

Appeal from decision of the Wyoming State Office, Bureau of Land Management, dismissing protests against the return of simultaneous oil and gas lease applications.

Affirmed.

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

Under 43 CFR 3112.2-2(b), a single remittance is acceptable for a group of simultaneous oil and gas lease applications, but the remittance submitted must be sufficient to cover all filings. If the remittance is insufficient, the entire group is unacceptable and BLM properly returns the filings to the applicants.

2. Applications and Entries: Filing--Evidence: Credibility --Oil and Gas Leases: Applications: Filing

Where simultaneous oil and gas lease applicants assert that their filings included sufficient fees and were grouped separately from another group of filings with insufficient fees that was transmitted in the same parcel, but fail to submit sufficient evidence to prove the separate grouping, the decision of the BLM to return all filings because of insufficient fees will be affirmed.

APPEARANCES: David B. Kern, Esq., Milwaukee, Wisconsin, for appellants; Kenneth D. Willis, Esq., Denver, Colorado, for S. R. Clark; Hugh C. Garner, Esq., and Rosemary Beliss, Esq., Salt Lake City, Utah, for Zephyr Corporation; R. Hugo C. Cotter, Esq., Albuquerque, New Mexico, for Lisa A. Phillips; William T. Schwartz, Esq., Casper, Wyoming, for C. E. Jenkins; Daniel W. Meehan, Esq., Lawrenceburg, Indiana, for Dennis R. Campbell; Rebecca Love, Esq., Denver, Colorado, for George G. Joufflas; Wayne Shortridge, Esq., Dennis G. Lyons, Jackie E. Stephens, pro sese.

## OPINION BY ADMINISTRATIVE JUDGE IRWIN

Fred L. Engle, Mary A. Engle, Gertrude S. Engle, David B. Engle, and Elizabeth M. Engle have appealed from the April 13, 1982, decision of the Wyoming State Office, Bureau of Land Management (BLM), dismissing their protests against BLM's return of the simultaneous oil and gas lease applications they submitted for the January 1982 Wyoming drawing because of insufficient filing fees. The returned applications covered 434 filings affecting 197 parcels. 1/

In its protest decision, BLM explained the reason for the return of the applications as follows:

Your Part A and Part B application forms for that filing period were received in our office in the same box as the applications and remittances for Resource Service Company, Inc. Your applications and the remittance for them were not identified as being separate from those of Resource Service Company. Therefore, all applications and remittances were processed as one group of filings.

Title 43 CFR Subpart 3112.2-2(b) states in part: "Failure to submit sufficient fees to cover all filings shall render unacceptable the entire group of filings . . ." A total of \$113,825 was submitted, as well as a check for \$3,000 designated as an "extra check". The total parcels applied for amounted to 7,612, which required filing fees of \$190,300. The result was insufficient filing fees of \$73,475.

In their statements of reasons, appellants allege that although their family filings were sent to BLM in the same parcel as those for clients of Resource Service Company, Inc. (RSC), 2/ the Engle family filings were separately grouped and identified as being separate from those of RSC's clients. They claim that the family filings were accompanied by a cashier's check of \$10,850, the exact amount necessary to cover these 434 filings, which BLM returned. They assert that additional separate remittances accompanied the RSC applications although the latter payments were insufficient due to an error. Appellants contend that since the family filings constituted a separate group of filings and since the appropriate fees were submitted for that group, it was arbitrary and capricious for BLM to consider all of the filings as a single group and to reject the family filings because of the insufficiency of the fees accompanying the RSC filings.

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1/ The January 1982 drawing was the first time BLM used its new computerized filing system. Each appellant submitted one application indicating the parcels being filed on. The filing fee for the January drawing was \$25. See 46 FR 45887 (Sept. 15, 1981). A complete list of affected parcels may be found in the Appendix to this decision.

2/ Fred L. Engle is president of RSC.

In an affidavit, appellant Fred L. Engle states that he has been following the same procedure of sending a group of his family's filings with his RSC filings since 1973 and that BLM's customary practice in determining the sufficiency of filing fees has been to view each set of filings as a separate group.

In further support of their argument that the family filings constituted a separate group of filings, appellants have submitted: (1) A copy of the \$10,850 cashier's check, payable to BLM and containing the notation "RE: Fred L. Engle"; (2) a copy of a card that lists the family filings and the amount of fees on one side, and states on the reverse side, "January 1982 Filings, Engle Cards, Wyoming, Separate from other cards in box," which they allege was enclosed with the Engle filings; and (3) a copy of the cover letter accompanying the entire package, signed by the Vice President of RSC and stating in part: "If there are applications enclosed together with remittances for 'Engle' applications which are not payable from the Resource Service Company, Inc., Trust Account, those applications are not being submitted as clients of [RSC] and requirements under 3102.2-6 do not apply to same."

Various first-drawn applicants for some of the affected parcels urge that the BLM decision be affirmed.

[1, 2] The issue in this appeal is not, as appellants have asserted, whether BLM has improperly treated two separate groups of filings as one because they arrived in the same package; rather, it is whether there were two separately identified groups in the single package. The BLM dismissal decision states: "Your applications and the remittance for them were not identified as being separate from those of [RSC]. Therefore, all applications and remittances were processed as one group of filings." Accordingly, BLM rejected all the filings under 43 CFR 3112.2-2(b) because the accompanying fees were insufficient.

After describing his standard practice of separately grouping his family filings, appellant Fred Engle attests: "To the best of my knowledge, I did not deviate from that practice in January of 1982 when I forwarded client and 'Engle cards' to the Wyoming State Office of the BLM, and the 'Engle cards' were separately bundled with a card identifying them as such \* \* \* and with a separate remittance of \$10,850 \* \* \*." (Emphasis added.) This Board has often noted the legal presumption of regularity which attends the official acts of public officers in the proper discharge of their official duties. See, e.g., Phillips Petroleum Co., 38 IBLA 344 (1978); Donald E. Jordan, 35 IBLA 290 (1978); A. G. Golden, 22 IBLA 261 (1975). The presumption is subject to rebuttal by probative evidence. L. E. Garrison, 52 IBLA 131 (1981). See generally United States v. Hess, 46 IBLA 1, 7-9 (1980). In this case, although appellants have established what their normal procedures are, including a copy of the card which would have separately identified the Engle family filings, we have been presented with no evidence and no clear statement that establishes that the card was actually in the package and attached to the family filings separating them from the other filings in the package. Cf. Shell Oil Co., 57 IBLA 63 (1981).

Furthermore, although the combination of the cashier's check and the RSC cover letter may have been sufficient to put BLM on notice to look for a separate group of filings within the parcel, BLM was under no obligation to sort through a collection of individual filings to locate the Engle filings. <sup>3/</sup> In the January 1982 Wyoming drawing there were 246,083 filings on some 488 parcels. Even though there are fewer applications under the new computer filing system because an applicant can file for more than one parcel on the same application, processing of the applications remains a substantial administrative task. As we have stated before, where such a burden is involved, and where the rights of other applicants are involved, it is not unreasonable for the Department to demand strict compliance with filing requirements, and it is not required to take extra steps to protect those who do not carefully comply from the foreseeable consequences of their deficiencies. Allen W. Taylor, 56 IBLA 143 (1981); Federal Energy Corp., 51 IBLA 144 (1980). <sup>4/</sup> BLM properly rejected the Engle filings pursuant to 43 CFR 3112.2-2(b).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Wyoming State Office is affirmed.

Will A. Irwin  
Administrative Judge

We concur:

Edward W. Stuebing  
Administrative Judge

Douglas E. Henriques  
Administrative Judge

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<sup>3/</sup> The cashier's check alone was not sufficient to designate the family group since it only had Fred L. Engle's name on it.

<sup>4/</sup> Suit for judicial review dismissed with prejudice on plaintiff's motion for voluntary dismissal. Federal Energy Corp. v. Dept. of the Interior, Civ. No. 81-0433 (D.D.C., April 27, 1981).

## APPENDIX

<u>Parcel No.</u>	<u>Lease No.</u>	<u>Parcel No.</u>	<u>Lease No.</u>
150	W 78801	305	W 78955
161	W 78812	306	W 78956
163	W 78814	307	W 78957
164	W 78815	308	W 78958
165	W 78816	309	W 78959
166	W 78817	311	W 78961
167	W 78818	312	W 78962
170	W 78821	313	W 78963
173	W 78824	318	W 78968
185	W 78836	319	W 78969
187	W 78838	320	W 78970
188	W 78839	321	W 78971
189	W 78840	322	W 78972
190	W 78841	323	W 78973
194	W 78844	328	W 78978
206	W 78856	331	W 78980
207	W 78857	347	W 78996
208	W 78858	348	W 78997
209	W 78859	349	W 78998
210	W 78860	350	W 78999
211	W 78861	354	W 79003
219	W 78869	358	W 79007
220	W 78870	361	W 79010
229	W 78879	362	W 79011
230	W 78880	363	W 79012
231	W 78881	365	W 79014
232	W 78882	368	W 79017
233	W 78883	372	W 79021
242	W 78892	378	W 79027
243	W 78893	380	W 79029
253	W 78903	381	W 79030
255	W 78905	382	W 79031
268	W 78918	384	W 79033
269	W 78919	385	W 79034
277	W 78927	387	W 79036
280	W 78930	388	W 79037
285	W 78935	389	W 79038
286	W 78936	390	W 79039
287	W 78937	391	W 79040
293	W 78943	393	W 79042
296	W 78946	394	W 79043
297	W 78947	395	W 79044
303	W 78953	397	W 79046
304	W 78954	398	W 79047

<u>Parcel No.</u>	<u>Lease No.</u>	<u>Parcel No.</u>	<u>Lease No.</u>
399	W 79048	504	W 79152
400	W 79049	505	W 79153
401	W 79050	506	W 79154
402	W 79051	507	W 79155
404	W 79053	508	W 79156
405	W 79054	509	W 79157
406	W 79055	513	W 79161
407	W 79056	515	W 79162
415	W 79064	517	W 79164
416	W 79065	522	W 79169
419	W 79068	523	W 79170
420	W 79069	524	W 79171
421	W 79070	525	W 79172
423	W 79072	526	W 79173
428	W 79077	528	W 79175
429	W 79078	529	W 79176
430	W 79079	530	W 79177
431	W 79080	531	W 79178
434	W 79083	532	W 79179
435	W 79084	533	W 79180
444	W 79092	534	W 79181
451	W 79099	535	W 79182
452	W 79100	536	W 79183
473	W 79121	537	W 79184
474	W 79122	538	W 79185
478	W 79126	539	W 79186
480	W 79128	540	W 79187
481	W 79129	541	W 79188
482	W 79130	547	W 79194
483	W 79131	548	W 79195
487	W 79135	549	W 79196
488	W 79136	550	W 79197
489	W 79137	551	W 79198
490	W 79138	552	W 79199
492	W 79140	553	W 79200
493	W 79141	554	W 79201
494	W 79142	555	W 79202
495	W 79143	556	W 79203
496	W 79144	557	W 79204
497	W 79145	558	W 79205
498	W 79146	559	W 79206
499	W 79147	560	W 79207
500	W 79148	561	W 79208
501	W 79149		
502	W 79150		
503	W 79151		

