

FRANZ S. STIEGLMAYR

IBLA 82-712

Decided August 18, 1982

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting application for oil and gas lease M 52632.

Affirmed.

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

An oil and gas lease application, form 3112-1 (July 1980), is not completed in accordance with regulation 43 CFR 3112.2-1 or the instructions on the application itself where questions (d) through (f), dealing with parties in interest other than those elsewhere disclosed, are left unanswered. An incomplete application must be rejected.

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

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Franz S. Stieglmayr has appealed from the March 12, 1982, decision of the Montana State Office, Bureau of Land Management (BLM), rejecting his simultaneously-filed application for oil and gas lease M 52632. Appellant's application was drawn first for parcel MT 55 in the July 1981 drawing. His application was rejected because he failed to answer questions (d) through (f) on the reverse side of the card. This portion of the application appears as follows:

UNDERSIGNED CERTIFIES AS FOLLOWS (check appropriate boxes) [original in italics]:

* * * * *

(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? Yes No

(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? Yes No

(f) Does the undersigned have any interest in any other application filed for the same parcel as this application? Yes No

There is also a space provided on the form for an applicant to name any other parties in interest.

Appellant's failure to complete the application was mainly the result of oversight, and he contends that the applicable regulations do not require a response to these questions. Appellant points out that under 43 CFR 3102.2-7(a), an applicant must set forth the names of other parties in interest, but the regulation requires no affirmative statement that an applicant is a sole party in interest. Appellant indicated no other parties in interest in the space provided on the form. With respect to the need to answer question (e), appellant states that 43 CFR 3102.2-7(b), requiring disclosure of any agreement with another party in interest, does not require a statement on behalf of an applicant that no such agreement or understanding exists. With respect to question (f), appellant contends that 43 CFR 3112.2-1(f), the regulation prohibiting multiple filings, does not require an affirmative statement that an applicant has no interest in any other application filed for the same parcel. Appellant contends that his failure to answer questions (d), (e), and (f) should be excused since deficiencies in his application were purely procedural and appellant has proven that he does in fact qualify to hold a Federal oil and gas lease.

We must begin our answer to these contentions by observing generally that under the Mineral Leasing Act, the Department is authorized to issue a noncompetitive oil and gas lease only to the first qualified applicant. See 30 U.S.C. § 226(c) (1976). The Department has promulgated regulations that provide for the simultaneous filing of applications to be drawn for consideration. 43 CFR Subpart 3112. "If the Secretary is to fulfill his obligation to lease to the first-qualified applicant, as strict a compliance with the regulations as possible is necessary." Shearn v. Andrus, No. 77-1228, slip op. at 6 (10th Cir. Sept. 19, 1977), quoted in Sorensen v. Andrus, 456 F. Supp. 499 (D. Wyo. 1978). We have consistently required strict compliance with the requirements relating to lease applications, and failure to complete any part of an application will disqualify an applicant. See Sorensen v. Andrus, *supra* at 501, and cases cited therein.

[1] Contrary to appellant's contentions, the applicable regulations clearly require rejection of this application. One regulation, 43 CFR 3112.2-1(a), requires that an application be "completed, signed and filed pursuant to the regulations of this subpart." Another regulation, 43 CFR 3112.6-1(a), provides that any application not filed in accordance with section 3112.2 shall be rejected. This Board has consistently held that an oil and gas lease application is not completed in accordance with 43 CFR 3112.2-1 or the explicit instructions on the application itself where questions (d) through (f) are left unanswered. E.g., Terry K. Weed, 61 IBLA 213 (1982); Dr. Jose Trabal, 60 IBLA 97 (1981); Clyde K. Kobbeman, 58 IBLA 268, 80 I.D. 915 (1981); Vincent M. D'Amico, 55 IBLA 16 (1981). Those cases explain that answering questions (d) through (f) is a requirement distinct from listing other parties in interest elsewhere on the form or filing copies of agreements with other parties. We may not justify a departure in a single case from an otherwise consistent policy of rejecting applications that do not conform to the regulation. See McKay v. Wahlenmaier, 226 F.2d 35, 43 (D.C. Cir. 1955). To do so would infringe on the rights of the second-drawn applicant for priority of consideration. See Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1070 (10th Cir. 1976).

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.

Edward W. Stuebing
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Bruce R. Harris
Administrative Judge

