

Editor's note: Appealed -- aff'd, sub nom. Burglin v. Morton, 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 US 973, 96 S.Ct. 2171

HELEN S. BAILEY

IBLA 71-210

Decided November 15, 1972

Appeal from a decision of the Alaska State Office, Bureau of Land Management, rejecting oil and gas lease offers F-5422, F-5423 and F-5424.

Set aside and remanded.

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

Oil and gas 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 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., of Boyko and Walton, Anchorage, Alaska, for the appellant.

OPINION BY MR. RITVO

Helen S. Bailey has appealed from a decision of the Alaska State Office, Bureau of Land Management, dated January 25, 1971, whereby oil and gas lease offers F-5422, F-5423 and F-5424 were rejected on the grounds that the signature of one of the co-offerors was illegible, rendering the offer incomplete.

The oil and gas lease offers were made by Mrs. Bailey and, as later ascertained, Mr. C. Burglin, an oil and gas lease broker, and were filed in the Bureau of Land Management on August 23, 1968. Mrs. Bailey's name and address is typed in Item 1 of the offer. Her signature is affixed at the bottom in the space provided for

lessee's signature with a notation of 80 percent next to it. In the other space provided for lessee's signature is an illegible scrawl with "(20%)" next to it. Mrs. J. A. Hagans, Acting Chief Adjudicator, Bureau of Land Management, Anchorage, Alaska, found this signature to be so illegible as to render the lease offer incomplete. As the basis for her decision, Mrs. Hagans cited 43 CFR 3111.1-1(a), interpreting it as requiring clear identification of all persons seeking to enter into a government contract. Mrs. Hagans issued her decision on January 25, 1971, and notice of appeal was given by Mrs. Bailey and Burglin on February 24, 1971.

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 for many years. 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.

Burglin's illegible signature was the subject of a previous case involving a series of oil and gas lease offers and decided by this Board on September 19, 1972. R. C. Bailey, 7 IBLA 266 (1972). In that case the Board held that Burglin as an offeror could not be identified by the lease offer and therefore was not a qualified applicant within the meaning of the statute. Mineral Leasing Act of February 25, 1920, as amended; 30 U.S.C. § 226(c)(1970)). The decision and reasoning in R. C. Bailey, supra, are dispositive of this appeal.

While Burglin has the right to use any form he chooses to be representative and legally binding as his signature, he may not require people generally to identify him through whatever form he adopts. As this Board stated in R. C. Bailey, supra:

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.

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* * * 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.

7 IBLA at 268

Since the appeal was filed with an accompanying affidavit identifying Burglin as a co-offeror, he effectively cured the deficiency with respect to each offer. The offers may be reinstated with priority from 10:30 a.m., March 26, 1971, when the curative material was filed with this Board. R. C. Bailey, supra.

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 set aside and the offers are remanded for further action consistent herewith.

Martin Ritvo, Member

We concur:

Douglas E. Henriques, Member

Newton Frishberg, Chairman

