

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting simultaneous noncompetitive oil and gas lease offers M 43939 and 43945.

Reversed and remanded.

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

A drawing entry card in a simultaneous oil and gas lease filing may not be rejected on the basis that the card sets out as part of the parcel designation the complete name of the state where the governing office of BLM is located instead of the abbreviated state code prefix.

APPEARANCES: Joe L. Frazier, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Joe L. Frazier (appellant) has appealed from the July 25, 1979, decision of the Montana State Office, Bureau of Land Management (BLM), rejecting his simultaneous noncompetitive drawing entry card offers, M 43939 and M 43945, for parcels MT 892 and MT 898, respectively, in the June 1979 drawing. BLM held that Frazier's cards were not fully executed as he had failed to include the alphabetical state office code as prefix to the parcel numbers on his drawing entry cards. Accordingly, it rejected these offers.

However, appellant submitted his offers on Bureau Form 3112-1, dated October 1974. This drawing entry card form contains only four empty boxes designated as "Parcel Number applied for," and includes a blank designated as "State." Appellant's cards each bears the correct parcel numbers, less the state prefix, in the boxes provided for "Parcel Number applied for" and "Montana" in the blank designated as "State."

[1] A drawing entry card should not be rejected where it bears the complete name of the state rather than the abbreviated state office code prefix. Ed Pendleton, 40 IBLA 103 (1979); Clayton Chessman, 34 IBLA 263 (1978).

The present case is distinguishable from C. H. Coster Gerard, 41 IBLA 74, 75 (1979), cited by BLM in support of its decision. In that case, the offeror used a form similar to the one used by appellant here. However, the parcel for which Gerard applied was located in an Eastern state. Gerard, instead of indicating the parcel number correctly as "ES 209," placed "209" in the boxes designated as "Parcel Number applied for" and put the full name of the state where the parcel was located in the blank designated as "state," rather than the full name of the governing BLM office as here. The Board concluded that putting the name of the state in the blank was not sufficient, over Gerard's objections that BLM should have been able to deduce that the parcel bore an "ES" prefix from the fact that the named state was under the jurisdiction of the Eastern States Office of BLM. Had Gerard placed "Eastern States" in the blank designated as "State," the matter might well have been controlled by Chessman, supra, as it would have borne the complete name of the governing BLM office instead of the alphabetical abbreviation of that office's name used as the prefix to the parcel number.

In the instant case, as in Pendleton and Chessman, supra, appellant placed the full name of the state where the governing BLM office is located instead of its abbreviation. As we held in Chessman, supra at 265:

We cannot see that serious difficulties will arise because an applicant uses the full name of a state instead of its abbreviation. * * * Appellant's intent to lease [the parcel] cannot seriously be questioned. Nor have we been shown any stages in the processing of the applications that would be impaired by use of the full name. [Footnote omitted.]

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 the matter remanded for further consideration of appellant's offer.

Edward W. Stuebing
Administrative Judge

I concur:

Frederick Fishman
Administrative Judge

ADMINISTRATIVE JUDGE GOSS CONCURRING:

I concur in the result, but question the discussion of C. H. Coster Gerard, 41 IBLA 74 (1979). The Court of Appeals in Winkler v. Andrus, 594 F.2d 775, 777 (10th Cir. 1979), has in the clearest language indicated that the Department should reexamine its approach toward unimportant aberrations on simultaneous oil and gas drawing entry cards:

One wonders why the Department would become involved in a problem such as that which is present here. * * * It is not sound to assume that a citizen will accept as the last word an adverse ruling such as this; one which is founded on a trivial and inconsequential point. The Department would have served justice in a better way if it had recognized and acknowledged the lack of substance in its position. [Emphasis added.]

I recognize that a district court has recently applied McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir. 1955), in a strict fashion. Brick v. Andrus, Civil No. 78-1814 (D.D.C. June 7, 1979). Despite the ruling in Brick, I would follow the lead in Winkler and rule that offers on drawing entry cards are only to be rejected for defects which are truly substantive. If the information needed by the Department is clearly set forth on the card, I would allow the lease offer. 1/

Joseph W. Goss
Administrative Judge

1/ If it can be shown that a particular order of data is reasonably required for a computerized operation, then at that time this approach should be re-evaluated.

