

CHARLES R. TICKEL

IBLA 83-380

Decided June 15, 1983

Appeal from the decision of the Colorado State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application, C-36205.

Affirmed.

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

Under 43 CFR 3112.2-1(b), an automated simultaneous oil and gas lease application, Form 3112-6a (June 1981), must be rendered in a manner to reveal the name of the applicant, the name of the signatory, and their relationship. Where an application is executed by a filing service on behalf of an applicant, the signatory must reveal on the face of the application his or her identity and the fact that the signatory is acting for the filing service on behalf of the applicant.

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

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Charles R. Tickel has appealed the decision of the Colorado State Office, Bureau of Land Management (BLM), dated January 7, 1983, rejecting

his simultaneous oil and gas lease application, C-36205, selected with first priority for parcel 162 of the July 1982 simultaneous drawing relating to lands located in Colorado. 1/ BLM found that appellant's application lists First Petroleum Corporation of America (First Petroleum) in the space on the form for filing service and that the signature on the application is illegible with no reference to the signing authority. BLM concluded that the application must be rejected because it failed to show the relationship between the applicant and the party signing the application as required by 43 CFR 3102.4 2/ and 43 CFR 3112.2-1(b).

Both of these regulations express the same requirement. 43 CFR 3112.2-1(b), specifically applicable to simultaneous lease applications, provides:

(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. 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.)

In his statement of reasons, appellant argues that the regulations and decisions of this Board require that the application, not the signature, be "rendered" in a manner to reveal the name of the applicant, the name of

1/ The Colorado State Office simultaneous oil and gas leasing program was incorporated into BLM's automated leasing system beginning with the May 1982 drawing. Under the automated system all applications for parcels in any state must be filed on an Automated Simultaneous Oil and Gas Lease Application (Form 3112-6 and 3112-6a) with the Wyoming State Office, BLM. 47 FR 14487, 14488 (Apr. 5, 1982).

2/ The BLM decision actually refers to 43 CFR 3102.2. That reference is in error.

the person signing, and their relationship. He contends that it is clear from the face of his application that he used a filing service and notice of such use in effect reveals the relationship between the signatory and the applicant because the nature of a filing service's business is well known. He points to two Board decisions, Hercules (A Partnership), 67 IBLA 151 (1982), ^{3/} and Liberty Petroleum Corp., 68 IBLA 387 (1982), in which the identity of the signatory or the relationship between the applicant and signatory were not apparent on the face of an application and the Board held that the application had been rendered consistent with the regulations where BLM could refer to the applicant's qualifications files to ascertain the information. Although appellant maintains that the nature of his relationship with the signatory is apparent from the reference to his filing service, First Petroleum, he reports that the application was transmitted to BLM with a cover letter referring to First Petroleum's corporate qualifications file.

Appellant also argues that the requirements for signature are ambiguous because it is not clear whether it is intended that all the information be included in the signature box. He suggests that the ambiguity is compounded by new form 3112-6a which adds a space for identifying a filing service and eliminates the "Agent's Signature" box as appeared on the previous form 3112-1. He urges that the differences could reasonably be interpreted by an applicant to mean that inclusion of information about a filing service was intended to satisfy the requirement of identifying the relationship between the applicant and the signatory.

^{3/} Appeal filed sub nom. Groom v. Watt, Civ. No. 82-2179 (D. Colo. Dec. 17, 1982).

Finally, appellant argues that, in Liberty Petroleum Corp., *supra*, the Board found that an application should not be rejected on the basis of whether a signature is legible because that is too subjective a basis for fair adjudication. He adds, however, that as in the Liberty Petroleum case, the identity of the signatory of his application could have been learned by examining First Petroleum's corporate qualifications file.

There are important differences between the circumstances and applications reviewed in Hercules, *supra*, and Liberty Petroleum, *supra*, and appellant's circumstances and application. Unlike appellant, the applicants in those cases listed the relevant qualifications file number on the application itself. What we found in Hercules at page 153 was that "by completing their applications with a reference to that file, the respective applications clearly were 'rendered in a manner' to provide the necessary information." (Emphasis added.) In appellant's case, even though application form 3112-6a contains a space for identifying qualifications files, the space is blank.

Appellant's arguments raise the different question of whether "rendered in a manner" encompasses reference to First Petroleum's qualifications file in a transmittal letter for a group of applications. We think not in this case for two reasons. The first reason is the filing procedure for the automated simultaneous leasing system. All simultaneous oil and gas lease applications for every state are now filed at the Wyoming State Office and the priority selections are made by the automated system at that office. The priority applications are adjudicated and the leases issued from the appropriate state office, however, not the Wyoming State Office. First Petroleum's single transmittal letter covered 868 applications for Colorado parcels and

was sent with the applications to the Wyoming State Office. Appellant cannot expect that the Wyoming State Office would have saved, copied, and retransmitted to Colorado the transmittal letter with each of First Petroleum's filings that received priority. For each drawing for each state there are thousands of filings on hundreds of parcels. Even though there are fewer applications under the new automated filing system because an applicant may file on more than one parcel on the same application, processing of the applications remains a substantial administrative task. As we have stated before, where such a burden is involved, and where the rights of other applicants are involved, it is not unreasonable for the Department to demand strict compliance with filing requirements, and it is not required to take extra steps to protect those who do not carefully comply from the foreseeable consequences of their deficiencies. Fred L. Engle, 66 IBLA 94 (1982).

The second reason is a change in the requirements for qualifications filings. At the time that the Hercules and Liberty Petroleum applications were filed, BLM required evidence of qualifications to be submitted with all applications or a reference to a qualifications file to be made. See 43 CFR Subpart 3102 (1981); Pirindel Investment Research, 65 IBLA 111 (1982). In February 1982, however, BLM revised its oil and gas leasing regulations to eliminate the required filing of evidence of qualifications. See generally 43 CFR Subpart 3102; 47 FR 8545 (Feb. 26, 1982). Since there was no reason for the Colorado State Office to need the information concerning First Petroleum's qualifications file, there was no reason for the Wyoming State Office to forward its transmittal letter.

[1] Thus, we return to the application itself to determine whether it was rendered in a manner so as to reveal the name of the applicant, the

name of the signatory, and their relationship. On the application, the name and address of appellant was typed in the box labeled "Applicant's Full Name, Address and Zip Code," thus clearly revealing (although misspelling) the name of the applicant. First Petroleum's full name and address is typed in a similar box labeled "Filing Service's Full Name, Address and Zip Code (If Applicable)." The instructions on form 3112-6a for completing this box state: "FILING SERVICE -- If a filing service was used by the applicant in the preparation of this application, enter the name and address of that filing service." Thus, when an applicant fills in the filing service information on form 3112-6a it must be presumed that he has used that filing service with respect to this application. Contrary to appellant's argument, however, that information alone does not reveal the exact nature of an applicant's agreement with the filing service or the name of the signatory and the relationship between the signatory and the applicant. It is not necessarily true that if an applicant employs a filing service, an officer of the filing service filled out or signed the application. See, e.g., Bernard S. Storper, 60 IBLA 67 (1981).

We also do not agree that the regulations and the form are ambiguous as to signature requirements. Both the regulations and the instructions on the form provide examples illustrating the required information. Those in 43 CFR 3112.2-1(b) have already been quoted. The examples provided in 43 CFR 3102.4 are: "John Smith, agent for Mary Jones; or ABC Corporation, agent for Mary Jones by John Smith." The instructions for filling out the form read in part:

SIGNATURE AND DATE -- Application must be personally signed (in ink) and dated by the applicant, or anyone authorized to sign on behalf of the applicant, * * *. If anyone other than the

applicant signs Part B that person must set forth, along with their [sic] own signature, the name of the applicant and the relationship between them (Example: John Jones, by Oil Filing Company, agent, by William Budd; or John Jones, by Tom Smith, attorney in fact).

In Vincent M. D'Amico, 55 IBLA 116, 122-23 (1981), we concluded that the term "signatory" in 43 CFR 3112.2-1(b) referred to "the person signing on behalf of a corporate agent" and suggested that an appropriate signature for a corporate filing service on behalf of applicant Robert Jones would have been to place in the "Agent's Signature" box of form 3112-1: "John Brown, Vice President, Acme, Inc., agent for Robert Jones." The guidance provided by the regulations, the D'Amico decision, and the instructions on the form leave little doubt that something more than a simple signature is required when someone other than the applicant signs the form. ^{4/} Contrary to appellant's view, we find that the absence of a separate "Agent's Signature" box reinforces this conclusion. The signatory must indicate that he or she is acting for the filing service on behalf of the applicant.

Finally, the signature box on appellant's application contains an illegible handwritten signature, in our opinion. Our concern about legibility and the problems of fair adjudication as expressed in Liberty Petroleum, supra, remains. However, in the absence of a qualifications file from which a name may be referenced and in view of the regulatory requirement that the name of the signatory be revealed, it is incumbent upon a signatory to in some fashion reveal his or her identity.

^{4/} We have held that it is not necessary for the signatory to sign the applicant's name holographically as well as his own. See Henry A. Alker, 62 IBLA 211 (1982).

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 Colorado State Office is affirmed.

Will A. Irwin
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

73 IBLA 367

