

LaVERNE VINCENT HARRIS

IBLA 84-617

Decided October 19, 1984

Appeal from decision of Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application M-59479.

Affirmed as modified and remanded.

1. Oil and Gas Leases: Applications: Drawings

A simultaneous oil and gas lease application is not properly completed in accordance with 43 CFR 3112.2-1(g) (1982), where the identification numbers on Parts A and B of the application do not match. Such an error renders the application unacceptable. The applicant is entitled to a return of his filing fees, minus a \$75 processing fee, and the Board will remand the case to the Bureau of Land Management for that purpose.

APPEARANCES: LaVerne Vincent Harris, Esq., pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

LaVerne Vincent Harris has appealed from a decision of the Montana State Office, Bureau of Land Management (BLM), dated April 24, 1984, rejecting his simultaneous oil and gas lease application M-59479.

Appellant's lease application was drawn with first priority for parcel MT-407 in the August 1983 simultaneous oil and gas lease drawing. In its April 1984 decision, BLM rejected appellant's application because the social security identification number (SSN) on Part B of his application (483-14-9954) did not match the SSN on Part A of his application (483-14-9964). We note that the record indicates that the SSN on Part B of appellant's application, as written, is the same as on Part A, but that the incorrect "bubble" has been darkened under the eighth digit.

In his statement of reasons for appeal, appellant admits error in completion of Part B but contends that the mismatch in Parts A and B of his application, due to the inadvertent failure to darken the appropriate bubble for one of the digits of his SSN on Part B, was a harmless error which did not adversely affect any substantial public purpose inherent in the simultaneous drawing. Appellant states that he was not thereby given an unfair

advantage over other applicants, there was no fraud involved, and BLM was not prevented from identifying appellant as the winning applicant. Appellant further contends that the clerical error on his part did not prevent the automated processing of his application. Appellant also argues that it was improper for BLM to reject his application where he was never notified, by regulation or otherwise, that the correct entry of his SSN was crucial to the viability of his application. Appellant states that he should have an opportunity to correct his error, or at least receive a refund of his filing fee.

[1] It is now well established that an application is "unacceptable" where Part B (Form 3112-6a (June 1981)) was not properly completed by inserting of the same identification number as indicated on Part A (Form 3112-6 June 1981)). 1/ Howell Roberts Spear, 80 IBLA 150 (1984); Shaw Resources, Inc., 79 IBLA 153, 91 I.D. 122 (1984). The necessity for proper completion of Part B in this manner is based on the automated nature of the current simultaneous oil and gas leasing system and the fact that, because Part A identifies the applicant and is matched to Part B only by the identification number given on both forms, the efficient computer processing of Part B and, indeed, eventual issuance of a lease, would otherwise be impaired. 2/ Efficient computer processing is necessary because BLM must process over one hundred thousand applications in one drawing period. Therefore, the regulatory requirement mandating proper completion of application forms promotes the efficient administration of the entire simultaneous leasing system.

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1/ At the time appellant submitted his lease application, the applicable regulation, 43 CFR 3112.2-1(g) (1982), provided that the "properly completed and signed lease application shall be filed in the proper office of the Bureau of Land Management." In addition, 43 CFR 3112.6-1(a) (1982) provided that an application would be rejected if not filed in accordance with 43 CFR 3112.2 (1982). Current regulations specifically require an applicant to enter his identification number "on the lease application" and to "use the same number for all filings." 43 CFR 3112.2-1(e) (48 FR 33678 (July 22, 1983)).

Nevertheless, we have consistently held that a mismatch in Parts A and B of a lease application because of an incorrect SSN constitutes a failure to comply with the prior regulatory requirement that applications be "properly completed." E.g., Marvin A. Urquhart, Jr., 81 IBLA 370 (1984); David Earl Frye, 81 IBLA 49, 51 (1984). The consequence of such a mismatch, however, is not a rejection by BLM under 43 CFR 3112.6-1(a) (1982), but a declaration of unacceptability under 43 CFR 3112.3(a), as amended at 49 FR 2113 (Jan. 18, 1984).

2/ Part A, unlike Part B, provides the applicant's name and address in machine-readable form and is coordinated with all subsequently filed Part B forms. Part B, on the other hand, identifies those parcels in a particular simultaneous lease drawing which the applicant desires to lease. The identification number, which is the only machine-readable number common to both forms, coordinates the two forms. This number may be a person's SSN, as in the present case, a business entity's employer identification number, or a number assigned by BLM. The instructions on Part B notify applicants to print "the number used by the applicant on Part A and [to] mark the corresponding circles."

The automated nature of the simultaneous leasing system also underscores the importance of the machine-read portion of Parts A and B. In each case, there are boxes for an applicant to write his identification number, with corresponding circles underneath each number which must be appropriately blackened. It is the darkened circles, not the written numbers, that are read by the computer and, thus, link the two forms. Accordingly, in Satellite Energy Corp., 77 IBLA 167, 90 I.D. 487 (1983), we held that Part B of an application had been properly completed where the blackened circles on the form could be matched with a Part A form, even though no numbers had been entered in the boxes. In the present case, the correctly entered machine-read identification number on Part A of appellant's application did not match the similar number on Part B because one of the numbers on Part B had been entered incorrectly. Thus, the computer could not determine and report appellant's address, and the computer printout reported appellant's address as "unknown." Thus, the vital link was missing. In such circumstances, it is irrelevant that BLM might be able to subsequently match Parts A and B of appellant's application by hand-sorting the forms. Appellant's failure to properly complete Part B of his simultaneous oil and gas lease application does not comply with the requirement of 43 CFR 3112.2-1(g) (1982), and the application is unacceptable for that reason. An application which is, by law, unacceptable is not rendered valid if it is erroneously processed to a point in the computer processing procedure at which the error in the application is identified, i.e., when the computer is unable to match the Part B to a Part A.

Effective August 22, 1983, and January 18, 1984, the Department revised the regulations applicable to the simultaneous oil and gas leasing system. See 48 FR 33648 (July 22, 1983); 49 FR 2110 (Jan. 18, 1984). These regulations draw the distinction between unacceptable applications and those which are subject to rejection. In particular, 43 CFR 3112.3(a) (48 FR 33679 (July 22, 1983), as amended at 49 FR 2113 (Jan. 18, 1984)), provides that a Part B application form shall be deemed unacceptable and returned if it is "received in an incomplete state or prepared in an improper manner that prevents its automated processing." Moreover, 43 CFR 3112.3(b) (48 FR 33679 (July 22, 1983), as amended at 49 FR 2113 (Jan. 18, 1984)), provides that, when Part B application forms are returned as unacceptable, "a \$75 processing fee shall be retained and the balance of fees, if any, shall be returned."

In Shaw Resources, Inc., supra, we held that an incorrectly marked Part A or Part B form, resulting in a mismatched Part A and Part B, renders an application unacceptable even where error in completing the application has not been found before the application has been included in the drawing, and that the applicant was, therefore, entitled to the return of the filing fees tendered with the applications, after assessment of a \$75 processing fee per application form. We adopt the same approach herein. BLM is directed to treat applicant's application as being unacceptable and to return appellant's filing fees, minus \$75.

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 as modified and the case is remanded to BLM for further action consistent herewith.

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R. W. Mullen  
Administrative Judge

We concur:

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James L. Burski  
Administrative Judge

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Will A. Irwin  
Administrative Judge