

Appeal from decision of the Eastern States Office, Bureau of Land Management, rejecting oil and gas lease application ES 28484.

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: Marla J. Williams, Esq., Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Lynn C. Haas appeals from a decision dated October 22, 1981, of the Eastern States Office, Bureau of Land Management (BLM), rejecting her simultaneous oil and gas lease application because her application card (form 3112-1) was not dated.

Appellant contends on appeal that failure to date the card should be treated as a curable defect. 1/ Appellant suggests that under 43 CFR 3112.2-1(c), she could have assured that the application was signed within the filing period had she been allowed 30 days to furnish an affidavit.

1/ Appellant cites Harry J. Pike, 57 IBLA 15 (1981), an appeal from a BLM decision declaring a placer mining claim null and void. That case involved sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976) and a regulation, 43 CFR 3833.2-1, governing the filing of affidavits of assessment work thereunder. In that case the Board found a curable defect to exist where the mining claimant had complied with the filing requirements of the statute, but not with an additional requirement imposed by the pertinent regulation. The circumstances in Pike are dissimilar in fact, and not analogous in law to the case before us which involves mineral leasing and a regulation specifically governing the factual circumstances.

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." There are clearly two requirements here. An application must be dated and signed within the filing period, and dating must occur at the time of signing.

[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), affg Walter M. Sorenson, 32 IBLA 345 (1977). In that case, the offeror had dated the card with the month and year, but 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. Joe Conway, 59 IBLA 314 (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).

Unlike certain other applications, simultaneously filed oil and gas lease applications which are defective may not be "cured" after the drawing because the rights of the next qualified applicant attach eo instanti. Herbert W. Winston, 61 IBLA 199 (1982); see also B.E.S.T., Inc. v. Morton, supra.

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.

Anne Poindexter Lewis
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

