

FRED E. FORSTER III

IBLA 82-102

Decided June 22, 1982

Appeal from decision of Utah State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application. U-49608.

Affirmed.

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

A simultaneous oil and gas lease application which is not holographically (manually) signed, in accordance with 43 CFR 3112.2-1(b), must be rejected.

APPEARANCES: Fred E. Forster III, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Fred E. Forster III has appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), dated October 8, 1981, rejecting his simultaneous oil and gas lease application, U-49608, for parcel UT 2, which was drawn with first priority in the July 1981 simultaneous oil and gas lease drawing. BLM rejected the application because appellant "failed to fully execute the simultaneous oil and gas lease application by failing to sign on the reverse side."

In his statement of reasons for appeal, appellant contends that he has "substantially complied" with the requirements of the regulations in that his typewritten name on the face of the application is sufficient to constitute a signature. He states that "courts have universally held that a signature is any mark or sign made on a instrument or document in token of knowledge, approval, acceptance, or obligation." Appellant further states that "when he typed in his name and all the other information on the front of the card, he intended to bind himself and to undertake any obligations imposed under the terms of the lease." In the alternative, appellant argues that the fact that he

properly signed all of the other applications for the 21 other parcels offered in the July 1981 simultaneous drawing "at least indirectly establishes his intentions with regard to his application to the drawing for Parcel UT-2."

[1] The applicable Departmental regulation, 43 CFR 3112.2-1, provides, in relevant part:

(a) An application to lease under this subpart consists of a simultaneous oil and gas lease application on a form approved by the Director, Bureau of Land Management, completed, signed and filed pursuant to the regulations in this subpart. * * *

(b) The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. * * * Machine or rubber stamped signatures shall not be used. [Emphasis added.]

The regulation requires that at least one manual signature appear on the application, either that of the applicant or that of the applicant's agent. Where no manual signature appears, the application is properly rejected. 43 CFR 3112.6-1(a); Betty J. Thomas, 56 IBLA 323 (1981).

Moreover, in view of the clear language of 43 CFR 3112.2-1(b), we must hold that a typewritten name will not suffice as a signature. The regulation specifically provides that the application shall be "holographically (manually) signed in ink by the applicant." 43 CFR 3112.2-1(b). The regulation precludes the use of mechanical or facsimile signatures. Betty J. Thomas, *supra*. Finally, manual signatures on other applications filed by the same person in the same simultaneous oil and gas lease drawing will not constitute compliance with the clear dictate of 43 CFR 3112.2-1 that each application be "signed."

The Department is authorized to accept only the application of the first qualified applicant for a noncompetitive oil and gas lease, 30 U.S.C. § 226(c) (1976), *i.e.*, one who has fully complied with the mandatory requirements of Departmental regulations. Sorensen v. Andrus, 456 F. Supp. 499 (D. Wyo. 1978); Simon A. Rife, 56 IBLA 378 (1981), and cases cited therein. The requirement of 43 CFR 3112.2-1 that an application be manually signed is a mandatory requirement, with which appellant has not complied. Therefore, BLM properly rejected appellant's simultaneous oil and gas lease application.

Strict compliance with the regulations governing simultaneous oil and gas lease drawings, 43 CFR Subpart 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.

Bruce R. Harris
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Edward W. Stuebing
Administrative Judge

