

ANCHORS AND HOLES, INC.

IBLA 77-466

Decided January 16, 1978

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer W 59638.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings

A simultaneously filed oil and gas lease offer is properly rejected where the offer is neither accompanied by a statement of corporate qualifications nor makes reference to a serial number of a record in which such statement had previously been filed, as required by 43 CFR 3102.4-1.

2. Oil and Gas Leases: Applications: Drawings

A first-drawn simultaneous drawing entry card which is defective because of noncompliance with a mandatory regulation must be rejected and may not be cured by submission of further information.

3. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings

A simultaneous oil and gas lease offer is properly rejected when the date is omitted from the drawing card.

4. Oil and Gas Leases: Applications; Generally -- Oil and Gas Leases:
Applications: Drawings

A simultaneous oil and gas lease offer is properly rejected where the drawing card is not signed. Where a corporation submits a drawing card which is not signed by a corporate officer whose authority to sign is established by the procedure set out in 43 CFR 3102.4-1, the card is not "signed" within the meaning of 43 CFR 3112.2-1(a), and its offer must accordingly be rejected. Placing the corporation's name in script on the signature line does not constitute "signing" the card.

APPEARANCES: Gary L. Bridges, Esq., Odessa, Texas, for Appellant.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

The simultaneous oil and gas drawing entry card of Anchors and Holes, Inc. (Appellant), was drawn first by the Wyoming State Office, Bureau of Land Management (BLM), for parcel WY-100, List No. 5-77. On June 24, 1977, BLM issued a decision rejecting Appellant's lease offer because (1) corporate qualification papers did not accompany its drawing entry card and there was, alternatively, no reference to a serial number of another case in which they were filed, as required by 43 CFR 3102.4-1; and (2) the card was not signed or dated as required by 43 CFR 3112.2-1(a).

Appellant states as follows in its statement of reasons:

Anchors and Holes, Inc., which is a corporation organized and existing under the laws of the State of Texas, made a simultaneous oil and gas lease offer for Parcel No. WY 100, List No. 5-77 by submitting an Oil and Gas Entry Card, Form 3112.1 (February 1976), but failed to sign, date, or submit a statement of corporate qualifications with the entry card.

Examination of the card shows no reference on the card to the serial number of another case in which Appellant had previously filed a statement of qualifications. The card is undated and bears on the signature line "Anchors & Holes, Inc." in script.

[1] A corporation making an offer for an oil and gas lease is required by 43 CFR 3102.4-1 1/ to file a statement providing certain information by which BLM may determine its qualifications to hold such a lease. This requirement is mandatory, and where the necessary information is not filed and a reference is not made to another case record in which such information was previously filed, the offer must be rejected. Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067, 1070 (10th Cir. 1976), aff'g Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974); Churchill Corporation, 27 IBLA 234 (1976); Manhattan Resources, Inc., 22 IBLA 24 (1975); The Bradley Producing Corporation, 15 IBLA 147 (1974); Texas American Corporation, 14 IBLA 217 (1974); Silver Mountain Minerals, Inc., 14 IBLA 137 (1974); Apollo Drilling & Exploration, Inc., 10 IBLA 81 (1973), and cases cited.

[2] Appellant states that it has subsequently proved itself to be a corporation qualified to hold an oil and gas lease by filing on November 4, 1977, after the drawing, a statement of corporate qualifications with BLM. A simultaneous oil and gas lease offer which is defective in that it fails to comply with the requirements of 43 CFR 3102.4-1 may not be cured by subsequent filing of information after the drawing is held. Ballard E. Spencer Trust, Inc. v. Morton, supra at 1070; Churchill Corporation, supra at 247; Manhattan Resources, Inc., supra at 26. Thus, the later filing by Appellant of the information concerning its qualifications could not cure the defect which required rejection here.

[3] There are other equally valid reasons for rejecting Appellant's offer. Appellant's drawing entry card was undated. This Board has consistently held that an undated card is not "fully executed," as required by 43 CFR 3112.2-1(a), and must be rejected.

1/ 43 CFR 3102.4-1 provides as follows:

"If the offeror is a corporation, the offer must be accompanied by a statement showing (1) the State in which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens or those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding more than 10 percent of the stock of the corporation. Where the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate statement from each stockholder owning or controlling more than 10 percent of the stock of the corporation setting forth his citizenship and holdings must also be furnished. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted."

John Willard Dixon, 28 IBLA 275 (1976); Frank De Jong, 27 IBLA 313 (1976); Herbert W. Schollmeyer, 25 IBLA 393 (1976); John R. Mimick, 25 IBLA 107 (1976); Thomas Buckman, 23 IBLA 21 (1975).

[4] Appellant's drawing entry card was "signed" by putting the corporate name on the signature line in script. However, by so doing, Appellant did not submit a "signed" entry card within the meaning of 43 CFR 3112.2-1(a).

The signature requirement in 43 CFR 3112.2-1(a) must be read in conjunction with 43 CFR 3102.4-1, which sets out qualifications for participation by corporations in oil and gas leases. This section provides in part as follows: "If the offeror is a corporation, the offer must be accompanied by a statement showing * * * (2) * * * that the officer executing the lease is authorized to act on behalf of the corporation in such matters." (Emphasis supplied.) It is implicit in this section that steps taken toward execution of an oil and gas lease, including the signing of the drawing entry card, must be taken by an officer of the corporation who is identified as authorized to act on the corporation's behalf. See Manhattan Resources, Inc., supra.

By placing only "Anchors & Holes, Inc." in script on the signature line, in lieu of a signature of an authorized officer of the corporation, Appellant failed to meet the implicit requirement of 43 CFR 3102.4-1. 2/ Accordingly, its offer was properly rejected on this ground as well, since an unsigned drawing entry card is invalid. Herbert W. Schollmeyer, supra; Frank De Jong, supra; John Willard Dixon, supra.

Appellant argues that the regulations requiring that it, as a corporation, submit a statement of its qualifications and that drawing entry cards be signed and dated are invalid because they are inconsistent with the statute under which they were issued. This argument is without merit.

The Secretary has full authority under the Mineral Leasing Act of 1920, 41 Stat. 443, as amended, 30 U.S.C. § 226 (1970), "to prescribe necessary and proper rules and regulations" to accomplish its purposes. 30 U.S.C. § 189 (1970); Thor-Westcliffe Development

2/ Of course, even if the individual who placed Appellant's corporate name on the card had instead used his own signature, Appellant would still have had to file a statement showing that the individual was authorized to do so, as well as the other information required by 43 CFR 3102.4-1, as discussed above, in order to qualify for an oil and gas lease.

v. Udall, 314 F.2d 257, 259 (D.C.Cir. 1963), cert. denied 373 U.S. 951 (1962).

In any event, it is settled that the rejection by the Department of a corporation's drawing entry card because of its failure to satisfy the requirements of proof of qualifications set out in 43 CFR 3102.4-1 is within the Department's discretion and is not arbitrary or capricious. Ballard E. Spencer Trust, Inc. v. Morton, supra. Although the requirement that the entry card be dated has not specifically been considered by the Courts, other requirements imposed by regulation consistently have been held valid and entitled to deference. Burglin v. Morton, 527 F.2d 486 (9th Cir. 1976) (requirement that card be legibly signed); Harvey v. Udall, 384 F.2d 883, 885 (10th Cir. 1967) (requirement that all parties in interest in an offer file instruments detailing their respective interests therein); Robertson v. Udall, 349 F.2d 195, 197-8 (D.C. Cir. 1965) (requirement that agency interest and relationship be disclosed where an agent of the offeror signed the offer on his behalf); Thor-Westcliffe Development, Inc. v. Udall, supra (requirement that simultaneous multiple applications be entered into a public drawing); Boesche v. Udall, 303 F.2d 204 (D.C. Cir. 1961), aff'd, 373 U.S. 472 (1962) (requirement that application in most cases be for minimum acreage).

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.

Edward W. Stuebing
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Joan B. Thompson
Administrative Judge

