

MIRIAM KEIZMAN (HARPER)

IBLA 79-241

Decided June 18, 1979

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease offer W 65700.

Reversed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Drawings

A decision by BLM rejecting a noncompetitive oil and gas lease drawing entry card offer because someone other than the offeror affixed a facsimile of the offeror's signature on the card and agency statements were not filed as required by 43 CFR 3102.6-1 will be vacated where BLM bases its finding to this effect on a statement made by the offeror 6 months previously concerning the preparation of other, earlier offers, and where the offeror alleges on appeal that she actually affixed the facsimile herself on the offer in question.

APPEARANCES: Miriam Keizman Harper, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

The simultaneous noncompetitive oil and gas lease offer drawing entry card of Miriam Keizman (appellant) was drawn with first priority in the September 1978 drawing for parcel WY 3949 in the Wyoming State Office, Bureau of Land Management (BLM). On January 2, 1979, BLM notified appellant that she would have to complete an affidavit

concerning the circumstances surrounding the affixing of her signature on the card, as it appeared that this signature was a facsimile. On January 9, 1979, before she had responded to BLM's demand, BLM issued a decision rejecting her offer, because, in an affidavit dated March 16, 1978, appellant had stated that one Robert C. Harper selected parcels on her behalf and affixed facsimiles of her signature on other, earlier cards filed in her name. ^{1/} On the basis of this affidavit BLM assumed that Robert Harper had also affixed the facsimile of appellant's signature on the offer filed in September 1978 and that, as no agency statements had been submitted, 43 CFR 3102.6 required rejection of the offer. Appellant filed a timely notice of appeal of this decision.

[1] In her statement of reasons, appellant asserts that the information in the March 1978 affidavit is not applicable to the offer filed in the September 1978 drawing. She states, "In the specific instance of the filings made in September 1978, all of my filing cards were stamped by me as well as chosen by me personally. At that time, I filed about forty cards and since my name stamp was available to me, I stamped them myself for my own convenience." Appellant explains that she married Robert C. Harper in April 1978, at which time the facsimile stamp of her signature, which Robert Harper had previously used to affix her signatures on her offers, became available to her personally.

BLM erred by holding that appellant's statement in March 1978 that Robert Harper affixed her facsimile signature on her offer cards indicated that he also affixed her signature on the offer in question in September 1978. The circumstances surrounding the signing of appellant's offers apparently changed between early 1978 and September 1978. As appellant explains, her marriage to Robert Harper made available to her the facsimile stamp of her signature, which she allegedly chose to use herself as a convenience in lieu of signing each card by hand. BLM should have allowed appellant the opportunity to so state in response to its demand for information specifically concerning the affixing of her signature on the offer in question.

Under 43 CFR 1821.3-1, information submitted by an oil and gas offeror pursuant to a request by BLM need not be by affidavit under oath. Duncan Miller, 38 IBLA 154 (1978). As appellant has made a full explanation, we perceive no need for further inquiry.

^{1/} There is no copy of this affidavit in the administrative record.

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 reversed.

Edward W. Stuebing
Administrative Judge

We concur:

Newton Frishberg
Chief Administrative Judge

Joan B. Thompson
Administrative Judge

