

JAMES E. WEBB

IBLA 81-1112

Decided December 18, 1981

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease offer W 73430.

Affirmed.

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

An oil and gas lease application, form 3112-1 (June 1980), is not completed in accordance with regulation 43 CFR 3112.2-1 or the instructions on the application itself where questions (d) through (f), dealing with parties in interest other than those elsewhere disclosed on the application are left unanswered. An incomplete application must be rejected, regardless of whether the desired information was indicated on an attachment or in other documents on file.

2. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Sole Party in Interest

A simultaneous oil and gas lease application filed on behalf of a joint venture must be rejected if it is signed only by an individual member with no proper reference to the name of the joint venture or other members thereof.

APPEARANCES: James E. Webb, pro se and for Kenneth L. Hamilton, Thomas W. McBride, and Stephen A. Wolf; Ted V. Gengler, Esq., Denver, Colorado, for adverse party, Theodore R. Larimer; Harold J. Baer, Jr., Esq., Office of the Regional Solicitor, Denver, Colorado, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

James E. Webb has appealed from the September 3, 1981, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting oil and gas lease application W 73430.

Appellant's application for parcel WY 1543 was drawn with first priority in the November 1980 simultaneous drawing. On the back of the application form (form 3112-1 (June 1980)), the applicant is asked to respond to the following questions by means of a check in the appropriate box to indicate either "yes" or "no":

(d) Does any party, other than the applicant and those identified herein as other parties in interest, own or hold any interest in this application, or the offer or lease which may result?
* * *

(e) Does any agreement, understanding, or arrangement exist which requires the undersigned to assign, or by which the undersigned has assigned or agreed to assign, any interest in this application, or the offer or lease which may result, to anyone other than those identified herein as other parties in interest? * * *

(f) Does the undersigned have any interest in any other application filed for the same parcel as this application?

BLM rejected appellant's offer because these questions had not been answered on his application as required by 43 CFR 3112.2-1.

The front of appellant's application identifies James E. Webb as the applicant. Only his name appears in the space provided for applicant's signature on the reverse side of the card. No reference is made to any other party in interest. However, appellant indicated a serial number in the space provided for statements of qualifications which had been filed previously. Appellant's statement of reasons makes clear that he filed the offer on behalf of a joint venture designated TD 12 to which he and Kenneth L. Hamilton, Thomas W. McBride, and Steven A. Wolf are parties.

Appellant contends that it was improper to reject his offer merely because questions (d), (e), and (f) were not answered. He refers to a letter dated March 15, 1978, in which the State office specifically

indicated that appellant and his associates need not include their qualifications with each future filing.

Appellant further alleged that he and his associates were specifically advised by telephone that questions (d), (e), and (f) did not have to be answered as it was duplication of information contained in the file. An examination of the attachments to appellant's statement of reasons reveals, however, that this confirmation was given shortly after the joint venture's qualifications were accepted on March 15, 1978. As the answer from the adverse party to this appeal states, the drawing entry cards in use at that time contained no questions (d), (e), and (f) with boxes to check. Clearly, the advice given in 1978 provides no basis for excusing appellant from complying with the requirements of the revised form.

[1] We have previously noted that an application must be complete when first filed in order to constitute a valid application. 43 CFR 3112.2-1(a) and (g). The Board has consistently required strict compliance with the substantive requirements of the regulations concerning the filing of applications in the simultaneous oil and gas leasing procedures. See Ben M. Powell III, 59 IBLA 146 (1981), and cases cited therein. The issue whether questions (d) through (f) must be answered on the application form itself was resolved in Vincent M. D'Amico, 55 IBLA 116 (1981), appeal docketed, D'Amico v. Watt, No. 81-2050 (D.D.C. Aug. 31, 1981); see also Ben M. Powell III, *supra*; Janet A. Rodgers, 58 IBLA 275 (1981); Clyde K. Kobbeman, 58 IBLA 268, 88 I.D. (1981); Simon A. Rife, 56 IBLA 378 (1981); Edward Marcinko, 56 IBLA 289 (1981). The application form clearly contemplates that items (d) through (f) be checked on the application itself. Indeed, the introductory words to items (a) through (g) are as follows: "UNDERSIGNED CERTIFIES AS FOLLOWS (check appropriate boxes)."
(Original in italics.) Nowhere do the regulations or the application suggest that items (d) through (f) may be answered by attachment. Small boxes appear following each item to be checked in response. Although the application does contemplate that there may be a separate statement of qualifications, the questions posed by items (d) through (f) are distinct issues and require a response on the application itself. Failure of applicant to check the appropriate box in response to each of the questions (d), (e), and (f) created defects in the applications that are far from trivial. The application simply was not complete, and the regulations do not provide the option of answering these questions by addendum or other documents on file. See Vincent M. D'Amico, *supra*.

The requirement for submission of a statement of qualifications for an association is set forth at 43 CFR 3102.2-4. Nothing in that regulation indicates that filing such a statement obviates the need to respond to inquiries on the oil and gas lease application.

Because the card was executed by Webb as applicant with no reference on its face to the joint venture or to the other parties in interest, the adverse party contends that the application can only

be construed as having been submitted by appellant in his individual capacity, not as a member of the joint venture. The adverse party points out that section 5 of appellant's joint venture agreement requires that applications be made under the name of the venture (TD 12), not under the name of an individual member thereof. The adverse party cites our decision in SID Partnership, 37 IBLA 165 (1978), in which we held that an application filed by a partnership must be filed in the manner prescribed by the partnership agreement. In that case, an application filed by one agent of the partnership was held to be insufficient where the partnership agreement itself required two or more agents to sign.

The brief filed on behalf the Bureau of Land Management echoes the argument made by the adverse party that the card must be construed as filed, not on behalf of the joint venture, but by James E. Webb as an individual. The Government adds that if Webb were acting on behalf of the joint venture when he filed the application, that filing would violate the requirements of 43 CFR 3112.2-1 which requires that Webb indicate on the application that he was so acting. This argument has merit.

[2] The requirements relating to signing oil and gas lease applications are set forth at 3112.2-1(b):

(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.]

To have correctly executed the application on behalf of the joint venture, Webb should have placed the name of the joint venture in the space marked applicant and signed his own name in the space beneath designated for the agent's signature. He should have also indicated their relationship. See Vincent M. D'Amico, supra at 123. Alternatively, pursuant to the powers of attorney filed in March 1979, Webb could have filed an application which designated the other individuals as other parties in interest. In view of the fact that appellant executed the card in neither manner, the application can only be construed as an individual application. That application must be rejected because that individual failed to disclose properly on the application existence of other parties in interest. See H. J. Enevoldsen, 44 IBLA 70, 86 I.D. 643 (1979), aff'd, Enevoldsen v. Andrus, No. C-80-0047B (D. Wyo. June 24, 1981).

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.

Anne Poindexter Lewis
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Bruce R. Harris
Administrative Judge

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