

BOB REID

IBLA 81-697

Decided May 4, 1982

Appeal from decision of Utah State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application. U-47138.

Affirmed as modified.

1. Oil and Gas Leases: Applications: Sole Party in Interest

A noncompetitive oil and gas lease application filed in a simultaneous drawing must be rejected if it contains the names of additional parties in interest, and there is a failure to submit the information required by 43 CFR 3102.2-7(b).

APPEARANCES: Stephen F. Pellino, Esq., for appellant.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Bob Reid appeals from a decision of the Utah State Office, Bureau of Land Management (BLM), dated April 22, 1981, rejecting his simultaneous oil and gas lease application U-47138 for failure to comply with 43 CFR 3102.2-7 (45 FR 35162 (May 23, 1980)), regarding other parties in interest. Appellant's oil and gas lease application was drawn with first priority for parcel UT-9 in the September 1980 simultaneous oil and gas lease filings. In its decision BLM stated:

Mr. Reid's application indicates another party in interest in the application, Eleanor W. Reid.

The application form bears the following notation:

Other Parties in Interest -- All other parties who own or hold any interest in this application, or the offer or lease which may result, must be named below (or on a separate attached statement).

All such interested parties must furnish evidence of their qualifications within 15 days of the filing of this application. See 43 CFR 3102.2-7. A "yes" answer to (d) or (e), at right, indicates the existence of another party in interest.

The (d) and (e) portions of the application are answered "no" by Mr. Reid. Therefore, there is a discrepancy in the completion of the application form.

The regulation referred to on the form requires a statement, signed by both the offeror or applicant and the other parties in interest, setting forth the nature of any oral understanding between them, and a copy of any written agreement shall be filed with the proper Bureau of Land Management office not later than 15 days after the filing of the offer, or application if leasing is in accordance with subpart 3112 of this title. Such statement or agreement shall be accompanied by statements, signed by the other parties in interest, setting forth their citizenship and their compliance with the acreage limitations of §§ 3101.1-5 and 3101.2-4 of this title.

The statement submitted by Eleanor W. Reid does not comply with the requirements of the regulation in that it is not signed by both parties, does not set forth the nature of the agreement between them, and does not set forth the citizenship of Ms. Reid. The document filed is entitled "Certification of Qualification to Hold a Federal Oil and Gas Lease (Simultaneous)." This form was developed for use in processing filings made before July 1980, and only then for a certification by the offeror, not for other parties in interest.

In his statement of reasons, appellant admits that his application and accompanying document were not in strict compliance with the regulation but contends that the instructions on the reverse side of the application are so ambiguous and confusing that strict compliance should be waived. Appellant also contends that his wife does meet all of the qualifications contained in 43 CFR 3102.2-7 and that the only agreement between appellant and his wife was an oral agreement that they would share equally in any lease awarded.

The instructions on the reverse side of the application to which appellant refers read as follows:

Other Parties in Interest - All other parties who own or hold any interest in this application, or the offer or lease which may result, must be named below (or on a separate attached statement). All such interested parties must furnish evidence of their qualifications within 15 days of the filing of this application. See 43 CFR 3102.2-7. A "yes," answer to (d) or (e), at right, indicates the existence of another party in interest.

* * * * *

(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?

Appellant named his wife as another party in interest and answered "no" to questions (d) and (e). We find no discrepancy in the completion of the application. By answering "no" to questions (d) and (e), appellant has indicated that there are no additional parties in interest, other than his wife, and no assignments in violation of 43 CFR 3102.2-7. We modify BLM's decision to the extent that there was no discrepancy in the completion of the application caused by appellant's answering "no" to questions (d) and (e).

[1] In reviewing the statement submitted by Mrs. Reid we find that Mrs. Reid failed to provide certain information required by 43 CFR 3102.2-7. 1/ Specifically, Mrs. Reid did not submit a statement signed by both parties, did not set forth the nature of any oral understanding between them, or file with BLM a copy of any written agreement between them. She also failed to submit a statement, signed by her, setting forth her citizenship.

It is well established that failure to comply with 43 CFR 3102.2-7(b), requiring the submission of certain information regarding other parties in interest, must result in rejection of the lease offer. Lawrence E. Dye, 57 IBLA 360 (1981). Compliance with this regulation cannot be waived. This would infringe on the rights of second-priority applicants who have complied with the Department's regulations. See Kenneth H. Gray, 60 IBLA 110 (1981); Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1975), aff'd per curiam, 544 F.2d 1067 (10th Cir. 1976).

1/ Regulation 43 CFR 3102.2-7 states:

"(a) The applicant shall set forth on the lease offer, or lease application if leasing is in accordance with Subpart 3112 of this title, or on a separate accompanying sheet, the names of all other parties who own or hold any interest in the application, offer or lease, if issued.

"(b) A statement, signed by both the offeror or applicant and the other parties in interest, setting forth the nature of any oral understanding between them, and a copy of any written agreement shall be filed with the proper Bureau of Land Management office not later than 15 days after the filing of the offer, or application if leasing is in accordance with Subpart 3112 of this title. Such statement or agreement shall be accompanied by statements, signed by the other parties in interest, setting forth their citizenship and their compliance with the acreage limitations of §§ 3101.1-5 and 3101.2-4 of this title."

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 as modified.

Gail M. Frazier
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

