

JOE CONWAY

IBLA 81-714

Decided November 4, 1981

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application WY 3921.

Affirmed.

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

A drawing entry card which is not dated in the space provided on the card must be rejected.

APPEARANCES: William B. Collister, Esq., Denver, Colorado, for appellant; Paul W. Fairchild, for Patrick Petroleum Corporation of Michigan.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Joe Conway has appealed from a May 5, 1981, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting his drawing entry card oil and gas lease application WY 3921 because it was not dated.

In his statement of reasons appellant maintains that the lease should be issued to him because he intended that the card should be dated July 7, 1980. All other Wyoming simultaneous filing cards filed by him were dated. Appellant further contends that the regulations were designed to make certain that because of filing services problems, the application card was, in fact, signed during the simultaneous filing period. In this instance, appellant asserts that he clearly filed the card within the filing period; he filed the card personally; and that every other essential element on the application was properly done.

Patrick Petroleum Corporation of Michigan, as the second drawee for the subject parcel, submitted a statement defining its position. In that statement the second drawee asserted that 43 CFR 3112.2-1(c) and (g) provide specific procedures for the dating and completing of simultaneous drawing entry cards; that BLM was correct in its decision

to reject appellant's entry card for parcel WY 3921 for failure to comply with the stated regulations; and that Patrick Petroleum Corporation of Michigan, as second drawee, having complied with all pertinent requirements and regulations is entitled to priority status for a lease covering the subject parcel.

The regulation, 43 CFR 3112.2-1(c), states in part, "The application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period."

Further, 43 CFR 3112.2-1(g) states, "The properly completed and signed lease application shall be filed in the proper office of the Bureau of Land Management."

[1] It is well established that a drawing entry card which is not properly dated in the space provided on the card must be rejected. Sorenson v. Andrus, 456 F. Supp. 499 (D. Wyo. 1978), aff'g Walter M. Sorenson, 32 IBLA 345 (1977). In that case, the offeror had dated the card with the month and year, but had omitted the exact day. In Roy Flamm, 24 IBLA 10 (1976), we affirmed a rejection of a card which bore a date which was later than the date of the filing. We noted that postdating the card renders the signature ineffective at the time of its submission, thereby rendering ineffective the certification of all other statements made on the card. Id. at 11. The absence of any date at all is clearly disqualifying. Jerry R. Smith, 58 IBLA 232 (1981). Strict compliance with the regulations governing the drawing, 43 CFR 3112, is enforced to protect the rights of the second and third drawn qualified offerors. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), aff'd, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976).

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:

Bruce R. Harris
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

