

Editor's note: appealed - dismissed without prejudice, Civ.No. 82-C3185 (N.D.Ill. Feb. 24, 1983); refiled Civ.No. 83-885 (D.D.C. Mar. 28, 1983); dismissed by stipulation, (Sept. 24, 1984)

CLIFFORD E. SHAW

IBLA 82-184

Decided April 22, 1982

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease application. W 73614.

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 regulation 43 CFR 3112.2-1(a) 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: Bruce A. Budner, Esq., Dallas, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Clifford E. Shaw has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated November 13, 1981, rejecting his noncompetitive oil and gas lease application, W 73614, for failure to complete properly his simultaneous oil and gas lease application form in accordance with 43 CFR 3112.2-1(g). Appellant's application was drawn with first priority for parcel WY 5484 in the November 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 form, items (d), (e), and (f). 1/

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:

In his statement of reasons for appeal, appellant contends that BLM is estopped to reject his noncompetitive oil and gas lease application on the basis that his agent, Federal Energy Corporation (FEC), which prepared the application form, justifiably relied on statements by a BLM employee, prior to filing the application, that answers to items (d) through (f) need not accompany or appear on the application form, but, instead, could be retained by FEC in its files. In documenting the statements made by the BLM employee, appellant apparently relies on an affidavit signed by Marguerite Hendel, an FEC employee, submitted with a previous statement of reasons "filed on behalf of Vincent D'Amico" (Statement of Reasons (SR) at 2). 2/

It is readily apparent from the statement of reasons that appellant is relating the same facts which we considered in Vincent M. D'Amico, supra, on the question of estoppel. In that case, we noted that the BLM employee involved "denies advising FEC that retaining such answers would eliminate the necessity to answer such questions on the application itself." Id. at 120. However, we concluded that even if the alleged statements were made, "such facts entitle them [appellants therein] to no relief on appeal." Id. In particular, we stated that one of the crucial elements of estoppel, i.e., ignorance of the true facts, was not present because the application form itself and Departmental regulations specifically inform applicants of the proper procedure for completing simultaneous oil and gas lease applications. Accordingly, we held that the elements of estoppel were not present in D'Amico. Likewise, they are not present in this case. Appellant has presented no new facts which would justify its imposition.

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?"

2/ Counsel for appellant states that Hendel was the FEC employee "who was responsible for the completion and filing of Mr. Shaw's application" (SR at 1-2). He states further that "[a] similar conversation was held with respect to the execution of the card. In signing the card 'FEC agent for Stempel' Ms. Hendel relied on a telephone conversation with" a BLM employee (SR at 2). Appellant's application form in this case was signed "by FEC agent by Largin." It would appear that employee Hendel was not involved in Shaw's filing, and that the reference to Stempel refers to Wolt C. Stempel whose appeal IBLA 81-190 was consolidated with and decided in Vincent M. D'Amico, 55 IBLA 116 (1981).

[1] In any case, the law in this area is abundantly clear. 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." 3/ (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) though (f) on the application form and that failure to do so properly results in rejection of the application. Leroy G. Boudreaux, 62 IBLA 255 (1982); James E. Webb, 60 IBLA 321 (1981); Robert D. Alexander, 59 IBLA 118 (1981); Simon A. Rife, 56 IBLA 378 (1981).

This Board has uniformly required strict compliance with the substantive requirements of the regulations concerning the filing of applications in the simultaneous oil and gas leasing program, especially in cases involving omitted information. See H. L. McCarroll, 55 IBLA 216 (1981), and cases cited therein. We continue to adhere to the requirement of strict compliance.

Given our disposition of the issue of completion of the application, we need not reach the question of whether the application was properly signed. See Leroy G. Boudreaux, supra at 259.

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

Anne Poindexter Lewis
Administrative Judge

3/ 43 CFR 3112.2-1(g), cited by BLM, simply provides: "The properly completed and signed lease application shall be filed in the proper office of the Bureau of Land Management." (Emphasis added.)

