

HERBERT I. OTT

IBLA 82-357

Decided November 22, 1982

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease application. W 73485.

Affirmed.

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

An oil and gas lease application, form 3112.1 (June 1980), is not completed in accordance with regulation 43 CFR 3112.2-1(a) or the instructions on the application itself where questions (d) through (f), dealing with parties in interest other than those elsewhere disclosed, assignments, and multiple filings, are left unanswered.

APPEARANCES: Bruce A. Budner, Esq., Dallas, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Herbert I. Ott has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated November 13, 1981, rejecting his noncompetitive oil and gas lease application, W 73485 for failure to complete properly his simultaneous oil and gas lease application form in accordance with 43 CFR 3112.2-1(g). Appellant's application was drawn with first priority for parcel WY 2652 in the November 1980 simultaneous oil and gas lease drawing.

The basis for the BLM decision was appellant's failure to answer the questions on the back of his application form, items (d), (e), and (f). ^{1/}

^{1/} Items (d) through (f) are a series of questions, each of which is followed by boxes to be checked "Yes" or "No" in response. The questions are:

"(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?"

In his statement of reasons for appeal, appellant contends that BLM is estopped to reject his noncompetitive oil and gas lease application because his agent, Federal Energy Corporation (FEC), which prepared the application form, justifiably relied on statements by a BLM employee, prior to filing the application, that answers to items (d) through (f) need not accompany or appear on the application form, but, instead, could be retained by FEC in its files. In documenting the statements made by the BLM employee, appellant apparently relies on the affidavit signed by Marguerite Hendel, an FEC employee, submitted with a previous statement of reasons "filed on behalf of Vincent D'Amico" (Statement of Reasons (SR) at 2). 2/

It is readily apparent from the statement of reasons that appellant is relating the same facts which we considered in Clifford E. Shaw, 63 IBLA 293 (1982); and Vincent M. D'Amico, 55 IBLA 116 (1981), on the question of estoppel. In these cases, we noted that the BLM employee involved "denies advising FEC that retaining such answers would eliminate the necessity to answer such questions on the application itself." Shaw at page 294 and D'Amico at page 120. However, we concluded that even if the alleged statements were made, "such facts entitle them [appellants therein] to no relief on appeal." Id. In particular, we stated that one of the crucial elements of estoppel, i.e., ignorance of the true facts, was not present because the application form itself and Departmental regulations specifically inform applicants of the proper procedure for completing simultaneous oil and gas lease applications. Accordingly, we held that the elements of estoppel were not present in either Shaw or D'Amico. Likewise, they are not present in this case. Appellant has presented no new facts which would justify its imposition.

[1] We adhere to our earlier rulings on the same facts where we have emphasized that the law in this area is abundantly clear. The applicable regulation, 43 CFR 3112.2-1(a), provides in relevant part: "An application to lease under this subpart consists of a simultaneous oil and gas lease application on a form approved by the Director, Bureau of Land Management, completed, signed and filed pursuant to the regulations in this subpart." 3/ (Emphasis added.)

fn. 1 (continued)

"(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?"

"(f) Does the undersigned have any interest in any other application filed for the same parcel as this application?"

2/ Counsel for appellant states that Hendel was the FEC employee "who was responsible for the completion and filing of Mr. Ott's application" (SR at 1-2). He states further that "[a] similar conversation was held with respect to the execution of the card. In signing the card 'FEC agent for Ott' Ms. Hendel relied on a telephone conversation with a BLM employee" (SR at 2).

3/ 43 CFR 3112.2-1(g), cited by BLM, simply provides: "The properly completed and signed lease application shall be filed in the proper office of the Bureau of Land Management." (Emphasis added.)

This Board has consistently held that an applicant has not complied with 43 CFR 3112.2-1(a) where he has failed to answer questions (d) through (f) on the application form and that failure to do so properly results in rejection of the application. Leroy G. Boudreaux, 62 IBLA 255 (1982); James E. Webb, 60 IBLA 321 (1981); Robert D. Alexander, 59 IBLA 118 (1981); Simon A. Rife, 56 IBLA 378 (1981).

This Board has uniformly required strict compliance with the substantive requirements of the regulations concerning the filing of applications in the simultaneous oil and gas leasing program, especially in cases involving omitted information. See H. L. McCarroll, 55 IBLA 216 (1981), and cases cited therein.

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.

James L. Burski
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Douglas E. Henriques
Administrative Judge

