

DUNCAN MILLER

IBLA 73-83

Decided September 24, 1973

Appeal from refusal of the Montana State Office, Bureau of Land Management, to accept withdrawal of offer for oil and gas lease Montana 22208 (South Dakota).

Affirmed.

Oil and Gas Leases: Applications: Drawings! ! Oil and Gas Leases:
Generally

An oil and gas offeror who files a simultaneous drawing card in a simultaneous filing procedure pursuant to 43 CFR Subpart 3112, cannot withdraw his offer after the drawing is held and a lease, signed on behalf of the United States, has been issued to him.

APPEARANCES: Duncan Miller, pro se.

OPINION BY MR. GOSS

Duncan Miller has appealed to the Secretary of the Interior from letter decisions of the Montana State Office, Bureau of Land Management, dated July 20 and July 25, 1972, refusing to accept his withdrawal of an oil and gas lease offer, Montana 22208 (S.D.).

On June 23, 1972, Miller filed a simultaneous oil and gas drawing entry card No. 446-7387 for parcel No. 172 in the June drawing under simultaneous filing procedures pursuant to 43 CFR Subpart 3112. After Miller's card was drawn a lease was executed on behalf of the United States and issued July 12, 1972. The following day, a letter was received from Miller attempting to withdraw his offer. The Chief of the Adjudication Section notified Miller by letter of July 20 that the lease had issued the day before his withdrawal had been received. Miller then attempted to return the lease claiming he had withdrawn his offer. He was informed by letter of July 25, 1972, that the execution of the lease predated the withdrawal and "the lease is valid and stands."

Miller claims on appeal (1) his stenographer made an error in interpreting his notations to be a selection of Parcel Number 172 and (2) the withdrawal of his offer was filed prior to the delivery of the lease and, therefore, was a valid withdrawal.

The lease was issued to Miller on the basis of his drawing entry card which clearly designated Parcel Number 172. The offeror is responsible for the correctness of the card as filed. 1/

Where the sole offeror under simultaneous filing procedures attempts to withdraw his offer, a withdrawal will be permitted only if the withdrawal is filed prior to the time the lease is signed on behalf of the United States. Duncan Miller, 5 IBLA 35 (1972).

Miller did not communicate any intent to withdraw prior to the signing of the lease by the authorized officer of the Bureau of Land Management. Therefore, the withdrawal was not timely regardless of whether or not the lease had been delivered. The lease is valid as issued. 2/

Accordingly, 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.

Joseph W. Goss
Member

We concur:

Anne Poindexter Lewis
Member

Joan B. Thompson
Member

1/ The regulations governing approval of simultaneous offers in 43 CFR 3112.4 provide:

"By signing and submitting the entry card, the applicant agrees that he will be bound to a lease on a current form approved by the Director for the described parcel if such a lease is issued to him as a result of the drawing."

2/ On August 7, 1973, the Montana State Office, Bureau of Land Management, issued a termination notice of oil and gas lease M-22208 for failure of the lessee to pay the rental in a timely manner. Miller, although actively engaged in seeking a withdrawal of the original offer through this appeal, apparently petitioned for reinstatement of the lease. Reinstatement was granted by a Bureau decision of August 17, 1973.

