

U.S. OIL CO., INC.

IBLA 84-50

Decided March 27, 1984

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneously filed oil and gas lease application W-86622.

Affirmed.

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

The regulatory requirement that a simultaneously filed oil and gas lease application be rendered in a manner that reveals the name of the applicant, the name of the signatory, and their relationship is not satisfied where no indication of the signatory's authority appears on the application and there is no reference to a qualifications file where the relationship between the signatory and the applicant is disclosed.

APPEARANCES: Arthur J. Schmidt, president, U.S. Oil Co., Inc., for the company.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

U.S. Oil Co., Inc. (U.S. Oil), has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated September 26, 1983, rejecting appellant's simultaneous oil and gas lease application drawn with first priority for parcel WY 150 in a July 1983 drawing. BLM rejected the application because it did not indicate the relationship between the applicant and the signatory, as required by 43 CFR 3112.2-1(b) (1982). The notice of appeal was timely.

The record contains the lease application filed on behalf of U.S. Oil. In the blank labeled "Signature in Ink" on the application form appears the legibly handwritten signature of Arthur J. Schmidt. There is, however, nothing on the face of the form to indicate the relationship between the signatory and the applicant, and the space titled "Qualifications Serial Number (if applicable)" is blank.

[1] A regulation in effect at the time of the application's filing provided:

(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.) Machine or rubber stamped signatures shall not be used. [Emphasis added.]

43 CFR 3112.2-1(b). 1/

Appellant contends that the underscored language means that any independent agent or filing service must indicate its relationship with the applicant, and that this requirement does not extend to a corporate employee signing on behalf of the corporate employer. In support of this contention appellant notes that the examples contained in the instructions for BLM's "Automated Simultaneous Oil and Gas Lease Application" refer only to an oil and gas filing service and to an independent agent. Appellant also has informed the Board that "it is common practice in business and in law to assume that a contract or document made out in the name of a corporation is executed by the individual so empowered."

In its prior decisions assessing the import of the subject regulation, the Board has drawn no distinctions based on the nature of the applicant. See, e.g., Our Turn Now Association, 77 IBLA 24 (1983) (concerning an application by an "association"); Feick Associates, 76 IBLA 292 (1983) (concerning an application by a partnership); Liberty Petroleum Corp., 73 IBLA 368 (1983) (concerning an application by a corporation), rev'd, ANR Production Co. v. Watt, No. C83-375-K (D. Wyo. decided Jan. 11, 1984; appeals by Department, filed Feb. 29, 1984, and Liberty Petroleum Corp. pending). 2/ In each of these cases the Board has recognized and applied the requirement that the

1/ Subsequent to the date that the application was filed, the Department amended its regulations for simultaneous oil and gas lease applications. It is noteworthy that the new regulations contain a requirement similar to that in 43 CFR 3112.2-1(b): "The application shall be signed and dated at the time of signing. If signed by anyone other than the applicant, the application shall show the relationship of the signatory to the applicant. The date shall reflect that the application was signed within the filing period." 48 FR 33678 (July 22, 1983) (to be codified at 43 CFR 3112.2-1(c) (emphasis added)).

2/ The court in ANR Production Co. found that the failure of the signatory to indicate his relationship to the applicant was not fatal to the application. The facts in that case differ from those now before the Board. In the ANR case a qualifications statement had been filed with BLM and was found by BLM prior to the rejection of the application (Jan. 11, 1984, Order at 4). In this case there is nothing in the record that would indicate that a qualifications statement was filed with BLM or that BLM could otherwise identify the relationship between the applicant and the signatory at the time of the decision that the application should be rejected.

relationship of the applicant and the signatory must be revealed through information contained in the lease application. 3/

The language of 43 CFR 3112.2-1(b) is unambiguous. The requirement it expresses is intended to provide BLM with sufficient information to aid the agency's selective audits to verify compliance with other regulatory provisions concerning, *inter alia*, acreage limitations, foreign investment restrictions, and multiple filing restrictions. See 47 FR 8544 (Feb. 26, 1982). Under the plain language of the regulation, and in contemplation of its purpose, BLM cannot be satisfied by an application bearing a signature other than the applicant's and lacking any explanation of or reference to the signatory's relationship with the applicant. 4/

The examples provided by BLM on the "Automated Simultaneous Oil and Gas Lease Application" form are merely illustrations of how the requirement of 43 CFR 3112.2-1(b) may be satisfied in selected circumstances. These examples are obviously not intended to identify all contexts in which an application might be signed by someone other than the applicant. Appellant's contention to the contrary is unpersuasive. 5/

3/ The requisite information need not appear on the face of the application, under 43 CFR 3112.2-1(b), if there is a qualifications statement on file for the signatory and the "Qualifications Serial Number" is provided on the application. E.g., Hercules (A Partnership) and Gemini (A Partnership), 67 IBLA 151 (1982).

4/ Under the regulation BLM is to presume, initially, that the signatory is authorized to sign for the applicant. This is because the size of the oil and gas leasing program "has rendered impossible the manual monitoring of * * * qualification documents." 47 FR 8544 (Feb. 26, 1982). Thus, the presumption of the authority of a signatory to act on behalf of the applicant is a matter of administrative convenience. When, however, BLM acts to verify the agency relationship, it is meant to be aided by the information on the application describing the relationship between the applicant and the signatory; thus, the requirement for such information in the application. In this verification process there is no functional distinction to be drawn between corporate and other applicants.

5/ As for appellant's particular reference to the example in BLM's instructions showing a signature on behalf of a filing service acting as "agent" for the applicant ("John Jones, by Oil Filing Company, agent, by William Budd"), we point out that the agency relationship between the applicant (John Jones) and the signatory (the filing service by William Budd) is stated in this example. Even so, the Board has indicated that, where an application is filed by a corporate agent, the relationship between the person signing for the corporate agent and the corporate agent should also be revealed on the application. Charles R. Tickel, 73 IBLA 360, 90 I.D. 258 (1983); Vincent M. D'Amico, 55 IBLA 116 (1981), appeal dismissed, D'Amico v. Watt, Civ. No. 81-2050 (D.D.C. filed Aug. 31, 1981).

We note further, in this regard, that BLM's reference to Keith S. Bradke, 73 IBLA 216 (1983), in its Sept. 26 decision is inappropriate. The Board's Bradke decision turned on the illegibility of the signature on the application considered in that case. The Board's mention in Bradke of a qualifications file for the signatory filing service is properly understood as a resort to extrinsic evidence to ascertain whether BLM might have reasonably identified the signature from such evidence.

Therefore, 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 Wyoming State Office, BLM, is affirmed.

R. W. Mullen
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

Will A. Irwin
Administrative Judge

