

BROOKS GRIGGS

IBLA 79-309

Decided November 30, 1979

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM 36164.

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: Filing

Oil and gas lease offerors are advised to refer to accompanying attachments on their drawing entry cards. However, where neither the regulations nor the instructions on the drawing entry card require that the card refer to the statements required by 43 CFR 3102.6-1, a noncompetitive oil and gas lease offer cannot be rejected for failure to do so, where such statements were actually submitted with the card.

APPEARANCES: Craig R. Carver, Esq., Head, Moye, Carver, and Ray, Denver, Colorado, and James W. McDade, Esq., McDade and Lee, Washington, D.C., for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Brooks Griggs appeals from the March 2, 1979, decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting his lease offer NM 36164. Appellant's drawing entry card (DEC) was the first drawn offer for Parcel No. N.M. 464 in the February, 1979, drawing for noncompetitive oil and gas leases. The offer was rejected because "[t]here is no indication on the entry card that the required statements accompanied the drawing entry card."

The statements referred to in the decision are those required by 43 CFR 3102.6-1 when an agent or attorney-in-fact signs the DEC for the offeror. Appellant's card was not personally signed; the signature was affixed with a rubber stamp. BLM properly noted that appellant must have submitted a statement showing all the circumstances under which the imprint was made. See William J. Sparks, 27 IBLA 330 (1976). However, the facts of record show that appellant did submit the required statement with the DEC. BLM rejected the offer because the DEC did not indicate in any way that the required statements accompanied the card.

In his statement of reasons for appeal, appellant asserted, inter alia, that the required statements did accompany the DEC. He pointed out that the regulations do not require that the statements concerned here be noted on the card, nor is there space provided on the card for doing so, as there is for the statement of corporate qualifications. He has submitted an affidavit from an attorney who went to the New Mexico State Office to determine if the statements had been received. The attorney found that the documents were in fact in that office, and obtained copies which have been submitted with this appeal. These statements show that Stewart Capital Corporation has discretionary authority to sign and formulate offers in appellant's name, and had submitted the offer for appellant. Stewart Capital has no interest in the lease but has created an attorney-in-fact relationship between itself and appellant requiring compliance with 43 CFR 3102.6-1.

The DEC states that "compliance must also be made with the provisions of 43 CFR 3102." It provides a space for identifying records wherein the qualifications of a corporation or association to hold a lease have previously been filed. It provides a space for listing other parties in interest. However, nowhere on the card or in the regulations is it required that the statements of the agent or attorney-in-fact be referred to on the card itself.

[1] In an identical fact situation presented in RHARRC Associates, 43 IBLA 317 (1979), we considered the same actions of Stewart Capital while filing lease offers in the New Mexico State Office for its client and we held that the State Office was improperly imposing an additional requirement that did not appear in the regulations. We specifically pointed out:

There is no space on the form for an offeror to fill out to meet the requirements for an agency statement. We advise offerors that they should refer to an accompanying attachment as a means of alerting BLM and also as an element of proof should the question arise whether an attachment was actually filed when required. However, in the absence of a requirement in the regulations or instructions that the card refer to an accompanying attorney-in-fact statement, the offer cannot be rejected

because there was no reference to an attachment where it is proved that the statement actually accompanied the card when it was filed.

In this case, as in RHARRC Associates, supra, the record substantiates that the statements were properly filed with the DEC. Therefore, all else being regular, the lease should issue to appellant.

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 reversed and the case remanded for appropriate action.

Anne Poindexter Lewis  
Administrative Judge

We concur:

Frederick Fishman  
Administrative Judge

Newton Frishberg  
Chief Administrative Judge

