

DRY RIVER PROPERTIES

IBLA 83-1

Decided December 13, 1982

Appeal from decision of the Colorado State Office, Bureau of Land Management, rejecting oil and gas lease application C 36002.

Reversed.

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

It is improper to reject a simultaneously filed oil and gas lease application because of the alleged failure of the signatory to indicate his relationship to the applicant where the applicant is a partnership and the signatory is a partner authorized to act in its behalf, and the application is correctly noted with a reference to the BLM serial number where the articles of partnership and the names of those authorized to act are on file. In those circumstances, the regulatory requirement that the application be rendered in a manner to reveal the name of the applicant, the name of the signatory, and their relationship, is satisfied.

APPEARANCES: Winfred C. Shiflett, general partner, Colorado Springs, Colorado, for partnership.

OPINION OF ADMINISTRATIVE JUDGE STUEBING

Dry River Properties is a partnership organized under the laws of Virginia and consisting of three general partners. The purpose of the partnership, as declared in the partnership agreement, is to engage in the business of investment in and improvement to real estate, and investment in marketable securities and bonds.

The partnership submitted to the Colorado State Office, Bureau of Land Management (BLM), its articles of partnership, a list of all general partners, specifically stating that each of the general partners is authorized to act

individually on behalf of the partnership, and all of the other information required by 43 CFR 3102.2-4 (1981) in order to qualify the partnership to apply for Federal oil and gas leases.

By a letter dated June 26, 1981, the Colorado State Office advised that their qualifications had been examined and found to be acceptable, and had been filed under reference number C-31848.

In May 1982 Dry River Properties filed its simultaneous application in the Colorado State Office, BLM, for Parcel No. CO-101. The application listed "Dry River Properties" as the applicant in the appropriate space. The application was completed to show that statements of qualification had previously been filed under C-31848, and the application was signed by Winfred C. Shiflett. The signatory, Shiflett, was not otherwise identified on the form, but the information on file in C-31848 identifies him as a general partner who is individually authorized to act for that partnership. The application was subsequently drawn number one and given serial number C 36002.

By decision dated September 21, 1982, the application of Dry River Properties was rejected by the Colorado State Office on the ground that "No indication of the relationship between the applicant and the person signing the application appears on the application." The decision held that this violated 43 CFR 3112.2-1(b) which provides, in part: "Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory, and their relationship."

This Board recently reviewed this issue in Hercules, 67 IBLA 151, 153 (1982), and reversed the State Office's decision to reject the application saying:

It is apparent that the BLM employees concerned either overlooked or ignored the references to appellants' qualifications file. We are of the opinion that by completing their applications with a reference to that file, the respective applications clearly were "rendered in a manner" to provide the necessary information. See 43 CFR 3102.3-1. Cf. Norcross Partners, 31 IBLA 181 (1977).

The regulation states that it is the application -- not the signature -- which must "be rendered in a manner to reveal the name of the applicant, the name of the signatory, and their relationship." This requirement was satisfied by completing the application with the appropriate reference to the qualifications filed under C-31848 where all of the requisite information is of record with BLM. Hercules, supra.

We are aware of the change in 43 CFR Subpart 3102 that eliminates an association's mandatory submission of certain material. See 47 FR 8544 (Feb. 26, 1982). Presently, 43 CFR 3102.5 does not require information concerning an association's qualifications unless requested. It is conceivable that BLM may have discarded the partnership's qualifications file. Unless BLM, however, notified the partnership that C-31848 would be removed from

their files, we cannot charge appellant with the knowledge that it was no longer available. We must assume that C-31848 still exists and was readily accessible to those who reviewed appellant's application.

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.

Edward W. Stuebing
Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

Gail M. Frazier
Administrative Judge