

PAULETTE M. BRASHEAR

IBLA 82-501

Decided December 13, 1982

Appeal from decision of Utah State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application. U-46619.

Affirmed.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Filing

A simultaneous oil and gas lease application is not signed by a corporate agent in accordance with 43 CFR 3112.2-1(b) where the space for the agent's signature contains only three initials and the name of the corporation, and the application is properly rejected.

APPEARANCES: John B. Lowy, Esq., New York, New York, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Paulette M. Brashear appeals from a decision of the Utah State Office, Bureau of Land Management (BLM), dated January 28, 1982, rejecting her simultaneous oil and gas lease application, U-46619, which was drawn with first priority for parcel UT 37 in the July 1980 list of lands available for simultaneous oil and gas lease applications. BLM rejected the application because it was not signed in accordance with the regulations in 43 CFR 3112.2-1(b). The BLM decision stated: "A simultaneous oil and gas lease application is not signed by a corporate agent in accordance with 43 CFR 3112.2-1(b) where the space for the agent's signature contains only three initials and the name of the corporation * * *." We concur.

The signature blanks on appellant's application form were completed as follows:

Applicant's Signature (manually, in ink)

Paulette M. Brashear

Agent's Signature (manually, in ink)

NCC/Federal Resources Corp.

The applicant's name, the letters NCC, and the agent's name were all printed in ink.

The regulation relied upon by BLM, 43 CFR 3112.2-1(b), states as follows:

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. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship. (Example: Smith, agent for Jones; or Jones, principal, by Smith, agent.) Machine or rubber stamp signatures shall not be used.

The question presented is whether appellant's application was "signed" within the meaning of 43 CFR 3112.2-1(b). We hold that it was not.

In her statement of reasons, appellant asserts that Federal Resources Corporation (FRC) was her lawful agent for the purpose of processing oil and gas lease application U-46619 and that FRC was authorized to sign the application on her behalf. Appellant explains that Nancy C. Ciampa was FRC's employee who was responsible for completing and filing appellant's card and her initials "NCC" appear on the card next to "Federal Resources Corp." Appellant argues that the initials are sufficient and that a complete signature is not necessary. She states that as used in the Uniform Commercial Code, the word "signed" generally includes any symbol executed or adopted by a party with the present intent to authenticate a writing. U.C.C. § 1-201(39). Appellant contends that Ms. Ciampa intended the writing of her initials to be a "signing" of the application as an employee of appellant's agent.

In the case of simultaneous oil and gas lease applications, the applicable regulation, 43 CFR 3112.2-1(b), specifically requires that applications, signed by anyone other than the applicant, be "rendered in a manner to reveal * * * the name of the signatory." (Emphasis added.) In Vincent M. D'Amico, 55 IBLA 116, 122 (1981), we examined the application of this regulation to a lease application filed by a corporate agent and concluded that the term "signatory" in 43 CFR 3112.2-1(b) referred to "the person signing on behalf of a corporate agent." (Emphasis in original.) We stated:

If a person chooses to use a corporate filing service to act as his agent in preparing and filing an application for an oil and gas lease, that corporate agent must use the signature box marked "Agent's Signature" on form 3112-1 (June 1980). It is not enough, however, that the corporate name be handwritten in this box. There must also appear the holographic signature of the person authorized to sign on behalf of the corporate filing service. Ordinarily, such a corporate signature might take the form "John Brown, Vice President, Acme, Inc." See Anchors and Holes, Inc., 33 IBLA 339 (1978). The additional requirements of 43 CFR 3112.2-1, requiring an application to be rendered in a manner to reveal the name of the applicant, the name of the signatory, and their relationship, suggest the following as an appropriate signature of a corporate filing service on behalf of Robert Jones, applicant: "John Brown, Vice

President, Acme, Inc., agent for Robert Jones." [Emphasis in original.]

Vincent M. D'Amico, supra at 123. In D'Amico, we held that the handwritten words "FEC agent for D'Amico," appearing in the box labeled "Agent's Signature," on the application form were not acceptable, and rendered the application deficient.

The only distinction between appellant's simultaneous oil and gas lease application and the one reviewed in D'Amico is the presence of the letters NCC and the spelling out of the corporate agent's name. An examination of appellant's application does not reveal with certainty that the printed letters "NCC" are intended to be the initials of the signer of the application. Clearly, the initials "NCC" do not reveal the name of the signatory, as required by 43 CFR 3112.2-1(b). The Board has held that this does not constitute compliance with the regulation. Charles Goodrich, 60 IBLA 25 (1981), aff'd, Goodrich v. Watt, No. 82-0405 (D.D.C. Aug. 13, 1982).

The Department is authorized under 30 U.S.C. § 226(c) (1976) to accept only the application of the first-qualified applicant for a noncompetitive oil and gas lease, i.e., one who has fully complied with the mandatory requirements of Departmental regulations. See Sorensen v. Andrus, 456 F. Supp. 499 (D. Wyo. 1978). Appellant's application failed to reveal the name of the person signing on behalf of her corporate agent (FRC) in compliance with 43 CFR 3112.2-1(b). Accordingly, appellant cannot be deemed the first-qualified applicant, and her application is properly rejected. Charles Goodrich, supra.

Moreover, the deficiency in appellant's application cannot be "cured" after the drawing by the submission of further information. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), aff'd per curiam, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976). Giving an unqualified first-drawn applicant additional time to file infringes on the rights of the second-drawn qualified applicant. Ballard E. Spencer Trust, Inc. v. Morton, supra at 1070.

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.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Bruce R. Harris
Administrative Judge