

MARION E. BANKS
NOBLE CRAVER
AUGUST CARNIGLIA

IBLA 84-717

Decided September 19, 1985

Appeal from decision of the Alaska State Office, Bureau of Land Management, denying petition for reinstatement of oil and gas lease AA-48572-W.

Affirmed.

1. Oil and Gas Leases: Reinstatement -- Oil and Gas Leases: Termination

Under 30 U.S.C. § 188(c) (1982), the Secretary is without authority to reinstate an oil and gas lease terminated by operation of law for failure to pay annual rental timely where the lessee fails to submit the full amount of rental due within 20 days of the anniversary date of the lease.

2. Estoppel -- Oil and Gas Leases: Rentals -- Regulations: Generally -- Statutes

An essential element of a claim for estoppel is that the party asserting it must be ignorant of the true facts. Since, however, all persons are presumed to have knowledge of relevant statutory and regulatory provisions, an individual may not premise a claim of estoppel on information or advice contrary to such a provision.

APPEARANCES: Marion E. Banks for appellants.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Marion E. Banks, Noble Craver and August Carniglia appeal from a decision issued June 11, 1984, by the Alaska State Office, Bureau of Land Management (BLM), denying their petition for class I reinstatement of noncompetitive oil and gas lease AA-48572-W.

The original lease AA-48572 covering 7,040 acres was issued to Alaska Capital Corporation (Alaska) effective April 1, 1983. On May 23, 1983, Alaska assigned 80 acres of land included in its lease to appellants. BLM issued a partial Assignment Approval Notice on August 30, 1983, approving the assignment effective July 1, 1983.

On August 27, 1984, BLM issued a notice of lease termination advising appellants their lease terminated effective April 1, 1984, because the annual rental payment due on the anniversary date of the lease had not been received. The notice also informed appellants of their right to petition for reinstatement of the lease pursuant to the provisions of 30 U.S.C. § 188(c) (1982), class I reinstatement, and 30 U.S.C. § 188(d) and (e) (1982), class II reinstatement. The decision outlined the conditions to be met to secure reinstatement under both provisions:

I. Class I (30 U.S.C. 188(c); 43 CFR 3108.2-1(c))

Your lease may be reinstated under these provisions only if: (1) the rental due is paid or tendered to this office within 20 days after the anniversary date of the lease, and it is shown to the satisfaction of the authorized officer that failure to pay was either justifiable or not due to a lack of reasonable diligence, (2) that a petition for reinstatement, together with a nonrefundable filing fee of \$ 25 and the required rental, is filed in this office within 15 days after receipt of this Notice, and (3) that a new oil and gas lease has not been issued for any of the lands included in the terminated lease. If these conditions are met, your lease will be reinstated with the original lease terms and conditions, effective on the date of the termination. If one or more of the above conditions are not met, your lease may be eligible for a class II reinstatement. However, to qualify for a Class II reinstatement, the following conditions must be met.

II. Class II (30 U.S.C. 188(d) and (e), P.L. 97-451, Sec. 401(d))

Your lease may be reinstated under these provisions only if: (1)(a) the rental is paid within 20 days after the anniversary date of the lease, and it is shown to the satisfaction of the authorized officer that failure to pay on the anniversary date was due to inadvertence, or, (b) if the rental is not paid within 20 days after the anniversary date, it is shown to the satisfaction of the authorized officer that failure to pay was either justifiable or not due to a lack of reasonable diligence or due to inadvertence, (2) that a petition for reinstatement, together with a nonrefundable filing fee of \$ 25 and the rental and royalty due from the date of termination to the date of petition and payable at the rates set out below, is filed in this office within 60 days after receipt of this Notice, and (3) that a new oil and gas lease has not been issued for any of the lands included in the terminated lease. [Emphasis in original.]

Appellants petitioned to have their lease reinstated under provisions for class I on May 8, 1984, stating that they did not know rent on their lease was due April 1, 1984. BLM denied their petition because they did not meet the stated conditions for class I reinstatement. BLM did, however, determine that appellants could secure class II reinstatement if the

following conditions stated by BLM were met: "(1) Agree to the enclosed amendment of lease terms. Agreement must be indicated by signing and returning one copy of the amendment to this office. The other copy is for your lease records. (2) Submit \$ 320 to bring the back rental for the lease to the amount required by the new \$ 5 per acre or fraction thereof rate. (3) Submit \$ 500 for the administrative costs of reinstating the lease. (4) Submit \$ 142 for the cost of publishing a notice of the proposed reinstatement of the lease in the Federal Register. Total to be submitted is \$ 962." (BLM decision dated June 11, 1984.)

Appellants then complied with the listed conditions to secure class II reinstatement, thus preserving their lease. They appeal only that portion of the decision which denies their petition for class I reinstatement.

In their statement of reasons appellants explain:

I missed the rental payment, the first such payment to be made, due to lack of experience in oil and gas matters and an innocent mistake as to the definition of "anniversary date". The August 30, 1983, enclosed letter from Robert Sorenson of the Alaska State Office, Bureau of Land Management, states that "Rental is due annually on or before the lease anniversary date as stated above." I interpreted this language to refer to the July 1, 1983, lease assignment date, a date which had been stated in the immediately preceding paragraph of the letter. The letter did not define anniversary date, and by referring to the date as the one "stated above" was ambiguous as to the date the rental payment was due. Mr. Sorenson, by his letter, acted to inform me of the rental payment requirements. The information he provided was ambiguous and caused me to interpret anniversary date to mean July 1, 1983. It would be unfair to now penalize my partners and me for our good faith interpretation of the ambiguous statement and information provided to us (Statement of Reasons at 2).

[1] Section 31 of the Mineral Leasing Act, as amended, 30 U.S.C. § 188(b) (1982), provides that when the lessee fails to pay rentals on or before the anniversary date of the lease, and where no oil or gas in paying quantities is being produced on the leased premises, the lease shall automatically terminate by operation of law. If the lessee has paid the full rental within 20 days after the lease anniversary date, and the lessee shows that the failure to pay on or before the anniversary date was justifiable or not due to lack of reasonable diligence, the Department may under certain circumstances, reinstate the lease, pursuant to 30 U.S.C. § 188(c) (1982) and 43 CFR 3108.2-2(a) (class I). See Harry L. Bevers, 84 IBLA 158, 160-61 (1984); Leo M. Krenzler, 82 IBLA 205, 207 (1984); Kay Fink, 81 IBLA 381, 382 (1984); Arthur M. Solender, 79 IBLA 70, 72 (1984). Appellants' rental payment was received 38 days after the due date. Because of their failure to pay the rental within 20 days of the anniversary date the class I reinstatement remedy is unavailable to them. See Jerry D. Powers, 85 IBLA 116, 119 (1985); Samson Resources Co., 71 IBLA 224, 229 (1983).

[2] Appellants advance an estoppel argument based on allegations that the BLM Assignment Approval Notice was confusing and led to their misunderstanding of the rental due date. Appellants contend because of the ambiguity created by BLM their lease should be reinstated under the original terms. This Board has consistently held that reliance on erroneous or incomplete information given by an employee of the Department cannot excuse compliance with applicable law and regulations, nor can it relieve the claimant of the consequences imposed by statute or regulation for failure to comply with such requirements. See John Plutt, Jr., 53 IBLA 313 (1981). As we have noted, an essential element of an estoppel claim is that the party asserting it must not only be actually ignorant of the true facts; he must also not be in a position in which he could be constructively charged with such knowledge.

In this instance, appellants misunderstood the information contained in the Assignment Approval Notice. The notice stated that the "[r]ental is due on or before the lease anniversary date as stated above." (Emphasis supplied.) While the preceding paragraph refers to assignment approval date effective July 1, 1983, the top right hand corner of the notice references the original lease serial number, and indicates the lease date, April 1, 1983. Given this circumstance, it was appellants' responsibility to clear up any confusion they perceived relative to the rental due date. BLM cannot be held accountable for appellants' misinterpretation of the information supplied. It is well established that all persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Francis X. Furlong II, 73 IBLA 67 (1983). Because of the knowledge imputed to them appellants cannot successfully claim their ignorance of the material facts. See Francis X. Furlong, II, supra.

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.

Gail M. Frazier
Administrative Judge

We concur:

Franklin D. Arness
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

