

R. HUGO C. COTTER

88 I.D. 870

IBLA 81-929

Decided September 25, 1981

Appeal from the decision of the New Mexico State Office, Bureau of Land Management, dismissing protest against simultaneous oil and gas lease application NM 44535.

Affirmed.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents

Under 43 CFR 3102.2-1, a simultaneous oil and gas lease applicant may file for reference the statement of qualifications of his agent required by 43 CFR 3102.2-6 in any Bureau of Land Management office. Upon acceptance of the filing by BLM and assignment of a serial number, the applicant may properly reference the serial number on future oil and gas applications filed with any BLM office in lieu of resubmitting the statement.

2. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents

Pursuant to 43 CFR 3112.2-1(b), a simultaneous oil and gas lease application must be manually signed in ink either by the applicant or someone authorized to sign on behalf of the applicant. Where

applicant's agent has typed the applicant's name and manually signed as agent, the application conforms to the regulations.

APPEARANCES: Hugo C. Cotter, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

R. Hugo C. Cotter has appealed from the decision of the New Mexico State Office, Bureau of Land Management (BLM), dated July 20, 1981, dismissing his protest as the number two drawee for lease offer NM 44535 against issuance of the lease to the number one drawee, Hampton P. Stewart.

On March 31, 1981, appellant protested that Stewart had failed to file an agency statement as required by 43 CFR 3102.2-6(a) and had failed to complete the application form. He argued that Stewart's simultaneous oil and gas lease application was signed by one John C. Saunders as "attorney-in-fact" and therefore Stewart was required to submit a personally signed statement setting forth his arrangement with Saunders with his lease application. Appellant indicated that his examination of the case file and inquiry at the BLM office on March 30, 1981, revealed no such statement.

Appellant also asserted that

not only did the applicant Hampton P. Stewart not sign the application, but the printed word "Signature" above his

typed name was stricken out and the word "NAME" substituted. Therefore, the only "undersigned" as to this application is John C. Saunders. Section 3102.2-2 of the regulation permits an agent to certify as to age, citizenship, and compliance with acreage limitations, so paragraphs (a), (b), and (c) above the Saunders' signature may be effective. This is not true of (e) and (f). Here Saunders certifies that he, not the applicant, is not bound by any collateral agreements as to outside interests in the application, and further that he, not the applicant, does not have any interest in other applications on the same parcel.

After examining a statement of qualifications previously filed by Stewart in the Colorado State Office, BLM, under serial No. C-30669, appellant supplemented his protest on May 21, 1981, arguing that the power-of-attorney authorizing John C. Saunders to sign simultaneous oil and gas applications on Stewart's behalf envisioned that Saunders would sign Stewart's name manually and, only if he did so, would the certifications expressed by questions (e), (f), and (g) on the application be valid for Stewart.

On April 10, 1981, BLM required Stewart to provide additional information as to his qualifications to hold a lease and the circumstances surrounding the execution of his application. Stewart reported that he did not submit the statement required by 43 CFR 3102.2-6(a) with lease application NM 44535 because he had previously filed the necessary statement for reference with the Colorado State Office and under the regulations only had to reference the filing on his application which he had done. He indicated that his file, C-30669, contains his agreement with Bryan Bell to recommend parcels for leasing and to

provide clerical assistance and a power-of-attorney authorizing Saunders to sign lease applications for him.

BLM dismissed appellant's protest stating that information obtained from the Colorado State Office indicated that Stewart was qualified to hold a lease and that he filed the lease application in accordance with the regulations.

In his statement of reasons, appellant argues nevertheless that, under 43 CFR 3102.2-6, the agreement had to be submitted with the application and, since it was not, the application is fatally defective. He urges that the reference filing of the agreement between Bell and Stewart in the Colorado State Office does not satisfy 43 CFR 3102.2-1(c) because it is not a "statement of qualifications" of Stewart's agent. He construes "statement of qualifications" to mean a statement certifying to compliance with age, citizenship, and acreage requirements. See 43 CFR 3102.2-2. Appellant also reiterates that the manner in which Saunders executed Stewart's application does not meet the requirement that Stewart certify that he is a sole-party-interest and that no multiple filing has occurred.

[1] The term "statement of qualifications" as used in 43 CFR 3102.2-1(c) is broader than the definition advocated by appellant. The regulation reads as follows:

(c) Filing statements for reference. A statement of the qualifications of a trust or guardianship (§ 3102.2-3),

association (§ 3102.2-4), corporation (§ 3102.2-5), agent, if the duration of the authority to act is less than 2 years and is specifically set out (§ 3102.2-6) or municipality (§ 3102.2-9) may be placed on file with a Bureau of Land Management office described in § 1821.2-1 of this title. The office receiving the statement shall indicate its acceptance of the qualifications by assigning a serial number to the statement. Reference to this serial number may be made to any Bureau of Land Management office in lieu of resubmitting the statement. Such a reference shall constitute certification that the statement complies with paragraph (b) of this section. Amendments to a statement of qualifications shall be filed promptly and the serial number shall not be used if the statement on file is not current.

As the text of the regulation suggests, it must be read in conjunction with 43 CFR 3102.2-6 for the purpose of the appeal herein and with the other cited regulations as appropriate. The regulations referenced in 43 CFR 3102.2-1(c) direct an oil and gas lease applicant to the particular requirements for a statement of qualifications in the case of certain kinds of applicants or certain circumstances. These special requirements are in addition to the certification required of all applicants, offerors, and agents by 43 CFR 3102.2-2. An applicant certifies to the requirements specified in 43 CFR 3102.2-2 on the application form itself not in the statement of qualifications addressed in 43 CFR 3102.2-1(c). Thus, in the case before us, where Stewart was going to use an agent for executing simultaneous oil and gas lease applications, he had to comply with 43 CFR 3102.2-6. In lieu of resubmitting the appropriate statement of qualifications with every application filed, however, under 43 CFR 3102.2-1(c) Stewart could submit the appropriate statement to BLM to be kept on file for reference and

thereafter refer to the file serial number on applications so long as the statement contained therein remained current.

[2] The regulation governing the signing of a simultaneous oil and gas lease application, 43 CFR 3112.2-1(b), reads:

(b) The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship. (Example: Smith, agent for Jones; or Jones, principal, by Smith, agent.) Machine or rubber stamped signatures shall not be used. [Emphasis added.]

The regulation requires that at least one manual signature appear on the application, either that of the applicant or the applicant's agent. See Betty J. Thomas, 56 IBLA 323 (1981). Where an agent executes the application, the name of the applicant must be revealed in some manner; there is no requirement that the name be manually applied. The signature of an authorized agent is sufficient to constitute certification by the applicant to the statements on the application. Nevertheless, even assuming arguendo that appellant is correct that the agent, as the undersigned, is the only one certifying to the statements on the application, Stewart has affirmed his qualifications to hold a lease by complying with 43 CFR 3102.2-6 and by filing the additional evidence required by BLM's April 10, 1981, request which sought the same information.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the New Mexico State Office is affirmed.

Douglas E. Henriques

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Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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C. Randall Grant, Jr.  
Administrative Judge

