

DAVID F. OWEN

IBLA 80-465

Decided July 28, 1980

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, dismissing protest as to the award of oil and gas lease offer NMA 39653 (OK) for parcel NM 308.

Affirmed.

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

43 CFR 3112.2-1(a) requires that the simultaneous oil and gas lease drawing entry card be "signed and fully executed." Strict compliance with the regulation is required to enable the Bureau of Land Management State Offices to administer the oil and gas leasing program efficiently and accurately. However, this does not mandate rejection of a card where the first drawn applicant has placed the abbreviation for junior, "Jr." above the space provided for his middle initial, separated it with a comma, and lined through that phrase on the card, provided no ambiguity exists as to the identity of the applicant.

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

The exclusion from the drawing of oil and gas drawing entry cards for trivial and inconsequential alterations which do not affect the appearance or feel of the cards in any significant way and which obviously were not intended to adversely affect the integrity of the drawing is arbitrary and capricious.

APPEARANCES: David F. Owen, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

David F. Owen appeals from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated February 7, 1980, dismissing his protest of the award of oil and gas lease NMA 39653 (OK) for parcel NM 308 to David Browning, Jr., whose drawing entry card (DEC) received first priority in the December 1979 simultaneous drawing. Appellant's DEC received second priority.

Appellant in his statement of reasons on appeal asserts:

Mr. Browning did not fill out the Form 3112-1 Simultaneous Oil and Gas Drawing Entry Card correctly. The proper way should have been Browning, Jr. David. The Form 3112-1 Card plainly states Last Name; First Name; and Middle Initial. Mr. Browning drew [sic] a line through the words Middle Initial and inserted above the abbreviation for the word Junior, Jr. which is not Mr. Browning [sic] Middle Initial. Also, when Mr. Browning drew [sic] the line through the words Middle Initial he meant for the blocks above the words Middle Initial to represent something else. When Mr. Browning alter [sic] the Form 3112-1 by drawing the line through the words Middle Initial he was trying to change the original format of the Form 3112-1 Card from its original intent.

In the decision dismissing the protest BLM ruled: "This protest is dismissed on the basis that there is no actual space provided for the placing of 'Jr.' Mr. Browning inserted the 'Jr.' over the space provided for middle initial, which is acceptable."

[1] The applicable regulation, 43 CFR 3112.2-1(a), states: "Offers to lease such designated leasing units by parcel number must be submitted on a form approved by the Director, 'Simultaneous Oil and Gas Entry Card' signed and fully executed by the applicant or his duly authorized agent in his behalf." The instructions on the card indicate that the offeror must insert his name on the card last name first, then first name, and middle initial. The use of a title in addition to the last name, first name, and middle initial is not addressed. Appellant is correct that the strict compliance with the regulation is required in the simultaneous oil and gas lease drawings. But the card was signed and fully executed here. The Court of Appeals for the District of Columbia has recently determined that:

The Secretary interprets the provision that entry cards be "signed and fully executed" as requiring strict compliance with the instructions on the cards. While this phrase may be reasonably construed as requiring responses to all information blanks on the entry card, as IBLA decisions have

done, we do not find it immediately obvious that the phrase can be interpreted in a fashion which mandates the decision reached by IBLA in this case – that the Department may reject entry cards which contain all the required information simply because the offeror's name is not entered in the proper order.

Brick v. Andrus, Civ. No. 79-1766 (D.C. Cir. June 6, 1980) n.8.

In the absence of a designated space to enter his complete name, the first drawn applicant inserted his title, "Jr." and separated it from his first and last names by use of a comma. This does not mandate rejection of a DEC provided no ambiguity exists as to the identity of the applicant. There is no ambiguity here.

[2] Appellant also asserts that the drawee's marking of the DEC represented an alteration which should have resulted in the exclusion of the card. The Board has previously determined that:

The exclusion from the drawing of oil and gas drawing entry cards for trivial and inconsequential alterations which do not affect the appearance or feel of the cards in any significant way and which obviously were not intended to adversely affect the integrity of the drawing is arbitrary and capricious.

Margaret A. Ruggiero, 34 IBLA 171 (1978). In view of the decision in Brick and in light of the fact that no ambiguity was caused by the applicant's insertion of his title in place of a middle initial, BLM properly dismissed appellant's protest.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from is affirmed.

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Joan B. Thompson  
Administrative Judge

We concur.

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Douglas E. Henriques  
Administrative Judge

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Joseph W. Goss  
Administrative Judge

