

JERRY R. SMITH

IBLA 81-945

Decided October 6, 1981

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous noncompetitive oil and gas lease application W 75906.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Drawings--Oil and Gas Leases: First - Qualified Applicant

A simultaneous noncompetitive oil and gas lease application which is not dated is properly rejected.

APPEARANCES: Clifford L. Payne, Esq., Lovington, New Mexico, for appellant.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

Jerry R. Smith filed a simultaneous noncompetitive oil and gas lease application for parcel WY 2876 in the June 1981 drawing in the Wyoming State Office, Bureau of Land Management (BLM). This application was drawn with first priority and assigned serial number W 75906.

On July 31, 1981, BLM issued a decision rejecting Smith's offer because it was not dated at the time of signing. Smith appealed.

[1] A simultaneous oil and gas lease application must be dated at the time it is signed. 43 CFR 3112.2-1(c). Where the application is not dated as required, it shall be rejected. 43 CFR 3112.6-1(a); Sorenson v. Andrus, 456 F. Supp. 499 (D. Wyo. 1978), aff'g Walter M. Sorenson, 32 IBLA 345 (1977). Strict compliance with 43 CFR Subpart 3112, the regulations governing the drawing, is required to protect the rights of the second or third drawee. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), aff'd, B.E.S.T., Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976).

Appellant asserts "[t]hat the subject application was dated as shown above the signature of the Applicant on said application, it was dated and stamped immediately above said signature when received instead of immediately to the right of said signature." This is not true. The application, which is in the record, is not dated anywhere.

Appellant suggests that BLM is estopped from rejecting his application because it was not returned to him prior to the drawing. However, under 43 CFR 3112.5(a), BLM may return an application prior to the drawing only if it is unacceptable for one or more of six specific reasons, and failure to date the application is not among these reasons. In any event, 43 CFR 3112.5(b) expressly provides that failure to identify a filing as unacceptable prior to selection does not bar rejection for any of the reasons set forth in 43 CFR 3112.6.

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.

Bernard V. Parrette

Chief Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Edward W. Stuebing
Administrative Judge.

