

Editor's note: appealed - aff'd, sub nom. Milton Mounce v. Watt, Civ. No. C80-0240K (D.Wyo. March 4, 1981); Reconsideration denied by order dated Aug. 23, 1983.

CARLYLE KAMMERER, JR., ET AL.

IBLA 79-548

Decided May 13, 1980

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer W 68760 for parcel WY 3074.

Reversed.

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

When six offerors sign a drawing entry card (DEC) in two signature boxes, four in one box and two in the other, and the same date of signing is entered in each of the two appropriate boxes on the DEC for the date, adjacent to the two signature boxes, so that it is evident that the date applies equally to all six signatures on the card, the failure to enter four other dates on the offer is not grounds for rejection of the DEC.

APPEARANCES: Ted J. Gengler, Esq., and Ted E. Orf, Esq., Denver, Colorado, for appellants; C. M. Peterson, Esq., Denver, Colorado, for appellee, Milton L. Mounce.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Carlyle Kammerer, Jr., W. R. Adams, Andrew J. Capra, Fred E. Metzler, James W. Stewart, and Lon Wilkie appeal from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated July 27, 1979, rejecting oil and gas lease offer W 68760 for parcel WY 3074.

Appellants drawing entry card (DEC) was drawn with first priority for parcel WY 3074 in the July 19, 1979, drawing of simultaneous oil

and gas lease offers conducted by the Wyoming State Office. This offer was rejected by BLM because the DEC was not fully executed. BLM stated that the applicable regulation was not complied with in that each offeror did not enter the date of his or her signature. Six persons affixed their names in the two spaces on the back of the DEC, but there were only two dates entered in the adjoining two spaces. The first space contains the names of Carlyle Kammerer, Jr., Andrew J. Capra, Fred E. Metzler, and Lon Wilkie. The second space contains the names W. R. Adams and James W. Stewart. The two adjacent spaces each contained the date July 20, 1979.

BLM rejected appellants lease offer citing 43 CFR 3112.2-1(a) and stating that it required that each offeror must date his or her signature, which was not done here. Thus, the failure of each offeror to date his or her signature rendered the DEC fatally defective.

Appellants, in their statement of reasons for appeal, make various arguments which the Board has addressed in numerous past decisions. Because of our disposition of the appeal, however, we will not reexamine them here.

The Board in a recent decision had occasion to decide an appeal in which the facts were practically identical to those presented in this case. In Eugene S. Ribbick, 44 IBLA 318 (1979), three offerors signed the DEC in the two spaces provided, two signatures in the first space and one in the second space. Two dates were included in the two appropriate spaces adjacent to the signature spaces, one date in each space. This Board found that BLM had erred in rejecting the appellants' oil and gas lease offer on the basis of insufficient execution of the DEC. In its reversal in Ribbick, the Board held:

Where, as here, two of three offerors sign a DEC in one of the two signature boxes and the third offeror signs in the other box provided on Form 3112-1, and the same date of signing is entered in each of the two appropriate spaces on the DEC for the date, adjacent to the two signature boxes, so that it is evident that the date applies to each of the three signatures, the failure to enter a third date on the DEC is not grounds for rejection. Appellants here filled in each available space on their DEC with the appropriate information. We cannot ask more. We hold, therefore, that the DEC of appellants may be accepted as the first qualified offer for parcel NM 691, all else being regular.

Our decision is consistent, we feel, with the recent decision of the Court of Appeals for the Tenth Circuit in Winkler v. Andrus, 594 F.2d 775 (1979). Therein at 779,

the court chides this Department for a ruling founded on a "trivial and inconsequential point." Although the defect causing rejection of a DEC was different in Winkler, we feel the court's words may be equally applicable below. Accord, Christiansen Oil and Gas, Inc. v. Andrus, No. C78-257K (D. Wyo., Aug. 20, 1979) (order remanding for issuance of lease).

44 IBLA at 320.

The adverse cases cited by the appellee in the present case include those that were discussed by the Board in Ribbick, supra, and distinguished on their facts. See Eugene S. Ribbick, supra at 319-20.

Therefore, relying on Ribbick, we hold that the BLM decision rejecting appellants oil and gas lease offer W 68760 for parcel WY 3074 was erroneous and appellants should be accepted as the first qualified offerors, all else being regular.

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 file remanded for further action consistent herewith.

James L. Burski
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Frederick Fishman
Administrative Judge

47 IBLA 248

