

WILLIAM H. BURRUSS

IBLA 81-851

Decided February 24, 1982

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease application. W 74189.

Affirmed.

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

An oil and gas lease application, Form 3112-1 (June 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 parties in interest other than those elsewhere disclosed, assignments, and multiple filings, are left unanswered.

APPEARANCES: John F. Deal, Esq., Richmond, Virginia, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

William H. Burruss has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated June 17, 1981, rejecting his noncompetitive oil and gas lease application, W 74189, for failure to complete properly his simultaneous oil and gas lease application form. Appellant's application was drawn with first priority for parcel number WY 1440 in the January 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 his application, items (d), (e), and (f), relating to other parties in interest and multiple filings. 1/ In his

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 "completion of the blanks for questions (d), (e) and (f) were irrelevant" because "it was always [his] * * * intention to lease the subject property for himself only."

[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.)

This Board has consistently held that an applicant has not complied with 43 CFR 3112.2-1(a) where he has failed to answer questions (d) through (f) on the application form and that failure to do so properly results in rejection of the application. James E. Webb, 60 IBLA 323 (1981); Robert D. Alexander, 59 IBLA 118 (1981); Simon A. Rife, 56 IBLA 378 (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, 55 IBLA 116, 120 (1981):

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).

"(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)." (Original in italics).

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:

C. Randall Grant, Jr.
Administrative Judge

Edward W. Stuebing
Administrative Judge

