

LEWIS W. PETERS

IBLA 79-347

Decided November 6, 1979

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting first drawn simultaneous oil and gas lease offer NM 36342.

Reversed and remanded.

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

In the absence of a regulatory requirement, it is not proper to reject a drawing entry card oil and gas lease offer solely because an agent affixed the offeror's facsimile signature to the DEC and the separate statements of the offeror and the agent submitted in satisfaction of 43 CFR 3102.6-1 are machine copies, as BLM may require that the offeror personally verify the information contained in the offer and the statement, and provide whatever supplemental information that BLM may reasonably request. An agency statement required by 43 CFR 3102.6-1(a) need not be holographically signed.

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

Nothing in the regulations requires an agency statement submitted under 43 CFR 3102.6-1(a) to be dated. The statement is

an adjunct to the drawing entry card and is considered dated as of the signing and dating of the card.

APPEARANCES: Jason R. Warran, Esq., McDade and Lee, Washington, D.C.; Craig R. Carver, Esq., Head, Moye, Carver, and Ray, Denver, Colorado; Michael Campbell, Esq., Campbell and Black, P.A., Santa Fe, New Mexico, for appellant.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Lewis W. Peters appeals from the decision dated April 16, 1979, of the New Mexico State Office, Bureau of Land Management (BLM), rejecting his first drawn simultaneous oil and gas lease offer NM 36342. The offer was rejected because the drawing entry card (DEC) was filed by Stewart Capital Corp. (Stewart), acting as agent for appellant, and the statements submitted in satisfaction of the requirements of 43 CFR 3102.6-1 were not dated and were not holographically signed, but rather were machine copies.

By decision dated March 16, 1979, BLM requested additional information from appellant concerning the formulation of his offer and his arrangement with the filing service. Appellant had 30 days from receipt of the decision to comply. The decision was returned by the postal service marked "ADDRESSEE UNKNOWN" on April 10, 1979. By letter dated April 12, 1979, and received by BLM April 16, 1979, appellant informed BLM that it intended to comply with the request for additional information and requested an extension of 15 days in which to do so. On April 19, 1979, after issuing the decision before us on appeal, BLM acknowledged receipt of appellant's request and granted an extension of time until May 7, 1979. By letter dated and received April 27, 1979, appellant appealed the decision of April 16, 1979, rejecting his lease offer.

Appellant contends that the decision is in error because: (1) The return to BLM of the March 26, 1979, decision is not of itself grounds for rejection; (2) the fact that the facsimile signature is affixed on the DEC by someone other than the offeror need not be stated on the DEC itself; (3) a DEC accompanied by the 43 CFR 3102.6-1 statements need not refer to a record where the information has been previously filed; and (4) there is no requirement that the statements be holographically or originally signed or dated.

[1] The issues presented here have been considered in several recent decisions of this Board. Frederick T. Peters, 41 IBLA 269 (1979); Robert B. Coen, 41 IBLA 55 (1979); W. H. Gilmore, 41 IBLA 25 (1979). We have held that it is not proper for BLM to reject a lease offer solely because an agent affixed the offeror's facsimile signature to the DEC and the statements submitted in satisfaction of 43 CFR

3102.6-1 are machine copies, but BLM may require that the offeror personally verify the information contained in the offer and the statement and provide whatever supplemental information BLM may reasonably request. The agency statement need not be holographic. Appellant correctly notes that there is no requirement that the fact of agency be noted on the card, and where a statement is submitted no previously filed statement need be referred to. Frederick T. Peters, supra.

[2] There is no requirement in 43 CFR 3102.6-1 that the separate agency statements be dated. The agency statements are adjuncts to the DEC itself. Thus, the dating of the card serves to certify that the statements are also true as of the date on the card. If it is determined that the statements were untrue at the time the card was dated, the offer may then be rejected.

It is not clear from the decision whether the State Office rested its rejection of appellant's offer in part on the fact that the request for additional information was returned marked "ADDRESSEE UNKNOWN". If so, this was error, as the decision was issued prior to the expiration of the 30-day period granted appellant to respond. In any event, the decision rejecting the lease offer was premature and must be reversed. We note that appellant has submitted with his appeal the information requested by BLM. On remand, BLM should examine the documents submitted and if appellant has met the requirements of the regulations, the lease must issue to him, all else being regular.

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 and remanded for further action consistent with this opinion.

Joan B. Thompson
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Newton Frishberg
Chief Administrative Judge

