

DAVID L. HANSEN
JOHN B. HURDLE
JOHN F. AND INEZ R. CRAMER

IBLA 77-152,
77-281,
77-323

Decided September 27, 1977

Appeals from separate decisions of the Utah and Montana State Offices, Bureau of Land Management, rejecting oil and gas lease offers U 36436, M 36537, and U 37095.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Drawings

A simultaneous oil and gas lease offer is properly rejected if it is unsigned or undated.

2. Oil and Gas Leases: Applications: Drawings

A signature on a drawing entry card cannot be imputed from a signature on another document.

3. Equitable Adjudication: Generally--Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Drawings

When a first-drawn oil and gas lease offer is disqualified because it is unsigned or undated, the Department's equitable adjudication authority may not be invoked to divest the first qualified drawee of his preference right to a lease.

4. Oil and Gas Leases: Applications: Drawings

One whose first-drawn oil and gas lease offer is disqualified because it is unsigned or undated cannot establish a right to a lease by showing that his failure to sign or date the card resulted from inadvertence, lack of knowledge, illness or other physical incapacity.

APPEARANCES: David L. Hansen, pro se; Roger B. Todd, Esq., Flaxel, Todd & Nylander, North Bend, Oregon, for appellant John B. Hurdle; John F. and Inez R. Cramer, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

These are consolidated appeals from separate decisions of the Utah and Montana State Offices, Bureau of Land Management, rejecting oil and gas lease offers U 36436, M 36537, and U 37095. The cases are consolidated because they share similar facts and issues. In each case, the drawing entry card offers had been drawn first from other simultaneously filed offers for the respective parcels of land, and the offer of each appellant was disqualified because none of the appellants had signed their offers as required by 43 CFR 3112.2-1(a). Appellants' offers were also unqualified because they were not dated and thus not fully executed as required by 43 CFR 3112.2-1(a).

[1] Under the Mineral Leasing Act, the Department may issue an oil and gas lease only to the first qualified applicant. 30 U.S.C. § 226(c) (1970). Because a card without a signature does not constitute a viable offer, and because an undated offer is not "fully executed" as required by regulation, the preference right to the lease belongs to the next drawee who is qualified as of the moment of the drawing; a first drawn but unqualified entrant cannot be allowed to correct his card. 1/ Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976); Melvin C. Hudson, 28 IBLA 359 (1977). The Department is precluded from allowing an offeror to correct his offer by the general principle that especially where third party rights are involved the Department is bound to follow its own regulations. McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir. 1955). Therefore, a simultaneous oil and gas lease offer is properly rejected if it is unsigned or undated. In Burglin v. Morton, 527 F.2d 486 (9th

1/ If all three drawees are unqualified, the land applied for can only be leased after it is included in another list of lands available for simultaneous filing. 43 CFR 3112.5-1.

Cir. 1976), the Court sustained rejection of an over-the-counter oil and gas lease offer because the applicant's signature was illegible.

[2] Appellant Hansen had filed another offer for a different parcel of land and argues that his signature on the other offer validates the drawing entry card involved in this appeal. This argument is wholly without merit because the signature on the other card did not constitute appellant's assent to be bound to lease the parcel of land at issue. A signature on a drawing entry card cannot be imputed from a signature on another document. Herbert W. Schollmeyer, 25 IBLA 393 (1976).

[3, 4] Appellant Hurdle argues that the Department may issue him a lease pursuant to equitable adjudication authority provided by 43 U.S.C. § 1161 (1970). Section 1161 does not apply to oil and gas leases and may not be invoked to divest the first qualified drawee of his statutory preference right. Cf. Ballard E. Spencer Trust, Inc., supra. Appellant Hurdle has requested an opportunity to offer testimony that his failure to sign and date his card was inadvertent and due to his lack of knowledge of the need to sign. However, such testimony could not establish his right to the lease. Melvin C. Hudson, supra. Accordingly, the request is denied.

The Cramers state that Mr. Cramer has failing sight and that their appeal should be sustained because of hardship. While we sympathize with the Cramers, the Board is without authority to issue a lease to the detriment of those who have filed qualified offers.

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.

Joseph W. Goss
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Douglas E. Henriques
Administrative Judge

