

BONITA L. FERGUSON

IBLA 81-791

Decided January 26, 1982

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease application W 75105.

Affirmed.

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

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

2. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents

An oil and gas lease application, Form 3112-1 (July 1980), is not properly completed in accordance with regulation 43 CFR 3112.2-1 and the instructions on the application itself where questions (d) through (f), dealing, respectively, with parties in interest other than those elsewhere disclosed, assignments violative of 43 CFR 3112.4-3, and multiple filings violative of 43 CFR 3112.6-1, are left unanswered.

APPEARANCES: Bonita L. Ferguson, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Bonita L. Ferguson appeals from the June 17, 1981, decision of the Wyoming State Office, Bureau of Land Management (BLM), which rejected her noncompetitive simultaneous oil and gas lease application, W 75105. The application was rejected for failure to comply with 43 CFR 3112.2-1. Appellant did not enter the date, nor did she answer questions (d), (e), and (f), nor did she holographically (manually) sign in the spaces provided on her drawing entry card.

In her statement of reasons, appellant stated that she believed her drawing entry card was completed as required by the regulations but was "fraudtently [*sic*] tampered with in some way," and that she should receive the lease. The card in question is part of the record now before us and shows no evidence of having ever been signed, dated, or marked in the check-blocks responsive to questions (d) through (f).

[1] It is well established that a drawing entry card which is not properly signed or 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. 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). Further, as this Board stated in Thomas Buckmann, 23 IBLA 21, 22 (1975), "[T]he signing of the card is the certification of all other statements made on the card."

[2] The application form clearly contemplates that items (d) through (f) would be checked on the application itself. Indeed, the introductory words to items (a) through (g) are as follows: "UNDERSIGNED CERTIFIES AS FOLLOWS (*check appropriate boxes*)."  
(Original in italics.) Small boxes appear following each item to be checked in response.

Questions (d) through (f) are included in a list of questions on the application dealing with the applicant's qualifications to hold a lease and deal particularly with the circumstances of the execution of the application. The questions relate directly to the qualifications of the applicant to receive a lease. The failure to disclose a party in interest to the lease offer (question (d)) is a violation of the regulation at 43 CFR 3102.2-7, the assignment of an interest in the lease offer (question (e)) prior to lease issuance or lapse of 60 days after determination of priority is a violation of 43 CFR 3112.4-3, and any interest of the applicant in more than one application for the same parcel (question (f)) disqualifies the applicant under 43 CFR 3112.6-1(c). Although the Secretary of the Interior has discretion whether to issue an oil and gas lease for lands not within a known geological structure of a producing oil or gas field, he is required by statute, 30 U.S.C. § 226 (1976), to issue the lease to the first

qualified applicant therefor. Udall v. Tallman, 380 U.S. 1, 4 (1965). The Secretary is entitled to require such information as is necessary to ensure that an applicant for a lease is qualified. See Ken Wiley, 54 IBLA 367 (1981). The questions on the application form serve that purpose. The failure of the applicant to check an answer to each question creates a serious defect in the certification required by the application. Jake Huebert, 59 IBLA 179 (1981).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CR 4.1, the decision appealed from is affirmed.

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Edward W. Stuebing  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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James L. Burski  
Administrative Judge

