

**Editor's note: 88 I.D. 1110; Erratum dated Jan. 4, 1982 -- See 60 IBLA 292A below; appealed -- aff'd, Civ.No. 82-35-BLG (D.Mont. Feb. 24, 1983)**

SCOTT Q. ADAMS

IBLA 82-53

Decided December 17, 1981

Appeal from decision of Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application M-50524.

Affirmed.

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

An applicant for a simultaneous oil and gas lease who is legally a minor at the time he executes and files the application is not qualified to hold a lease under the regulations, and the application is properly rejected.

APPEARANCES: George K. Stearns, Esq., Stowe, Vermont, for appellant.

## OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Scott Q. Adams has appealed the decision of the Montana State Office, Bureau of Land Management (BLM), dated September 17, 1981, rejecting his simultaneous oil and gas lease application, M-50524, drawn with first priority for parcel MT-108 at the March 1981 simultaneous drawing held April 18, 1981. BLM rejected the application because appellant was a minor under Montana law at the time he submitted the application and therefore unqualified to be an oil and gas lease applicant.

In his statement of reasons, appellant argues that, although he was a minor at the time he submitted the application, he was not unqualified to do so under Montana law which does not void a minor's act or render a minor's contract illegal. He also contends that 43 CFR 3102.1 only prohibits minors from acquiring or holding leases and that he became 18 on April 12, 1981, before the drawing was held, and therefore before he would have to submit a lease offer as a result of his first priority. He notes that the prohibition against a minor holding a lease is regulatory, not statutory, and thus the regulation must be strictly construed. He suggests that if the Secretary of the Interior had intended to prohibit minors from filing an application, the regulations would have so stated.

[1] The Montana Code Annotated (MCA), section 41-1-101 (1979) defines minors as "(a) males under 18 years of age; (b) females under 18 years of age." The fact that Montana permits minors to make contracts, subject to disaffirmance (see MCA 41-1-302 (1979)), has no bearing here as appellant was nevertheless considered a minor under Montana law at the time he submitted his application. Departmental regulation 43 CFR 3102.1 reads: "(c) Minors. Leases shall not be acquired or held by one considered a minor under the laws of the State in which the lands are located, but leases may be acquired and held by legal guardians or trustees of minors in their behalf."

Appellant seeks to distinguish between a person who files an application and a person who is issued a lease and argues that only the latter need be the requisite age. We disagree. We find that, even if we strictly construe the regulation, the phrase "[l]eases shall not be acquired" must be read to cover the process of obtaining a lease, in contrast to the word "held" which clearly refers to a lease which has been issued. See Black's Law Dictionary 23 (5th ed. 1979); Webster's Third International Dictionary 18 (1966).

This conclusion is confirmed by examination of certain other regulations. Specifically, 43 CFR 3112.6-1(b) reads: "(b) Unqualified applicants. The application of any applicant who is unqualified

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shall be rejected." The inference is that applicants as such must be qualified to acquire and hold a lease. A minor is not so qualified. Even more significantly, we note that regulation 43 CFR 3102.2-2 requires: "The applicant, offeror, or agent \* \* \* shall certify as to age, citizenship and compliance with the acreage limitations \* \* \* on the lease application if leasing is in accordance with Subpart 3112 [Simultaneous Filings] of this title." (Emphasis added.) Thus, the age certification on the simultaneous oil and gas lease application states: "UNDERSIGNED CERTIFIES AS FOLLOWS: \* \* \* (b) Applicant is not considered a minor under the laws of the State in which the lands covered by this application are located." Appellant's application was signed and dated March 5, 1981. The language of the age certification is in the present tense.

The Board has often held that an applicant certifies to the statements on the application as of the date that he signs and dates the card. The certification represents that circumstances are as they are stated on the application on the date of the application and that the applicant has met the statutory and regulatory requirements for holding a lease as of that date. H. L. McCarroll, 55 IBLA 215 (1981); C. H. Coster Gerard, 41 IBLA 74, 75 (1979); Ray Flamm, 24 IBLA 10 (1976). 1/

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1/ A false statement on an oil and gas lease application is also a proper basis for rejection of the application. 43 CFR 1821.3-1(c).

We find that an applicant for a simultaneous oil and gas lease must be qualified to hold the lease when he submits the application and therefore BLM properly rejected appellant's lease application because he was a minor at the time it was executed and submitted. Cf. Jean Alling, 52 I.D. 242 (1927) (application for oil and gas prospecting permit rejected because applicant was a minor).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Montana State Office is affirmed.

Douglas E. Henriques  
Administrative Judge

We concur:

Bernard V. Parrette  
Chief Administrative Judge

Bruce R. Harris  
Administrative Judge

January 4, 1982

60 IBLA 288 : M-50524  
SCOTT Q. ADAMS : Oil and Gas

ERRATUM

The appearances of Phillip W. Lear, Esq., on behalf of Richard B. Sundquist, offeror with second priority for lease M-50524, was inadvertently omitted from the APPEARANCE list in our decision, Scott Q. Adams, 60 IBLA 288 (1981). The decision is hereby amended to reflect his appearances of record.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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Bruce R. Harris  
Administrative Judge

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