

Editor's note: Appealed -- aff'd, sub nom. Burglin v. Morton, Civ. No. F-15-73 (D. Alaska Aug. 5, 1974), aff'd, No. 74-2761 (9th Cir. Dec. 19, 1975), rehearing denied (Jan. 27, 1976) 527 F.2d 486, cert. denied, S. Ct. No. 75-1223 (May 19, 1976) 425 U.S. 973, 96 S.Ct. 2171

R. C. BAILEY ET AL.

IBLA 71-206

Decided September 19, 1972

Appeal from the decision of the Alaska state office rejecting oil and gas lease offers F-5410 through F-5421.

Affirmed in part, set aside in part and remanded.

Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Amendments -- Oil and Gas Leases: First Qualified
Applicant

Oil and gas lease offers are properly rejected when each offer shows on its face that there are two offerors with 20 percent and 80 percent interests respectively, but one of the offerors cannot be identified from the face of the offer form because his name is represented only by an illegible signature. An offeror whose identity cannot be established from the face of the offer cannot be regarded as the first qualified applicant for a lease, and such an offer earns no priority from the time of its filing. However, the offer(s) may be considered as being cured and having priority from the time that a supplemental statement is submitted, signed by the offeror and the other interested party, properly identifying him.

APPEARANCES: Edgar Paul Boyko, Esq., for the appellant.

OPINION BY MR. STUEBING

Helen S. Bailey has appealed from the decision dated January 25, 1971, whereby oil and gas lease offers F-5410 through F-5421 were rejected by the Alaska state office. Either through oversight or deliberation the appeal does not include offer F-5410. To compound the confusion, Helen S. Bailey is without standing to appeal, being a stranger to the record in each of these cases, and the assertion in the statement of reasons for appeal that she was a signatory of the lease offers involved is patently incorrect. The offers were filed and signed by "Mr. R. C. Bailey," and another. This affords a proper basis for dismissal of the appeal.

However, it is apparent that the error was made by the attorney who represents the Baileys in these matters. Two or more groups of offers were rejected under similar circumstances. One or more of

these groups involved offers in which Mr. R. C. Bailey was involved as an offeror and in one or more groups Helen S. Bailey was an offeror. These different groups of offers were rejected by separate decisions. However, in filing appeals from these decisions the lawyer representing the Baileys failed to make the proper distinction, and lumped all of the offers in a single statement of reasons in the name of Helen S. Bailey. In light of our recognition of the nature of the procedural error, we will consider the matter on its merits as the appeal of R. C. Bailey.

In its decision, the Alaska state office made the following observation:

* * * The offers were signed by the same person in whose name the offer was prepared, R. C. Bailey. There was a second signature on the forms which is not legible. The offer shows no other evidence that the second individual is a party to the offer except for the notation of "20%" and "80%" by each signature.

When the appeal from this decision was taken it was disclosed for the first time that the "second person" in each instance was C. Burglin, P. O. Box 131, Fairbanks, Alaska. In an affidavit which accompanied appellant's statement of reasons for appeal, copies of which were provided for each of the subject lease offers, Burglin identified himself as a lease broker who has been in business in Fairbanks for many years, and he states that his signature is well known in Fairbanks, is honored by banks, and has been recognized by the Bureau of Land Management which has previously issued leases signed by him in the same manner. Appellant further argues that many of the signatures of Bureau employees are also illegible, a recrimination which we will not entertain.

Examination of the Burglin signature reveals a grotesque scribble consisting of several prominent almost-closed curves, interspaced by flat curves and terminating in a nearly straight line. No letter of the alphabet is clearly discernible, although when given the clue that this scrawl is intended as a graphic representation of letters it offers abundant possibilities for speculation. However, even with the knowledge that the signature is supposed to read "C. Burglin," we are unable to see that it does so, even approximately. It lacks even the proper number of features to coincide with the number of letters supposedly represented. The offers provide no other identification of the signatory.

Burglin is, of course, at liberty to adopt any device he chooses to serve as his signature. He may write it in Sanskrit,

Greek or Chinese. He may employ arabic numbers, cuneiform, pictographs, or as he has apparently done, hieroglyphics of his own contrivance. That is his right, and if it is affixed to the instrument for the purpose of authenticating it with the intent that he shall be bound thereby, it will serve the legal function of a signature, at least in most jurisdictions. 43 CFR 1810.1(g); 80 CJS 1284 Signatures; see also cases collected in 39 Words and Phrases 359.

However, nowhere in law or logic is it established that a person has a right to be identified by people generally merely by their viewing whatever mark, symbol, sign or device he may choose to employ as representative of himself.

The Bureau must know who is applying for or asserting an interest in federal oil and gas leases in order to determine individual qualifications, to post records and to assure that the limitations on acreage are observed. It employs no cryptographers or mystics to divine the arcane meaning of cabalistic markings on lease offers.

Appellant argues that "valuable priority rights should not be forfeited over trifling technicalities such as these * * *," and he asserts that, "these offers are no more incomplete than if someone had forgotten to cross a 't' or dot an 'i'."

We disagree. If it is beyond the normal ability of a literate person to ascertain the identity of a party to a lease offer, the fault lies in the offer and is attributable to those who prepared and submitted it, and they may not shift that fault to the Bureau because its employees are unable to decipher an incomprehensible scrawl. Since the identity of one of the parties in interest was not provided in any meaningful way on the face of the offers, the offers are incomplete and therefore deficient. An offeror who cannot be identified cannot be regarded as the first qualified applicant within the meaning of the statute (Act of February 25, 1920; 30 U.S.C. § 226(c) (1970)), and such an offer earns no priority from the time of filing.

However, unlike simultaneously filed oil and gas lease offers, regular offers filed "over the counter" may have their deficiencies cured by the subsequent submission of the required material. In an analogous case the Department held that an oil and gas lease offer was defective under the regulations when the offeror stated that she was not the sole party in interest and indicated that another person would acquire full interest in the lease, but did not properly identify the individual by stating both his given and his surname. Even so, it further held that the offer might be considered as cured and having priority from the time when a supplemental statement was submitted, signed by the offeror and the other interested party, which

properly identified him. A. M. Shaffer et al., Betty B. Shaffer, 73 I.D. 293 (1966).

Accordingly, we hold that the filing of the appeal with the accompanying affidavit, in the appropriate number of copies, properly identifying C. Burglin as the other party in interest, had the effect of curing the deficiency with respect to each offer except F-5410 (for which no appeal was filed), and each offer except F-5410 may be reinstated with priority from 10:30 a.m., March 26, 1971, when the curative material was filed with this Board.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F.R. 12081), the decision appealed from is affirmed as to F-5410 and as to the other offers the decision is set aside and the offers are remanded for further action consistent herewith.

Edward W. Stuebing
Member

We concur:

Douglas E. Henriques
Member

Martin Ritvo
Member

