

FRANK K. MAYERS

IBLA 80-608

Decided February 27, 1981

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer NM 39163.

Set aside and remanded.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Drawings

Where a drawing entry card filed before June 16, 1980, is signed by the offeror but completed by an agent or attorney-in-fact, the separate signed statements by the attorney-in-fact or agent required by the pertinent regulation, 43 CFR 3102.6-1(a)(2), need not be filed.

APPEARANCES: Jason R. Warran, Esq., Washington, D.C., for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Frank K. Mayers has appealed from the March 28, 1980, decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting simultaneous oil and gas lease offer NM 39163. Appellant's drawing entry card for the parcel was drawn first at the public drawing held on November 14, 1979. On January 9, 1980, the New Mexico State Office issued a decision requiring appellant to submit additional evidence. Specifically, the State Office asked whether appellant had personally signed the card and whether or not the offer was prepared by an agent. Appellant responded that he had not personally signed the card, and on the basis of his answers to other questions, the State Office concluded that the card had been prepared by an agent. Since the statement required by 43 CFR 3102.6-1(a) (2) had not accompanied the drawing entry card, appellant's offer was rejected.

On appeal, Mayers asserts that he did, in fact, personally sign the card in this particular drawing. This change in appellant's contentions is explained in an affidavit by Joan Carol Howard, who is

involved with Stewart Capital Corporation's (Stewart) filing procedures. Stewart is a leasing service which filed appellant's offer. It appears that appellant had provided Stewart with a number of blank drawing entry cards which he had personally signed. When he answered the State Office's inquiry, however, he was under the impression that Stewart's supply of hand signed cards had been exhausted and that a card bearing a facsimile signature had been filed. The affidavit states that Stewart's advice to appellant about the nature of the signature on the offer in issue was the result of clerical confusion, and that the signature was, in fact, made by appellant's own hand. Close inspection of the signature on the drawing entry card supports this conclusion.

[1] Where a drawing entry card oil and gas lease offer filed before June 16, 1980, is hand signed by the offeror, the separate signed statements by the attorney-in-fact or agent required by 43 CFR 3102.6-1(a)(2) need not be filed. 1/ J. Theodore Ellis, 41 IBLA 231 (1979); Virginia Rapozo, 33 IBLA 344 (1978). Because the offeror has established on appeal that he personally signed the offer, the decision to reject the offer for failure to file the agency statements cannot stand.

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 set aside and the case remanded for further action consistent with this opinion.

Anne Poindexter Lewis
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

James L. Burski
Administrative Judge

1/ Under revised regulation 43 CFR 3102.2-6, published on May 23, 1980, 45 FR 35156, and effective June 16, 1980, any applicant receiving assistance from a person or entity which is in the business of providing assistance to participants in the Federal oil and gas leasing program must make various disclosures within 15 days of the filing of the application.

