

MARJORIE E. WOODWARD

IBLA 82-775

Decided June 28, 1982

Appeal from decision of Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application M 52747 (SD).

Affirmed.

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

Where an oil and gas lease application is filed through a leasing service in the BLM simultaneous filing program bearing a serial number as an ostensible reference to a leasing service's qualifications, and there is no compliance with the requirements set forth in 43 CFR 3102.2-6(b), the application is properly rejected.

APPEARANCES: Bruce A. Spear, Esq., Rancho Santa Fe, California, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Marjorie E. Woodward appeals the March 30, 1982, decision of the Montana State Office (MSO), Bureau of Land Management (BLM), which rejected her simultaneous oil and gas application M 52747 (SD) which was given first priority for parcel MT 170 in the July 1981 drawing. The application was rejected because of failure to submit a copy of the signed service agreement as required by 43 CFR 3102.2-6(a) and 43 CFR 3102.2-1(c). The decision stated the application referred to "C 30710" as the serial number where the service agreement was filed, but information from the Colorado State Office (CSO) indicated the appellant's service agreement with California Resources, Inc. (CRI), was not filed until September 22, 1981, while the closing date of the July 1981 simultaneous filing period was July 23, 1981. The regulation 43 CFR 3102.2-6(b) requires that the service agency must submit a copy of the service agreement and a list showing names and addresses of each applicant to MSO within 15 days from the close of the simultaneous filing

period. The service agency did not make such a filing in connection with appellant's application, and thus the application did not comport with the regulations when filed. As the application was defective, BLM took action to reject it.

Appellant states the requirement for the submission of a service agreement, including the names and addresses of the agencies' applicants, was repealed by Circular No. 2497, 47 FR 8544 (Feb. 26, 1982); but if it is held that she may not take advantage of that subsequent repeal, she contends that her application complied with the requirements at the time it was filed and that the decision to reject should be reversed. Appellant states that her husband, Charles Woodward, executed a service agreement with CRI December 29, 1980, but that she herself had never executed any service agreement with CRI or any other filing service. She avers that she executed the application for parcel MT 170 and gave it to her husband with the expectation that it would be processed by CRI pursuant to his written agreement with CRI. Her husband mailed the application to CRI where the reference number "C 30710" was added, and then CRI transmitted the application to MSO. Appellant admits that CRI is an entity whose assistance to oil and gas lease applicants requires disclosure under 43 CFR 3102.2-6(a), but she also contends that if CRI's processing of her application under her husband's agreement constitutes "assistance" which required compliance with 43 CFR 3102.2-6(a), the materials filed with or prior to her application were adequate and sufficient to meet the disclosure requirements under 43 CFR 3102.2-6(a) or 43 CFR 3102.2-1(c). Appellant states that, as she had not signed any service agreement, the information on file in C 30710 relative to her husband should have sufficed for 43 CFR 3102.2-6(b). She asserts that the notation "C 30710" on her application should satisfy the requirement of 43 CFR 3102.2-1(c), citing Robert R. Amdahl, 62 IBLA 246 (1982), and Alvyn G. Novotny, 55 IBLA 196 (1981).

At the outset we hold that the application of appellant must be examined in light of the regulations in effect when the application was filed. Appellant may not have the advantage of the revision of the regulations in 43 Subpart 3102, effected February 26, 1982.

[1] Appellant's reliance on Novotny, supra, is misplaced. That decision held that filing a single copy of the service agreement with a list of names and addresses of applicants under 43 CFR 3112 in the proper office of BLM would satisfy the requirement of 43 CFR 3102.2-6(b). In the case at bar, there was no list of names and addresses of applicants containing appellant's name filed by CRI in MSO.

Appellant stated that she had not subscribed to any agreement although her husband had signed an agreement with CRI. But she also stated that after she had executed the application, she delivered it to her husband with the expectation that the application would be processed by CRI pursuant to her husband's written agreement with CRI. It is IBLA 82-775 difficult to understand that action unless the agreement with CRI included members of the client's family, or unless appellant's husband had an undisclosed interest in appellant's application.

In any event, the application of appellant does indicate that statements of qualifications had previously been filed in C 30710. Such statement could only be those required by 43 CFR 3102.2-6, relative to agents. If the application had been filed by appellant without assistance from any person or entity which is in business to provide assistance to participants in the Federal oil and gas leasing program, there would be no need for the reference to C 30710. Since appellant expected that her application would be processed by CRI pursuant to her husband's written agreement, and, in fact, her application was forwarded to CRI and stamped with CRI's qualifications number, the regulations could have been satisfied only if either the information required by 43 CFR 3102.2-6(a) or 43 CFR 3102.2-6(b) were contained in the qualifications file, or in the case of 43 CFR 3102.2-6(b) the list of client names and addresses was filed within 15 days of the close of the filing period. The necessary information was neither on file nor filed within 15 days. MSO properly rejected the application.

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.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Bruce R. Harris
Administrative Judge

