

Appeal from decision of Colorado State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application C-3493.

Reversed and remanded.

1. Oil and Gas Leases: Applications: Drawings

Where applicant, who is beneficiary of a trust administered by her mother, files an application to lease in a simultaneous oil and gas lease drawing in which her mother files an application in her individual capacity Departmental regulations prohibiting multiple filings and holding owning or controlling interests in more than one application are not violated.

APPEARANCES: Phillip G. Dufford, Esq., and Phillip D. Barber, Esq., for appellant.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Rachel S. Grynberg appeals from a decision of the Colorado State Office, Bureau of Land Management (BLM), dated April 14, 1982, rejecting her simultaneous oil and gas lease application C-34593. Appellant is the beneficiary of a trust established by her father for which her mother, Celeste C. Grynberg, is trustee. Appellant Rachel S. Grynberg's application was first drawn for parcel CO-400, in a simultaneous oil and gas lease drawing held in September 1981. An application for CO-400 was also filed by Celeste C. Grynberg, appellant's mother and trustee, who, however, filed for the parcel in her individual capacity and not as trustee of the Rachel S. Grynberg trust.

The BLM decision rejecting appellant's application stated the reason for the rejection to be:

Because of the fiduciary obligation imposed upon Celeste Grynberg as trustee of the Rachel Susan Grynberg Trust, if a suit were brought against Celeste Grynberg, trustee, by Rachel Susan Grynberg, beneficiary, the courts would hold that Mrs. Grynberg holds the lease for the use and benefit of the trust. See June

Oil and Gas, Inc. v. Andrus, 506 F. Supp. 1204 (D.C. Colorado 1981).

Since Rachel S. Grynberg filed an application in her own behalf and since Mrs. Grynberg's application inures to the benefit of her daughter, an unfair situation has been created which enhances the mathematical advantage of Rachel Susan Grynberg over other applicants for Parcel No. CO-400. Such multiple filings are prohibited by 43 CFR 3112.6-1, and the above-referenced application is therefore rejected in its entirety.

The reasoning of the decision appealed from is based upon an attempt to apply to this appeal the reasoning of the opinions in Bruce A. Blakemore Estate Trust, 62 IBLA 336 (1982) and Celeste C. Grynberg, 44 IBLA 197 (1979), aff'd, June Oil & Gas, Inc. v. Andrus, 506 F. Supp. 1204 (D. Colo. 1981). Those opinions must be distinguished, however, in light of the decision in Rachel S. Grynberg, 71 IBLA 83 (1983), a factually identical case also involving a trust in which Celeste C. Grynberg is the trustee for appellant. As this Board observed in Rachael S. Grynberg, supra, at pages 85, 86-87:

The issue on appeal is whether 43 CFR 3112.2-1(f) and 3112.6-1(c)(4) have been violated where an applicant who is also an adult beneficiary of a trust files an application to lease a particular parcel in a simultaneous oil and gas lease drawing, and her mother, who is trustee for the trust, also files an application for the same parcel as an individual.

We agree with appellant that these regulations have not been violated in this situation. Rachel Grynberg and Celeste Grynberg have each filed an application for parcel CO-25 in their individual capacities. The fact that their relationship is mother and daughter does not preclude them from filing applications for the same parcel. The Department has held that a husband and wife may individually file for the same parcel of land in a simultaneous drawing without violating the sole party in interest requirement or the multiple filing prohibition. Duncan Miller, 71 I.D. 121 (1964). The Board reiterated this holding in June Oil and Gas, Inc., 41 IBLA 394, 403, 86 I.D. 374, 379 (1979), which was affirmed on other grounds in June Oil and Gas, Inc. v. Andrus, 506 F. Supp. 1204 (D. Colo. 1981). Given the facts of this case, we find no reason why appellant and her mother could not each file an application for the same parcel.

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* * * There is no evidence showing that Rachel would have an interest in her mother's lease when her mother files as an individual. Therefore, there is no violation of 43 CFR 3112.2-1(f). Since Celeste Grynberg has filed as an individual as she is authorized to do under the terms of the trust, and has not filed on behalf of the trust, there is no violation of 43 CFR 3112.6-1(c)(4). There is no evidence that a multiple filing

exists in violation of 43 CFR 3112.6-1 which would give Rachel Grynberg a greater mathematical chance to benefit from the results of the drawing. [Emphasis in original.]

The decision in Rachel S. Grynberg is directly controlling here: there was, under the circumstances of this case, no violation of 43 CFR 3112.2-1 or 3112.6-1.

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 and this appeal is remanded to BLM for action consistent with this opinion.

Franklin D. Arness
Administrative Judge
Alternate Member

We concur:

Will A. Irwin
Administrative Judge

Anne Poindexter Lewis
Administrative Judge.

