

PAMELA W. KAY

HENRY H. GREER

GREGORY MONTGOMERY

FRANKLIN J. SANDS

IBLA 78-126, IBLA 78-300

Decided April 16, 1979

Appeals from decisions by the Wyoming State Office and the New Mexico State Office, Bureau of Land Management, rejecting drawing entry card oil and gas lease offers, W 61260, NM-A 31657.

Affirmed, as modified; affirmed.

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

Where a drawing entry card is submitted in a simultaneous oil and gas lease drawing and signed by multiple offerors, the offer is properly rejected if even a single offeror fails to enter the date of his signature on the drawing entry card.

2. Oil and Gas Leases: Applications: Generally—Oil and Gas Leases: Applications: Drawings

The requirement set forth in 43 CFR 3112.2-1(a) that a drawing entry card be fully executed is not vague or unclear. Hence, a DEC signed by multiple offerors is properly rejected if even a single offeror fails to enter the date on the drawing entry card.

APPEARANCES: James W. McDade, Esq., McDade and Lee, Washington, D.C.;
Craig R. Carver, Esq., Head, Moye, Carver & Ray, Denver, Colorado;
Daniel A. Taylor, Esq., Hill & Barlow, Boston, Massachusetts.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

These are appeals by Pamela W. Kay, Henry H. Greer, Gregory Montgomery and Franklin J. Sands from decisions of the Bureau of Land Management (BLM).

One, by the Wyoming State Office dated December 8, 1977, disqualified the drawing entry card (DEC), of appellants which had been drawn with first priority for Parcel WY 98 in the September 1977 simultaneous filing procedure for oil and gas leases, because offerors did not respond with the additional information required by letter of October 21, 1977. The letter, copies of which were addressed individually to each offeror at the record address shown on the DEC, required an affidavit relative to the use of the facsimile signatures of the offerors on the DEC, within 30 days, and carried this caveat: "Your failure to return a completed affidavit will result in our rejection of the offer." Accompanying the letters was a notice of rental due. The record reflects that the notice and the letters were received at the address of record October 25, 1977. Payment of the rental was received by the Wyoming State Office October 31, 1977, but no affidavits were submitted in response to the letter demand. Thereafter, the disqualification of the DEC followed. Examination of the DEC disclosed that the four signatures were imprinted by facsimile means, and that only one date is shown on the card.

The second, by the New Mexico State Office dated February 15, 1978, rejected the DEC of appellants drawn with first priority for Parcel NM 1037 in the August 1977 simultaneous filing procedures, because the DEC was filed on behalf of the offerors by Stewart Capital Corporation, but as there was an existing agreement between appellants and Stewart at the time of filing of the DEC, it was held that Stewart had acted without authority, and further, that as the DEC bore four signatures but only one date, it was not fully executed within the requirement of 43 CFR 3112.2-1(a).

The appeals have been consolidated for consideration because the same deficiency appears on each DEC, that is, multiple signatures and a single date.

[1, 2] The question of multiple signatures and a single date has been before this Board on a number of occasions, most recently in Thomas R. Flickinger, et al., 40 IBLA 53 (March 16, 1979). Flickinger recited the applicability of Thomas V. Gullo, 29 IBLA 126 (1977), cited by the New Mexico State Office, and following discussion of appellants' arguments, the Board held:

Where a drawing entry card is submitted in a simultaneous oil and gas lease drawing and signed by multiple offerors, the offer is properly rejected if even a single offeror fails to enter the date of his signature on the drawing entry card.

The requirement set forth in 43 CFR 3112.2-1(a) (1977) that a drawing entry card be fully executed is not vague or unclear. Hence, a DEC signed by multiple offerors is properly rejected if even a single offeror fails to enter the date on the drawing entry card.

The Board's ruling relative to multiple signatures and a single date on a DEC, as set out in Flickinger, supra, is adhered to.

With this disposition of these appeals, it is unnecessary to discuss the other reasons in the BLM decisions or the arguments relative thereto from appellants.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Wyoming State Office disqualifying DEC W 61260 is affirmed as modified, and the decision of the New Mexico State Office rejecting DEC NM-A 31657 is affirmed.

Douglas E. Henriques
Administrative Judge

I concur.

James L. Burski
Administrative Judge

ADMINISTRATIVE JUDGE FISHMAN CONCURRING SPECIALLY:

For the reasons set forth in my concurrence in Thomas R. Flickinger, 40 IBLA 53, 61-62 (1979), I reluctantly am constrained to concur in the main opinion.

Frederick Fishman
Administrative Judge

40 IBLA 243

