

Appeal of a decision of the Oregon State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application. OR 36167.

Affirmed.

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

A simultaneous oil and gas lease application which is not signed or dated, in accordance with 43 CFR 3112.2-1, is not properly completed and must be rejected.

2. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

An automated simultaneous oil and gas lease application Part B, Form 3112-6a, which does not reflect in the space provided for "Social Security Number" the same number used on the corresponding Part A, Form 3112-6, is not properly completed and must be rejected.

3. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Filing

A filing fee of \$75 will be retained for each automated simultaneous oil and gas lease application form which is rejected. The balance of the filing fee amount submitted with each rejected form, if any, shall be refunded.

APPEARANCES: D. M. Olson, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

D. M. Olson appeals the July 13, 1983, decision of the Oregon State Office, Bureau of Land Management (BLM), rejecting his simultaneous oil and gas lease application filed for seven parcels listed in the March 1983 offering. His application, selected with first priority for parcel OR-107

(OR 36167) was not signed or dated and the number appearing in the "Social Security Number" portion of Form 3112-6a (Part B) did not match with the corresponding number on Form 3112-6 (Part A).

[1] We observe generally that under the Mineral Leasing Act, the Department is authorized to issue a noncompetitive oil and gas lease only to the first-priority applicant. See Udall v. Tallman, 380 U.S. 1 (1965); 30 U.S.C. § 226(c) (1976). The Department has promulgated regulations which provide for the simultaneous filing of applications to be drawn for priority of consideration. 43 CFR Subpart 3112. "If the Secretary is to fulfill his obligation to lease to the first-qualified applicant, as strict a compliance with the regulations as possible is necessary." Shearn v. Andrus, No. 77-1228, slip op. at 6 (10th Cir. Sept. 19, 1977), quoted in Sorensen v. Andrus, 456 F. Supp. 499, 502 (D. Wyo. 1978).

An application to lease under 43 CFR Subpart 3112 consists of a "simultaneous oil and gas lease application on a form approved by the Director, [BLM], completed, signed and filed pursuant to the regulations in this subpart." 43 CFR 3112.2-1(a) (1982) (emphasis added). 1/, 2/ The Board has consistently held that failure to properly complete the information required on a simultaneous oil and gas lease application renders the filing defective and requires rejection of the offer under 30 U.S.C. § 226(c) (1976). H. L. McCarroll, 55 IBLA 215, 216 (1981).

Olson argues that where "the identity and service and delivery of data" are available to BLM, the application is complete, and asserts that there is no resulting ambiguity concerning priority, name, address, parcel number, and fee. However, Departmental regulation, 43 CFR 3112.2-1(b) (1982) provides: "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." Furthermore, 43 CFR 3112.2-1(c) (1982) requires that "[t]he application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period." It is well established that an application form which is not signed or dated does not meet the requirements set by the regulations and must be rejected. Marianne L. McManus, 70 IBLA 21 (1983), and cases cited therein.

The signing of the application is essential; it is the certification of all the statements made on the form. Id. Thomas Buckman, 23 IBLA 21 (1975). By signing the application form, the applicant certifies as follows:

(a) Applicant is a citizen of the United States; an association of such citizens; a corporation organized under the laws of the United States; or any State or Territory thereof; or a municipality.

1/ 43 CFR Subpart 3112 was amended in 48 FR 33648, 33678-80 (July 22, 1983), effective Aug. 22, 1983. The amended 43 CFR 3112.2-1(a) requires that the application also conform to the instructions in the form.

2/ Effective Sept. 1, 1982, the automated simultaneous oil and gas lease application, Forms 3112-6 (Part A) and 3112-6a (Part B), was approved by the Director for use in Oregon. 47 FR 31968 (July 23, 1982).

(b) Applicant is not considered a minor under the laws of the State in which the lands covered by this application are located.

(c) Applicant is in compliance with acreage limitations set forth in 43 CFR 3101.1-5 and 3101.2-4.

(d) No party, other than the applicant and those identified herein as other parties in interest, owns or holds any interest in this application, or the offer or lease which may result.

(e) No agreement, understanding, or arrangement exists which requires the undersigned to assign, or by which the undersigned has assigned or agreed to assign, any interest in this application, or the offer or lease which may result, to anyone other than those identified herein as other parties in interest.

(f) The undersigned does not have any interest in any other application filed for the same parcel as this application.

Form 3112.6a (June 1981).

In reviewing the requirement imposed by the superseded Form 3112.1 to answer the questions thereon regarding qualifications, the Board responded as follows in Fen F. Tzeng, 68 IBLA 381, 384 (1982):

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 form serve that purpose. The failure to check the appropriate box in response to each question is simply noncompliance with the regulations and creates serious defects in the certification of an applicant's qualifications that are far from trivial. Carol V. Miller, [66 IBLA 394 (1982)]; John F. Jacobs, [66 IBLA 219 (1982)]. Appellant has not explained how she considers her qualifications to hold a lease to be verified without answering question (d) through (f).

The rule requiring completion of the approved application form promotes the efficient administration of the simultaneous oil and gas leasing program in view of the number of applications submitted. Leroy G. Bourdeaux, 62 IBLA 255 (1982). [Appeal pending: Bourdeaux v. Watt, No. 82-1328 (D.D.C. filed May 13, 1982).] The use of an approved form offers the elements of uniformity essential to the processing of large numbers of documents.

That rationale is likewise applicable to Form 3112.6a, where the six items set forth in that form are affirmed by the applicant when the application is signed, thereby establishing his qualifications such as citizenship, majority, acreage chargability, the absence of undisclosed interests, etc.

Such certification is applicable only to the application for which it is made. Marianne L. McManus, *supra* at 23. Thus, the date, when the signature was rendered is likewise important. It shows that as of the period when the simultaneously filed applications were received, the applicant, by his signature, certified all the statements on the form. John R. Mimick, 25 IBLA 107 (1976); Bonita L. Ferguson, 61 IBLA 178 (1982). When Olson failed to date his application, he not only violated the requirement of full execution, but also called into question the timeliness of certification of his qualifications.

[2] Olson further asserts that the social security number is included merely as a guide or convenience for BLM and argues that a discrepancy in the number should not be a basis for rejection.

Despite the voluntariness of giving the social security number, one of the designated numbers must be utilized, and all Part B filings must correspond with a Part A filing on record. Part B instructions direct that the applicant "print in the appropriate squares the number used by the applicant on Part A." That number is the feature which, when processed by machine, will distinguish the application as distinctly that of the applicant. Without using the same number placed on Part A, Part B cannot be efficiently processed. The rule requiring proper completion of the approved application form promotes the efficient administration of the simultaneous oil and gas leasing program in view of the number of applications submitted. George Dolezal, Jr., 75 IBLA 298 (1983); Shaw Resources, Inc., 73 IBLA 291 (1983).

Although failure to correctly state the applicant's identification number, whether social security number, employer identification number, or a number assigned by BLM, is not expressly included among the defects listed in 43 CFR 3112.5 (1982), that omission does not preclude the rejection of the application. 43 CFR 3112.6-1(a) (1982) clearly provides that an application will be rejected if not filed in accordance with section 3112.2. 43 CFR 3112.2-1(g) (1982) requires that applications be "properly completed." When dealing with the Government, a person is presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 322 U.S. 380 (1947). Appellant was on notice that the approved Form 3112-6a must be properly completed and received in a manner that does not prevent automated processing, including the proper indication of the identification number used on the corresponding Form 3112-6. 42 FR 53508 (Nov. 26, 1982).

We cannot condone a departure from an otherwise consistent policy of rejecting applications which do not conform to the Department's regulations. 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). A "qualified applicant" must also have completed and filed a valid application. Shaw Resources, Inc., *supra*; Fen F. Tzeng, *supra*.

Since Olson failed to sign or date his application form and did not complete it in a manner consistent with the existing regulations and the instructions appearing thereon, BLM properly rejected his application.

[3] Although BLM has never indicated such an intention, Olson expresses a fear that it will retain the full amount of his filing fee, \$375.

In a revision of the oil and gas leasing regulations, effective August 22, 1983, as published in 43 FR 33648, 33679 (July 22, 1983), regulations 43 CFR 3103.2-1(a), providing for retention of each fee should the application be rejected, was revised by 43 CFR 3112.3(b) to read as follows: "(b) For each Part B application form returned as unacceptable, of the fees remitted, a \$75 processing fee shall be retained and the balance of the fees, if any, shall be returned to the remitter." The nonrefundable portion represents the costs incurred when an application is processed. Shaw Resources, supra at 294. Accordingly, BLM shall retain \$75 and return the remaining \$300. 3/

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision is affirmed.

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Edward W. Stuebing  
Administrative Judge

We concur:

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Anne Poindexter Lewis  
Administrative Judge

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R. W. Mullen  
Administrative Judge

3/ Where it benefits the affected party to do so, and where there are no intervening rights which will be affected adversely, an oil and gas leasing regulation which is amended while the matter is pending on appeal may be applied in its amended form. George Dolezal, Jr., supra at 300.

