

BERTRAM F. RUDOLPH, JR.

IBLA 78-495

Decided January 24, 1979

Appeal from decision of Idaho State Office (BLM) dismissing protest against rejection of three simultaneous drawing entry cards as late filings.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

Under 43 CFR 3112.1-2, if an offeror wishes to participate in a simultaneous drawing procedure, the drawing entry card must be received in the local Bureau of Land Management office within the time allotted therefor.

APPEARANCES: Bertram F. Rudolph, Jr., pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Bertram F. Rudolph, Jr., appeals the decision of the Idaho State Office (BLM), dated June 2, 1978, dismissing his protest against the rejection of three simultaneous drawing entry cards for parcels ID 40, ID 41, and ID 84.

Appellant's entry cards were postmarked May 18, 1978, in California, and received in the Idaho Office on May 23, 1978, at 10 a.m., as evidenced by the time-date stamps thereon. The deadline for receipt of simultaneous offers was May 22, 1978, at 10 a.m. Accordingly, appellant's entry cards and check for filing fees were returned to him as untimely filings.

Appellant protested the rejections by letter dated May 27, 1978. Accompanying the protest were the aforementioned entry cards and

check. The items were received in the Idaho office on June 1, 1978. The protest remarked upon the fact that, given the date of mailing, the entry cards should have been timely. It was also suggested that "the efficiency of [BLM's] mail handling techniques may be in question." The statement is based upon a letter to appellant from the United States Postal Service, dated June 20, 1978, advising that the envelope could have been placed in the wrong box or mishandled by BLM.

In the statement of reasons for appeal, appellant further suggests that BLM's use of both a street number and post office box number encourages misadventures in delivery of mail addressed to it. Appellant characterizes the facts here presented as a case of inadvertent omission of his entry cards from the drawing procedure, and requests us to direct a redrawing so as to include his entry cards.

The language of 43 CFR 3112.1-2 is quite plain:

On the third Monday of each month, * * * there will be posted * * * in each proper office a list of the lands * * * together with a notice stating that such lands will become subject to the simultaneous filings of lease offers, from the time of such posting until 10 a.m. on the fifth working day thereafter. [Emphasis supplied.]

[1] The simple and manifest import of the language emphasized seemingly requires no discussion: if an offeror wishes to participate in a simultaneous drawing procedure, the drawing entry card must be received in the proper BLM office within the time allotted therefor.

Appellant's argument that his entry cards were inadvertently omitted from the drawing procedure is without merit. Such an argument a fortiori presupposes that the omitted entry cards were timely received in the local land office. Quite obviously that is not the case presently before us. It must follow, therefore, that appellant is not entitled to a redrawing.

As to where the blame for the delayed delivery of the envelope properly lies, such an inquiry is immaterial in the absence of credible evidence of negligence on the part of BLM. No evidence is offered in rebuttal of the presumption that public officers discharge their official duties in the manner required by law. W. J. Langley, 32 IBLA 118, 120 (1977) (citing United States v. Chemical Foundation, 272 U.S. 1, at 15-16 (1926)).

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.

James L. Burski
Administrative Judge

We concur.

Joan B. Thompson
Administrative Judge

Frederick Fishman
Administrative Judge

