

**Editor's note: Appealed – aff'd, sub nom. Burglin v. Morton, Civ. No. F-9-73 (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 US 973, 96 S.Ct. 2171**

WILLIAM D. SEXTON, ET AL.

IBLA 72-332

Decided February 13, 1973

Appeal from a decision of Alaska State Office, Bureau of Land Management, rejecting oil and gas lease offers AA-3503 to AA-3510, inclusive.

Affirmed.

Oil and Gas Leases: Lands Subject to—Withdrawals and Reservations: Effect of

Lands withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, pursuant to the Alaska Native Claims Settlement Act are not available for leasing under the Mineral Leasing Act of 1920 and an oil and gas lease offer for such land is properly rejected although filed prior to the withdrawal.

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 offers 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: William D. Sexton and Clifford C. Burglin, pro se.

OPINION BY MR. HENRIQUES

William D. Sexton and Clifford C. Burglin appeal from a decision of the Alaska State Office, Bureau of Land Management, dated April 23, 1969, rejecting oil and gas lease offers AA-3503 to

AA-3510, inclusive, for lands found in T. 16 S., R. 44 W., Seward Meridian. The State Office noted that each of the lease offers, which were submitted on September 27, 1968, was signed by Sexton followed by the notation of 80 percent and by another party (eventually identified as Burglin), followed by the notation of 20 percent. This latter signature was illegible and the State Office held that the application was incomplete and must be rejected. On appeal, appellants press a number of arguments.

We note at the outset that the illegibility of Burglin's signature is a fact readily apparent to all who possess ocular capacities. The signature is an unseemly pastiche of curlicues and skewed lines. The derivation of "C. Burglin" from this chaos would require far more than patient inspection of the markings. Certainly it cannot be contended that this Department is obliged to hire a haruspex to decipher a lease applicant's personal code. Rather, the onus rests with the applicant to provide some means by which his identity may be determined without necessitating resort to scapulimancy or divination.

A number of the contentions advanced by appellant Burglin on this appeal were considered and rejected in R. C. Bailey, et al., 7 IBLA 266 (1972). Additionally, the appellants here contend that they fear that approval of the State Office's rationale would open the floodgates for arbitrary rejection of lease offers in cases in which the signature is ascertainable. A major function of the law is to draw lines and place rational limitations on the sweep of general rules. While future cases may present issues less amenable to easy resolution, the case at the bar contains no such pitfalls.

The information as to the identity of the second signatory was supplied on appeal on June 20, 1969. Under the procedures discussed in R. C. Bailey, supra, appellants' priority would run from that day. In the interim between the original offer and the day on which the deficiencies thereof were cured, however, Public Land Order [PLO] 4582 withdrew all unreserved public lands in Alaska from leasing under the Mineral Leasing Act. PLO 4582 was repealed on December 18, 1971, by the Alaskan Native Claims Settlement Act, 85 Stat. 688, 43 U.S.C.A. §§ 1601 et seq. Under § 17(d)(2)(A) of the Act, the Secretary of the Interior was directed "to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws \* \* \* up to, but not to exceed eighty million acres of unreserved public lands \* \* \* which the Secretary deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild Scenic Rivers Systems \* \* \*." Pursuant thereto on March 15, 1972, the Secretary of the Interior issued PLO 5179, 37 F.R. 5579, withdrawing, inter alia, the subject lands. Since the lands applied for are now withdrawn from oil and gas leasing, appellants' offers

must be rejected. Where public land has been withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, it is proper to reject an application for an oil and gas lease even though the land was withdrawn after the application was filed. *James D. Johnson, et al.*, 8 IBLA 348 (1972). Thus, the lease offer of the appellant must be rejected.

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 affirmed.

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Douglas E. Henriques, Member

We concur.

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Joseph W. Goss, Member

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Martin Ritvo, Member

