

ROBERT E. DAVIS

IBLA 82-561

Decided June 28, 1982

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting appellant's oil and gas lease application, W 74251, for parcel WY 2705.

Reversed.

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

Under the provisions of 43 CFR 3102.2-6(b), where a uniform agreement is entered into between several applicants and an agent, a single copy of the agreement and the statement of understanding may be filed with the proper office in lieu of the showing required in paragraph (a) of this section, provided that a list setting forth the name and address of each such applicant participating under the agreement is filed with the proper BLM office not later than 15 days from the close of the filing period for each drawing under 43 CFR Subpart 3112.

APPEARANCES: Ruth Brammer Johnson, Esq., Denver, Colorado, for appellant.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

Robert E. Davis has appealed the January 27, 1982, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting his simultaneously filed oil and gas lease application for parcel WY 2705, which was drawn with first priority in the February 1981 drawing, because the power of

attorney executed for his agent was dated 1 day later than the application. Thus, according to BLM, the agent lacked authority to execute lease applications on appellant's behalf at the time of the application. BLM cites Grace Grant, 58 IBLA 366 (1981), in support of its decision.

We do not believe that Grace Grant, *supra*, is apropos. As appellant points out in his statement of reasons, the agent is in the business of filing simultaneous oil and gas lease applications for his subscribers. As a businessman, he does not file any such application until he has an agreement, written or oral, with the subscriber. In addition, the agent signed the proposed written agreement 1 day before the application was filed, thus indicating he had reached an understanding with appellant on that day. Both appellant and the agent offer to testify to these facts. All of the foregoing actions took place well within the filing period.

[1] As the Board has recently pointed out (*see Robert R. Amdahl*, 62 IBLA 246 (1982), and *Alvyn G. Novotny*, 55 IBLA 196 (1981)), 43 CFR 3102.2-6(b) provides that:

(b) Where a uniform agreement is entered into between several offerors or applicants and an agent, a single copy of the agreement and the statement of understanding may be filed with the proper office in lieu of the showing required in paragraph (a) of this section. A list setting forth the name and address of each such offeror or applicant participating under the agreement shall be filed with the proper Bureau of Land Management office not later than 15 days from each filing of offers or applications if leasing is in accordance with subpart 3112 of this title. [Emphasis supplied.]

Under the provisions of this regulation, we conclude that an agent for oil and gas lease applicants has 15 days from the close of the filing period to clear up omissions and errors in its list of names and addresses or its agreement or statement of understanding, provided there is no disqualifying defect apparent on the application form itself.

Thus, we would distinguish a situation like that in Grace Grant, *supra*, where the appellant's application form showed on its face that it had not been signed within the filing period, from the present case, where the application was regular in all respects, but BLM subsequently questioned the legal authority of the agent to sign in appellant's behalf. In the present case, even if BLM felt that the lack of written authority was a substantial defect, the omission was corrected prior to the close of the filing period, when all of the applications were considered to have been simultaneously filed.

Therefore, in referencing the qualifications number in accordance with 43 CFR 3102.2-1(c), appellant's agent complied with both 43 CFR 3102.6-2(a) and 43 CFR 3102.6-2(b).

Accordingly, 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 reversed.

Bernard V. Parrette  
Chief Administrative Judge

We concur:

Bruce R. Harris  
Administrative Judge

Edward W. Stuebing  
Administrative Judge

