

PEGGY A. SHAW

IBLA 81-700

Decided January 29, 1982

Appeal from decision of Montana State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease application. M 49041.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Filing

An oil and gas lease application, Form 3112-1 (July 1980), is not completed in accordance with 43 CFR 3112.2-1 or the instructions on the application itself where questions (d) through (f), dealing with other parties in interest and multiple filings, are left unanswered.

APPEARANCES: Peggy A. Shaw, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Peggy A. Shaw has appealed from a decision of the Montana State Office, Bureau of Land Management (BLM), dated April 30, 1981, rejecting her noncompetitive oil and gas lease application, M 49041, for failure to complete properly her simultaneous oil and gas lease application form pursuant to 43 CFR 3112.2-1(a). Appellant's application was drawn with first priority for parcel number MT-33 in the September 1980 simultaneous oil and gas lease drawing.

The basis for the BLM decision was appellant's failure to answer the questions on the back of her application, items (d), (e), and (f), relating to other parties in interest and multiple filings. 1/ In her

1/ Items (d) through (f) are a series of questions, each of which is followed by boxes to be checked "Yes" or "No" in response. The questions are:

statement of reasons for appeal, appellant contends that her failure to answer the questions was due to "mere inadvertence" and that she has "no intention or reason to avoid providing truthful answers to these items." She argues that it would not be fair to reject her lease application "on such technical grounds."

[1] The applicable regulation, 43 CFR 3112.2-1(a), provides in relevant part: "An application to lease under this subpart consists of a simultaneous oil and gas lease application on a form approved by the Director, Bureau of Land Management, completed, signed and filed pursuant to the regulations in this subpart." (Emphasis added.)

In Vincent M. D'Amico, 55 IBLA 116 (1981), we concluded that BLM properly rejected a noncompetitive oil and gas lease application where the applicant failed to answer questions (d) through (f) on the application. We stated that we would follow past precedent requiring "strict compliance with the substantive requirements of the regulations concerning the filing of applications in the simultaneous oil and gas leasing procedures. See, e.g., Rose B. Carrington, 46 IBLA 149 (1980); Margaret H. Wygocki, 45 IBLA 79 (1980); John L. Messinger, 45 IBLA 62 (1980)." Vincent M. D'Amico, *supra* at 118. We have consistently followed our holding in D'Amico in subsequent cases. See, e.g., James E. Webb, 60 IBLA 321 (1981); William C. Reuling, 59 IBLA 226 (1981).

Mere inadvertence on the part of the applicant will not excuse compliance with the requirements of 43 CFR 3112.2-1(a). As we stated in Vincent M. D'Amico, *supra* at 120:

Failure of applicants 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 applications simply were not complete. The applicants do not have a right to cure such defects by later submitting the required information. See Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976).

fn. 1 (continued)

"(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?"

The introductory words to items (a) through (g) are as follows: "UNDERSIGNED CERTIFIES AS FOLLOWS (check appropriate boxes)."

We would only add that the answers to questions (d) through (f) provide vital information for determining compliance with other regulations pertaining to other parties in interest and multiple filings.

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.

Bruce R. Harris
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

