

TINA A. REGAN

IBLA 77-511

Decided December 21, 1977

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting appellant's simultaneously-filed noncompetitive oil and gas lease offer, NM 30886.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

A simultaneous oil and gas entry card must be signed and fully executed by the applicant. A decision rejecting such an offer will be upheld where failure to complete the date on the card renders the applicant's certification as to qualifications ineffective and causes the entry card to be incomplete.

2. Administrative Authority: Estoppel -- Estoppel -- Federal Employees and Officers: Authority to Bind Government -- Regulations: Waiver

The failure of a noncompetitive oil and gas lease offeror to complete the date on the simultaneous oil and gas drawing entry card is not excused, and the Department is not estopped to reject such an offer, by his reliance on the Department's prior erroneous issuance of a lease in acceptance of an offer which was deficient for the same reason.

APPEARANCES: Tina A. Regan, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Tina A. Regan brings this appeal from a decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting

her simultaneously filed noncompetitive oil and gas lease offer, NM 30886. The offer was rejected on the ground that appellant's failure to complete the date on the lease offer form constituted a failure to fully and completely execute the form as required by the regulations at 43 CFR 3112.2-1.

Appellant's lease offer was made on a simultaneous oil and gas drawing entry card, Form 3112-1. In the space on the form marked "Date," appellant inserted only "May 17," omitting designation of the year. Appellant's lease offer received first priority among other offers in a drawing held on June 7, 1977, for parcel NM 704. Subsequently, the BLM rejected the offer and this appeal resulted.

Appellant contends in her statement of reasons for appeal that a lease has been issued in the past by another state office of the BLM to applicant's father on the basis of an offer form on which the date was similarly incomplete, bearing only the month and day (not the year). Further, appellant alleges detrimental reliance on the basis of the failure of the BLM to reject that prior lease offer.

[1] A noncompetitive oil and gas lease for lands not within the known geological structure of a producing oil or gas field must be issued, if a lease is to be issued at all, to the first qualified applicant for a lease of the land. 30 U.S.C. @ 226(c) (1970). Under the simultaneous filing procedure, 43 CFR Subpart 3112, a lease "will be issued to the first drawee qualified to receive a lease" upon timely payment of the first year's rental. 43 CFR 3112.4-1.

The simultaneous oil and gas entry card (Form 3112-1) is a form designed to insure compliance with the requirements of the regulations regarding qualifications. When it is completed, signed, and dated, it contains a statement of qualifications on a precise date. This is one reason why the regulations require that the form be signed and fully executed. 43 CFR 3112.2-1(a). Particularly where the rights of other offers are involved, the Department is bound to strictly observe its regulations. McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir. 1955).

The signing of the card is the certification of all of the statements made on the card and the failure to sign the entry card necessitates rejection of the lease offer. Ray Flamm, 24 IBLA 10, 11 (1976); Thomas Buckmann, 23 IBLA 21, 22 (1975). This Board has also held that postdating the entry card renders the signature ineffective as of the time of submission and requires rejection of the offer. Ray Flamm, *supra* at 11. As this Board has previously held, the logic of the latter case applies to the present circumstances where the date has not been completed. Appellant's failure to complete the date on the lease offer form requires rejection of the lease offer. Walter M. Sorenson, 32 IBLA 345 (1977); Robert J. Burkhill, 28 IBLA 76, 77 (1976); Helen E. Ferris, 26 IBLA 382, 383 (1976).

[2] We must also reject appellant's argument regarding reliance upon the previous issuance of a lease when the simultaneous oil and gas entry card was filed with an incomplete date. The failure to complete the date on the simultaneous oil and gas drawing entry card offer is not excused, and the Department is not estopped to reject such an offer, by any reliance on prior erroneous issuance of a lease where the offer was deficient for the same reason. Verner F. Sorenson, 32 IBLA 341 (1977); Leon M. Flanagan, 25 IBLA 269 (1976). See INS v. Hibi, 414 U.S. 5, 8 (1973); Goldberg v. Weinberger, 546 F.2d 477, 480-81 (1976), cert. denied, U.S. (1977), and cases cited therein. No such facts have been shown here.

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.

Joseph W. Goss
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Martin Ritvo
Administrative Judge

