

MICHAELA M. FITZPATRICK
GEORGE M. FITZPATRICK

IBLA 81-51

Decided June 1, 1981

Appeal from decision of the Montana State Office, Bureau of Land Management, dismissing protest with respect to oil and gas leases, MTA-Sims-011.

Affirmed.

1. Accounts: Payments -- Oil and Gas Leases: Applications: Drawings --
Oil and Gas Leases: Applications: Filing

A Traveler's Express money order is not an acceptable form of remittance for payment of the filing fee accompanying an oil and gas lease offer under 43 CFR 3112.2-2 (1980), which specifically requires that where remittance is by money order it must be by either post office or bank money order.

APPEARANCES: Michaela and George Fitzpatrick, pro sese.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Michaela and George Fitzpatrick appeal from a decision of the Montana State Office, Bureau of Land Management (BLM), dated September 12, 1980, dismissing their protest of BLM's rejection of oil and gas lease offers MTA-Sims-011. BLM rejected the offers because it found the remittance to be unacceptable under 43 CFR 3112.2-2.

Appellants filed drawing entry cards for parcels MT-41 and MT-133 for the July 1980 simultaneous drawing. Appellants' remittance was in the form of a Travelers Express money order. BLM returned the drawing entry cards and filing fee because it found the remittance unacceptable.

The pertinent regulation, 43 CFR 3112.2-2(a) (45 FR 35164 (May 23, 1980)), requires the filing fee to "be paid in U.S. currency, Post Office or bank money order, bank cashier's check or bank certified check."

Attached to appellants' statement of reasons is a letter from the Manager, Customer Services, United States Post Office in Fort Collins, Colorado, indicating that appellants purchased their money order from Moby's Book Store which operates a United States Postal Service Contract Station, selling both USPS money orders and Travelers Express money orders. Also attached is a statement from Travelers Express Company, Inc., advising that it is qualified to issue money orders. Appellants aver that they purchased the money order in good faith and contend that it constitutes a guaranteed remittance. They allege that Travelers Express money orders have previously been accepted by BLM and ask that a new drawing be held in accordance with 43 CFR 3112.3-2.

[1] Before 43 CFR 3112.2-2 was promulgated the pertinent regulation, 3112.2-1(a)(1), specified that the filing fee could be paid "in cash or by money order, bank draft, bank cashier's check or check."

In State v. LaRue, 487 P.2d 255, 256 (Wash. App. 1971), the court referred to a Travelers Express money order as a "personal money order." As we stated in Ross L. Kinnaman, 48 IBLA 239 (1980), such money orders have been characterized as "mavericks" under the Uniform Commercial Code.

In Kinnaman, the Board upheld a remittance by a personal money order where the applicable regulation provided that a "money order," among other options, would be an acceptable form of payment. In the case before us, however, the regulation governing remittances was amended for the specific purpose of eliminating this option. While money orders are acceptable, they must be either post office or bank money orders. Since appellants' money order was neither of these it was properly rejected by BLM, and no new drawing is required under 43 CFR 3112.3-2.

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 affirmed.

Gail M. Frazier
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

