

MICHELE M. DAWURSK

IBLA 82-744

Decided May 9, 1983

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application W-76335.

Affirmed.

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

An oil and gas lease application, form 3112-1 (June 1980) is not completed within the meaning of 43 CFR 3112.2-1(a) where questions (d) through (f) concerning other parties in interest, assignments, and multiple filings, are left unanswered, even if the required responses are subsequently provided.

APPEARANCES: Michele M. Dawursk, pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Michele M. Dawursk has appealed from the decision of the Wyoming State Office, Bureau of Land Management (BLM), dated March 23, 1982, rejecting her simultaneous oil and gas lease application W-76335 because it was not completed fully. Appellant's application form 3112-1 (June 1980) failed to contain responses to questions (d) through (f) appearing on the back of the application form. These questions, each of which is followed by a space for an answer, 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?

(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?

In her statement of reasons in support of her notice of appeal, appellant has now supplied complete answers to questions (d) through (f). She also points out that 43 CFR Subpart 3102 (1981) was amended effective February 26, 1982, by a new Subpart 3102 under which she seeks to qualify her application. See 47 FR 8544-8546 (Feb. 26, 1982). This argument must be rejected for two reasons. First, rejection of appellant's application is required by 43 CFR 3112.2-1(a) which was not revised in the February 26, 1982, amendments. Further, the applicability of the amended regulations to previously filed noncompetitive lease applications was expressly limited to applications for which there were no junior conflicting applications. See 47 FR at 8544 (Feb. 26, 1982). In this case, the number two and three drawees for the subject parcels constitute junior conflicting applicants and appellant's violation of the regulations cannot be waived. This result is compelled by the obligation of the Secretary of the Interior to issue a noncompetitive oil and gas lease only to the first-qualified applicant therefor. See 30 U.S.C. § 266(c) (1976).

The ultimate disposition of this appeal is controlled by this Board's opinion in Robert B. Lee, 69 IBLA 255 (1982), a decision which applies 43 CFR 3112.2-1 in nearly an identical factual situation. As this Board observed in Robert B. Lee, supra at 257:

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." (Emphasis added.) The introductory words to items (a) through (g) are as follows: "UNDERSIGNED CERTIFIES AS FOLLOWS (Check appropriate boxes)." (Original in italics.) Small boxes appear following those items where a checked response is required.

The Board has repeatedly stated that the application form clearly contemplates that items (d) through (f) are to be checked on the application form itself. Cheryl R. Cooksey, 62 IBLA 307, 308 (1982); Ben M. Powell III, 59 IBLA 146, 148 (1981); Vincent D'Amico, 55 IBLA 116, 119 (1981). [This position was recently approved on appeal to Federal District Court in Charles Y. Neff, 64 IBLA 234 (1982), aff'd, Neff v. Watt, No. C8L-0337-B (D. Wyo. Jan. 21, 1983).] Contrary to appellant's argument, the issue is not when a deficient application may be cured; the issue is whether appellant complied with the instructions on the application requiring him to answer the questions and thereby complete his application. When questions (d), (e), and (f) have not been answered, the application is simply not completed, and neither the application nor the regulations provide the option of answering these questions by amendment. Ben M. Powell III, supra at 148; Clyde K. Kobbeman, 58 IBLA 268, 273, 88 I.D. 915 917-18

(1981); see Vincent D'Amico, supra. The rule stems from considerations of practicality. BLM handles a vast number of applications each month; appellant himself submitted applications on five parcels in the January drawing, although only one addendum. We have stated that in such circumstances it is reasonable for BLM not to take extra steps to protect those who do not comply fully with its application instructions. Clyde K. Kobbeman, supra at 273, 88 I.D. at 917; Federal Energy Corp., 51 IBLA 144, 147 (1980). The need to process the many applications efficiently justifies BLM's insistence on strict compliance with its filing procedures.

The same result is required here: Appellant cannot avoid the application of 43 CFR 3112.2-1(a) by amending her application form following the drawing so that it complies with the regulation. 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.

Franklin D. Arness
Administrative Judge
Alternate Member

We concur:

C. Randall Grant, Jr.
Administrative Judge

Gail M. Frazier
Administrative Judge

