

ROBERT R. FURMAN

IBLA 80-674

Decided July 21, 1980

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting drawing entry card lease offer, W 70011.

Reversed and remanded.

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

It is not proper to reject a drawing entry card lease offer, given first priority at a drawing, where the only deficiency is that the offeror did not insert his name in the order set forth on the card, i.e., last name, first name, middle initial; but rather inserted his name in this order: first name, middle initial, last name.

Irving B. Brick, 36 IBLA 235 (1978), overruled.

APPEARANCES: Harold L. Davison, Esq., Aurora, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Robert R. Furman appeals from the May 1, 1980, decision of the Wyoming State Office, Bureau of Land Management (BLM), which rejected his drawing entry card (DEC) lease offer W 70011 which had been drawn with first priority for Parcel WY 1187 in the November 1979 simultaneous oil and gas leasing program. The reason for the rejection was that appellant's name had not been placed on the DEC in conformance with the instructions on the card.

Appellant's name was inserted "ROBERT R. FURMAN," instead of "FURMAN, ROBERT R." The instructions on the card dictate that an offeror's name shall be inserted in the appropriate spaces in this order: "Last Name, First Name, Middle Initial."

[1] The situation here was identical to that considered by this Board in Irving B. Brick, 36 IBLA 235 (1978). In Brick, we held that a drawing entry card defective in that the expression of the name of the offeror by means of an address label is not in conformance with the printed instructions on the card; that the card clearly indicates that the offeror's name must be inserted on the appropriate line only in this fashion: "Last Name, First Name, Middle Initial." However, on June 6, 1980, the United States Court of Appeals for the District of Columbia Circuit rendered its decision in Brick v. Andrus, No. 79-1766 (D.C. Cir. June 6, 1980), holding that the Board's decision in Brick, supra, was arbitrary and capricious because there is nothing in the Department's regulations which suggests that offerors who fail to complete the DEC in the precise manner indicated by the card will be disqualified. The case was remanded to the Department with instructions to reinstate the Brick offer to lease.

Accordingly, the precedent established by Irving B. Brick, supra, is overruled.

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 is reversed, the drawing entry card lease offer of Robert R. Furman is reinstated, and the case remanded to the Wyoming State Office, BLM, for further appropriate consideration.

Douglas E. Henriques
Administrative Judge

We concur.

James L. Burski
Administrative Judge

Edward W. Stuebing
Administrative Judge

