

Editor's note: Overruled to the extent inconsistent with Shaw Resources, Inc., 79 IBLA 153, 91 I.D. 122 (Feb. 24, 1984); Appealed -- reversed, Civ.No. C83-354 (D.Wyo. Jan. 4, 1985)

NANCY McMURTRIE

IBLA 82-1082

Decided June 2, 1983

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease offer W 80044.

Affirmed.

1. Oil and Gas Leases: Applications: Generally

An oil and gas lease application, Form 3112-6 and 3112-6(a) (Automated Simultaneous Oil and Gas Lease Application, Parts A & B) is not properly completed in accordance with regulation 43 CFR 3112.2-1 and the instructions printed on the application where the applicant's name and address are not placed in the space provided therefor on Form 3112-6(a).

APPEARANCES: Ted J. Gengler, Esq., Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

This appeal is taken from a decision dated June 15, 1982, by the Wyoming State Office, Bureau of Land Management (BLM), rejecting simultaneous oil and gas lease offer W 80044.

Appellant obtained first priority for parcel WY-514 drawn in May 1982. The application was on Form 3112-6 and 3112-6(a) "Automated Simultaneous Oil and Gas Lease Application" Parts A and B, June 1981. The automated form was adapted to accommodate the automatic processing of applications and to expedite the issuance of oil and gas leases. 46 FR 55783 (Nov. 12, 1981). An applicant's name and address are required on both parts of the form. ^{1/} BLM rejected appellant's application because she had failed to place her name and address in the space provided therefor on Form 3112-6a (Part B) of the form.

^{1/} In fact, Part A requires the applicant's name to be entered twice. It first calls for the full name to be printed or typed. Below that the last name must be entered with each letter being placed in an individual box. -

BLM sent written notice to appellant that her lease had been rejected. The BLM notice cited 43 CFR 3112.2-1(a) and several cases in which the Board has held that failure to fully execute a simultaneous application (drawing entry card) properly resulted in rejection of the application. The cited regulation provides in pertinent part:

§ 3112.2-1 Simultaneous oil and gas lease applications.

(a) 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. The first applicant for a lease, as determined under the regulations in this subpart, who is qualified to hold a lease under the Act and the regulations in this title shall be entitled to submit an offer for the lease as described in § 3112.4-1 of this title.

* * * * *

(c) The name of only one citizen, association, corporation or municipality may appear as applicant on any application. The application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period.

(d) The application shall include the applicant's personal or business address. All communications relating to leasing shall be sent to that address and it shall constitute the applicant's address of record for the purpose provided in § 3112.4-1 of this title. The applicant shall not use the address of any other person or entity which is in the business of providing assistance to those participating in the simultaneous oil and gas leasing system.

Appellant contends that she completed her application as required by the regulation when she entered her name and address on Part A of the form. Appellant asserts that the regulation does not require the name to be entered two, three, or any other number of times, but only once, on a form approved by the Director, BLM. Appellant also contends that adoption of the new form produced an ambiguous situation which should not be used to deprive her of a lease. Appellant asserts that it was incumbent on BLM to make absolutely clear that the name and address must appear in two places on a single application by changing the regulation to reflect this requirement. Appellant suggests that having once established an applicant's name and address there is no reason or administrative necessity for having the name twice on a single application.

[1] We do not agree with appellant. The new forms have not created an ambiguity or called for the promulgation of a new regulation. Formal notice was given in 46 FR 55783 (Nov. 12, 1981), effective January 1, 1982, that the new form would be used for simultaneous filings in the Wyoming State

Office. The stated purpose of the new form was to facilitate automated processing and more expeditious issuance of oil and gas leases. As appellant observes in her statement of reasons, BLM's instructions to applicants explained that Part A of the form is used to establish a permanent record of an applicant's name and address for computerized processing. Part B of the form is used to establish a drawing data file used by the computer to randomly select winners. Part B of the form contains printed instructions for filling in all required information in Part B and a sample Part B illustrating a properly completed form. The instructions entitled "name and address" call for use of the applicant's full name and personal or business address and the sample form clearly shows a completed name and address in the box left blank by appellant. The promulgation of an additional regulation would not have made the instructions clearer.

The regulation, 43 CFR 3112.2-1(c), requires the name of "only one citizen." This provision gives no specific direction or limitation with respect to how many times an applicant's name may or must appear on an application. 43 CFR 3112.2-1(a) accords the Director, BLM, discretion to approve the application form to be used and requires that whatever form adopted be "completed, signed, and filed pursuant to the regulations in this subpart." (Emphasis added.) Since appellant's name and address were omitted from Part B of the form, her application was not completed in accordance with the instructions or regulation. Since Parts A and B may not necessarily be filed or used by BLM at the same time, the information on one form must correctly correspond to the information on the other in order to ensure automated processing. Strict compliance with the regulation is enforced to protect the rights of the applicants with second and third priority. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), aff'd, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976). BLM correctly rejected 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 affirmed.

R. W. Mullen
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Will A. Irwin
Administrative Judge

