more than one application for a particular parcel." If the applicant fails to file an application "in accordance with §3112.2 of this title \* \* \* [the application] shall be rejected." 43 CFR 3112.6-1(a). Accordingly, where a person holds, owns, or controls an interest in more than one application with respect to a particular parcel, BLM must reject all such applications.

In the present case, there is no evidence that appellant holds, owns, or controls an interest in other applications with respect to parcel NM 752, other than her statement to that effect on her application.

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1/ Appellant also submitted a cashier's check, dated Sept. 18, 1980, made payable to BLM in the amount of \$1,040 (\$10 filing fee per application). See 43 CFR 3112.2-2(a).

2/ Appellant submits a deposit slip, dated Nov. 19, 1980, indicating the deposit of \$10, which appellant asserts was the filing fee returned with her missing application.

3/ Citations to the regulations, unless otherwise indicated, are to the revised regulations promulgated at 45 FR 35156 (May 23, 1980) and effective June 16, 1980.

4/ The applicable regulation at the time all these cases were decided, 43 CFR 3112.2-1(a)(2) (1979), provided, in relevant part: "An offeror (applicant) is permitted to file only one offer to lease (entry card) for each numbered parcel on the posted list. Submission of more than one entry card by or on behalf of the offeror for any parcel on the posted list will result in the disqualification of all the offers submitted by that applicant for that particular parcel."

However, regardless of whether that statement was true or false, BLM was required to reject appellant's lease offer.

If appellant checked the "yes" box and had "any interest in any other application filed for the same parcel," appellant would clearly have been in violation of 43 CFR 3112.2-1(f), and the application properly rejected. See discussion, supra. If appellant mistakenly checked the "yes" box, as asserted, the application must still be rejected as not being properly completed. As we stated in H. L. McCarroll, 55 IBLA 215, 216 (1981):

[T]he Board has consistently held that failure to complete properly the information required on a simultaneous oil and gas lease DEC [5/] renders the card defective and requires rejection of the offer under 30 U.S.C. § 226(c) (1970). E.g., Ross B. Carrington, 46 IBLA 149 (1980) (failure to sign); Walker B. Moore, 41 IBLA 95 (1979) (date omitted); Walter M. Sorensen, 32 IBLA 345 (1977) (day of month omitted from date) \* \* \*.

In H. L. McCarroll, supra, the DEC bore a date more than 2 years prior to the simultaneous oil and gas lease drawing. We concluded that if, in fact, the DEC was executed at that time, the DEC had to be rejected, and even if it was an inadvertent error, as seemed more likely, the DEC had to be rejected as defective.

The current regulations provide that an application consists of an approved form "completed, signed and filed pursuant to the regulations in this subpart" and that the "properly completed and signed lease application shall be filed in the proper office of the Bureau of Land Management." (Emphasis added.) 43 CFR 3112.2-1(a) and (g). We hold that the proper completion of a lease application is a mandatory requirement and that failure to properly complete such an application must result in rejection of the application. See Edward Marcinko, 56 IBLA 289 (1981); Vincent M. D'Amico, 55 IBLA 116 (1981), appeal filed, D'Amico v. Watt, Civ. No. 81-2050 (D.D.C. filed Aug. 31, 1981). While appellant completed the application by marking answers for questions (d) through (f), the application was not properly completed because appellant provided a "yes" answer to question (f). The only acceptable answer to question (f) is "no." Accordingly, we hold that BLM properly rejected appellant's application. As we stated in H. L. McCarroll, supra at 217, citing Walter M. Sorensen, supra at 347 (1977): "[T]he DEC's filed on particular parcels may number into the hundreds and thus strict adherence to the requirements of the regulations is necessary to ensure fairness and uniformity for all participants."

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5/ Drawing entry cards (DEC) now bear the title "simultaneous oil and gas lease applications." 45 FR 35159 (May 23, 1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Bruce R. Harris  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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James L. Burski  
Administrative Judge.

