

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease offer W-85689.

Dismissed.

1. Notice: Generally--Rules of Practice: Generally--Rules of Practice:
Appeals: Generally--Rules of Practice: Appeals: Timely Filing

A decision is constructively served on the date it is returned to BLM by the Postal Service stamped "unknown." The period for filing a notice of appeal from the decision begins on that date.

2. Appeals--Rules of Practice: Appeals: Dismissal--Rules of Practice:
Appeals: Timely Filing

Notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. The timely filing of a notice of appeal is jurisdictional and failure to file the appeal within the time allowed requires dismissal of the appeal.

APPEARANCES: George K. Stearns, Esq., Stowe, Vermont, for appellant; Lowell L. Madsen, Esq., Office of the Regional Solicitor, Denver, Colorado, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

TCG May 1983 appeals the August 10, 1984, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting oil and gas lease offer W-85689 for parcel WY 378, listed on the May 1983 notice of lands available for oil and gas filings, because the lands were determined to be in the Washakie Basin undefined known geologic structure effective May 29, 1984. See 43 CFR 3112.5-2(b).

Appellant indicated its address was "160 Commonwealth Ave. Suite L5 c/o The Cambridge Group, Boston MA 02116" on the application. BLM mailed its August 10 decision by certified mail No. 19374 to "160 Commonwealth Ave., Ste. 15, Boston, MA 02116." It was returned by the Postal Service on August 27 stamped "Moved-Left No Address." BLM mailed the decision again on September 11, 1984, by certified mail No. 19988, this time with the address provided on the application, but it was returned on September 20, 1984, with a stamp indicating the addressee was "unknown." A typewritten note in the file reads: "Per phone 9-19-84 - Address change" and gives a new address. BLM sent the decision to this address by certified mail No. 20596 on September 19, 1984, where it was delivered on October 29, 1984. Appellant filed a notice of appeal on November 23, 1984.

[1] Under 43 CFR 1810.2(b), the address stated on the application is the last address of record unless the applicant has filed a written notice of a change of address with the BLM office where the application was filed. Victor M. Onet, Jr., 81 IBLA 144, 146 (1984). BLM's September 11 mailing to appellant's address of record constituted constructive service of the decision even though it was returned by the Postal Service. Red Rock Golf & Recreational Association, 77 IBLA 87, 88 (1983). That mailing may be considered served on appellant on September 20, the day it was returned to BLM. John H. Blackwood, 89 IBLA 379, 381 (1985); Michele M. Dawursk, 71 IBLA 343, 346 (1983). BLM's subsequent mailing to the new address does not alter the date of service. John H. Blackwood, supra at 381, text at n.1.

[2] A notice of appeal must be filed within 30 days of the date it was served. 43 CFR 4.411(a). Because appellant's notice of appeal was not filed within 30 days of September 20, the appeal must be dismissed. Red Rock Golf & Recreational Association, supra at 89.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Will A. Irwin
Administrative Judge

We concur:
C. Randall Grant, Jr.
Administrative Judge

Wm. Philip Horton
Chief Administrative Judge

