

E. J. HAUGEN

IBLA 79-566

Decided April 28, 1980

Appeal from a decision of the Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer M 44094.

Affirmed.

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

Where, the offeror designated on a drawing entry card (DEC) is "Energy Investment Co.," allegedly a sole proprietorship, but the DEC is signed by an individual, who states that he intended to file as an individual, the lease offer is properly rejected because under 30 U.S.C. § 181 (1976), a sole proprietorship is not a qualified offeror and the offer, as an individual's offer, has not been properly executed pursuant to the instructions on the DEC.

APPEARANCES: E. J. Haugen, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

E. J. Haugen has appealed from a decision of the Montana State Office, Bureau of Land Management (BLM), dated August 8, 1979, for failure either to submit corporate qualification papers with his drawing entry card (DEC) or to refer by serial number to the record where such papers had previously been filed.

This card was drawn first for parcel No. MT 977. The face of the card was made out in the name of "Energy Investment Co." The reverse side, on which the offer and certifications were set forth, was completed with the signature "E. J. Haugen."

In the statement of reasons for appeal appellant states that Energy Investment Co. is a sole proprietorship. Appellant also states that he intended to file as an individual, thus the signature "E. J. Haugen" and his personal social security number. The fact remains, however, that the drawing entry card reads "Energy Investment Co." The words "Energy Investment Co." connotes some entity other than an individual. The State Office cannot be charged with knowing that appellant intended to file as an individual.

[1] Oil and gas lease offers may be submitted only on behalf of individual citizens, associations of citizens, corporations, or municipalities. 30 U.S.C. § 181 (1976). Departmental regulation 43 CFR 3102.1-1 provides in part:

§ 3102.1-1 Who may hold interests.

Mineral leases may be issued only to (a) citizens of the United States; (b) associations of such citizens organized under the laws of the United States or any State thereof, which are authorized to hold such interest by the statute under which organized and by the instrument establishing the association; (c) corporations organized under the laws of the United States or of any State thereof; or (d) municipalities. As used in this group, "association" includes "partnership."

There is nothing in the law or regulations which would indicate that an unincorporated sole proprietorship in itself is a sufficient legal entity to make the required certifications and enter into the required contract. E.g., 43 CFR 3101.1-5. A proprietorship is "a business which is owned by a person who has either the legal right and the exclusive title, or dominion, or ownership of that business." Shermco Industries, Inc. v. Secretary U.S. Air Force, 432 F. Supp. 306, 314 (N.D. Tex. 1978). A proprietorship is not the individual. See Independent Electricians and Electrical Contractors Assoc. v. New Jersey Bd. of Examiners of Electrical Contractors, 54 N.J. 466, 256 A.2d 33, 38 (1969). Thus, when a proprietorship is the applicant for an oil and gas lease the offer must be rejected as not authorized under the statute and regulations to hold mineral leases. Tom Milner, 45 IBLA 119 (1980).

Assuming that appellant made the lease offer as a citizen of the United States, the offer must therefore meet the requirements for an individual offeror. Thus, the card must be completed by showing the individual's name on the face of the card as well as his signature on the reverse side. Tom Milner, supra. Stamping the name of a company as the ostensible offeror and then signing the card with an individual's signature is not a correct execution of the form. When an ambiguity is created by an applicant on a drawing entry card, it is not the responsibility of the BLM to speculate about applicant's intention and resolve the ambiguity in his favor.

Strict compliance with the requirements of fully executing lease offers has been the policy of the Department. See McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir. 1935). For example, lease offers have been rejected for failure to sign or date a DEC, Darrell J. Sekin, 40 IBLA 156 (1979); for incomplete address, Hartley L. Gordon, 32 IBLA 139 (1977); and for failure to properly complete the front of the card with the last name first, Irving B. Brick, 36 IBLA 235 (1978), aff'd, Brick v. Andrus, Civ. No. 78-1814 (D.D.C. June 7, 1979), appeal pending. The offer herein must accordingly be rejected.

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 affirmed.

James L. Burski
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Joseph W. Goss
Administrative Judge

