

Appeal from the Utah State Office, Bureau of Land Management, rejecting oil and gas lease application U-51253.

Affirmed.

1. Oil and Gas Leases: Applications: Filing--Oil and Gas Leases: First-Qualified Applicant--Oil and Gas Leases: Noncompetitive Leases--Oil and Gas Leases: Rentals

A simultaneous oil and gas lease application is properly rejected where the executed lease forms are not received by the proper BLM office within 30 days from receipt of notice of rental due.

APPEARANCES: P. A. Rapp, pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

P. A. Rapp has appealed from a decision dated November 9, 1982, of the Utah State Office, Bureau of Land Management (BLM), rejecting her oil and gas lease application U-51253, because the executed lease forms were not received in the proper BLM office within 30 days from receipt of notice of rental due. Appellant was the successful applicant for parcel UT-105 in the May 1982 simultaneous filings. On August 4, 1982, the Utah State Office forwarded to appellant lease forms for execution together with notice of first year's rental due. On September 1, 1982, payment for the first year's rental was received in the Utah State office; however, executed lease forms did not accompany the payment. BLM inquired whether the lease forms might have been sent to a different office and by letter of October 8, 1982, appellant informed BLM's Salt Lake Office she had mailed her lease forms to BLM's Vernal, Utah, District Office. As of the date of the decision, the lease forms had not been received by the Salt Lake Office.

In her statement of reasons appellant acknowledges the first year's rental and lease forms were sent to the Vernal Office. Appellant asserts she received a form pertaining to surface stipulations on which appeared a list of 15 BLM offices and that a red check mark appeared beside the address of the Vernal Office. Appellant also suggests that since the lease forms were in the same envelope as the first year's rental they were most likely received by the proper office. The record on appeal contains no lease forms nor any document listing addresses for Utah BLM offices.

[1] The applicable regulation, 43 CFR 3112.4-1(a), ^{1/} provides that a lease agreement, consisting of a lease form and stipulations, "shall be forwarded to the first qualified applicant for signing, together with a request for payment of the first year's rental." Further, the regulation provides that: "The executed lease agreement and the applicant's rental payment shall be filed in the proper Bureau of Land Management office within 30 days from the date of receipt of notice." *Id.* (emphasis added). See 43 CFR 1821.2-1. Failure to timely submit the required documents, in accordance with 43 CFR 3112.4-1(a), properly results in rejection of a simultaneous oil and gas lease application, pursuant to 43 CFR 3112.6-1(d). Harold J. Norsoph, 78 IBLA 150 (1983); Jay R. Angle, 77 IBLA 242 (1983); Longhorn Oil, Ltd., 72 IBLA 45 (1983), and cases cited therein.

It appears appellant was mistaken concerning which BLM office should receive her completed lease forms. However, prior Departmental decisions establish that the consequence for this error must be borne by appellant.

Executed lease documents must be filed in the proper BLM office having jurisdiction over the matter. A late filing or failure to return the completed lease forms is not excused by an erroneous mailing of the sort described by appellant. See Jerry W. Wolf, 70 IBLA 131 (1983).

Appellant also argues, by implication, since payment was timely received by the proper BLM office, that her completed lease forms, which she states were enclosed with her payment, must also have been received by that office. BLM, however, indicates the executed lease documents were not received with the payment. Under such circumstances there is an inference the lease documents were not filed. A contrary inference, as suggested by appellant, cannot be indulged. See Daniel D. Wyles, 64 IBLA 339 (1982). Where, as here, Government records indicate documents were not filed with the agency, the appellant must show not only that the documents were sent, but must prove they were actually received.

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

We concur:

Wm. Philip Horton
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

^{1/} The oil and gas leasing regulations were amended effective Aug. 22, (48 FR 33648 (July 22, 1983)). The provisions of this regulation are to be codified at 43 CFR 3112.6-1.

