

R. M. BARTON

IBLA 73-130
73-157
73-208

Decided February 1, 1973

Appeal from three decisions of the New Mexico State Office, Bureau of Land Management, dismissing protests against oil and gas lease offers NM 16579 etc.

Affirmed.

Rules of Practice: Appeals: Generally

Where the issues on appeal are identical or substantially similar to matters previously considered, and no new evidence or persuasive arguments are advanced for reconsideration or reversal of the prior position, disposition will be made in accordance with prior precedent.

Oil and Gas Leases: Applications: Sole Party in Interest

The Board adheres to its decisions in R. M. Barton, 4 IBLA 299, 5 IBLA 1 and 7 IBLA 68 (1972).

Oil and Gas Leases: Rentals

The Board adheres to its decision in R. M. Barton, 7 IBLA 68 (1972).

APPEARANCES: R. M. Barton, pro se; Gayle E. Manges, Esq., Field Solicitor, Department of the Interior, Santa Fe, New Mexico.

OPINION BY MR. HENRIQUES

Three decisions of the New Mexico State Office, BLM, dismissed the appellant's protests against the issuance of certain oil and gas leases to the successful applicants in the simultaneous drawing procedures conducted in July, August and September, 1972. 1/ The

1/ The appellant has not submitted proof of service of his notice of appeal or statement of reasons on the adverse parties included in the September drawings. His failure to satisfy the procedural requirements makes the appeal docketed under IBLA 73-208 liable to summary dismissal. 43 CFR 4.413.

successful applicants are listed in the appendix hereof. Leases have not yet issued in the cases covered by this decision.

As regards the July drawing, three major contentions are pressed on this appeal. The first is premised on the argument that the type of money order used by the offerors to pay the advance rental is not permissible within the terms of 43 CFR 3123.9(a), now 43 CFR 3112.2-1(a) (2) (1972), which provides, *inter alia*, that "the advance rental must be paid by cash, money order, certified check, bank draft, or bank cashier's check."

Appellant's second contention deals with the utilization by the offerors of filing services. In effect he argues that: (a) the filing services have an expectancy interest in the lease; (b) by the clear wording of the statute an offeror must indicate such interests on his drawing entry card; and (c) the offeror's failure to so note must result in the removal of their priorities. Thus, in effect, the contention is that the offeror was not the sole party in interest.

We observe that these contentions are substantially similar to contentions by this appellant considered in *R. M. Barton*, 4 IBLA 229 (1972), 5 IBLA 1 (1972), and 7 IBLA 68 (1972). In each case the dismissal of the appellant's protest was affirmed. We adhere to that position. In suits initiated by the appellant to test the validity of those decisions, *R. M. Barton v. Morton, et al.*, Civil 9322, 9415 and 9692 U.S.D.C.D.N.M., the Court held that the Department of the Interior determinations were based upon substantial evidence and were in accordance with the law, but that Count I of Civil 9692 was dismissed because plaintiff had not exhausted his administrative remedy. ^{2/}

As regards the protests of the August and September drawings, we note that the appellant has merely reiterated his criticism of previous decisions. We have noted, *supra*, that the United States District Court for New Mexico held on December 20, 1972, that the determinations of the Department of the Interior on the contentions raised by the appellant "were in accordance with the law." Further consideration of appellant's arguments is unwarranted. ^{3/}

^{2/} Civil 1962 relates to the cases involved in IBLA 72-130 and the appeal raised no new issues.

^{3/} Appellant contends as regards the September drawing that the State Office was tendered in payment of advance rentals both bank sight drafts and personal checks on which the term "Money Order" had been typed. We agree that neither of these instruments represent the type of guaranteed payment required by the regulations,

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Douglas E. Henriques, Member

We concur.

Martin Ritvo, Member

Joseph W. Goss, Member

(fn 3/ cont.)

see James W. McDade, 2 IBLA 373 (1971), and that the State Office should have excluded from the drawing offers which contained such payments. None of these offers, however, was successful and indeed, had any of these offeror's drawing cards been selected, they would, perforce, have been rejected. Appellant has shown no prejudice as regards these offers, see R. H. Barton, 9 IBLA 70 (1973).

APPENDIX
July drawing:

NM 16579 R. H. Gaines
16582 Walter Duncan, III
16583 Robert B. Gates
16586 L. L. Payne
16589 L. D. Lansdale
16591 Doris R. Strange
16637 Marie A. Hicks
16646 John H. Trigg
16647 R. C. Semple, Jr.
16648 G. R. Strange
16656(Okla.) M. N. Hahn

August drawing:

NM 16753 Karen L. Puckett
16754 Dean R. Archer, M.D.
16758 Nola Grace Ptasynski
16762 Reuben Burrow
16798 Mildred Unruh
16806 T. David Ling
16808 Gordon Tanner
16810 Rilla M. Willis
16818 Patricia D. Short
16818 Husky Oil Co. of Delaware
16825 Mozelle Morris
16835 W. Oscar Neuhaus and Ben B. Neuhaus
16838 W. R. Manclark
16841 Norma J. Barton
16846(Okla.) Gill Oil Co.
16850(Okla.) John M. Beard

September drawing:

NM 17006 Marilyn Meinhart
17009 Marshall R. Perkins
17028 Lester J. Schell
17035 James D. Craig
17040 Arthur E. Meinhart
17049 Michael K. Laau
17052 Martha P. Thomas
17067 Evelyn G. Langrish
17069 Donald M. Robison
17075 Wanda Seeds

