

J-S ENTERPRISES, LTD.

IBLA 70-376 Decided February 26, 1971

Oil and Gas Leases: Applications: Sole Party in Interest

Where an oil and gas lease offer, filed on a drawing entry card in a simultaneous filing procedure, contains the name of a party in interest other than the offeror, and the required statement of interest, copy or explanation of the agreement between the parties, and evidence of the qualifications of the additional party to hold such interest are not filed within the time allowed by the Department's regulations, the offer is properly rejected.

Oil and Gas Leases: Applications: Generally

Unless accompanied by the required information relating to the qualifications of the partnership, or by a reference to a previous filing of such information, an oil and gas lease offer by a partnership must be rejected.

IBLA 70-376 :

W 20361

J-S ENTERPRISES, LTD.

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: Oil and gas lease
: offer rejected
:
: Affirmed

DECISION

J-S Enterprises, Ltd., has appealed to the Director, Bureau of Land Management, 1/ from a decision dated September 4, 1969, whereby the Wyoming land office of the Bureau rejected its noncompetitive oil and gas lease offer W 20361 filed pursuant to Section 17 of the Mineral Leasing Act, as amended, 30 U.S.C. § 226 (1964), because of the applicant's failure to submit evidence of corporate qualifications required by 43 CFR 3123.2(g) (now 43 CFR 3102.4, 35 F.R. 9679), or to submit statements of interest required by 43 CFR 3123.3(c)(3) (now 43 CFR 3102.7, 35 F.R. 9680).

The appellant's lease offer, in accordance with 43 CFR 3123.9 (now 43 CFR 3112.2-1, 35 F.R. 9692), was submitted on a "Simultaneous Oil and Gas Entry Card" (Form 3120-21, December 1968), for inclusion in a drawing of offers simultaneously filed on July 28, 1969. The offer was in the name of J-S Enterprises, Ltd., by Joe Major. On the reverse side of the card, under the heading of "Other Parties in Interest," was written the name: Myra F. Skelton.

1/ The Secretary of the Interior, in the exercise of his supervisory authority, transferred jurisdiction over all appeals pending before the Director, Bureau of Land Management, to the Board of Land Appeals, effective July 1, 1970. Circular 2273, 35 F.R. 10009, 10012.

The appeal states that J-S Enterprises, Ltd., is a partnership composed of Myra F. Skelton and Joe Major; that the drawing entry card was signed on the front: J-S Enterprises, Ltd., by Joe Major; that the reverse side of the card indicated that Myra F. Skelton was an "Other Party in Interest;" and that a copy of the Partnership Agreement had not previously been filed with the Bureau of Land Management due to a misunderstanding of the oil and gas regulations. The appeal was accompanied by a copy of the Partnership Agreement.

The regulation defining the qualifications of associations, including partnerships, 43 CFR 3102.3-1, 35 F. R. 9679 (formerly 43 CFR 3123.2(f)(1)) requires that an offer to lease be accompanied by a certified copy of the articles of association or partnership together with a statement that it is authorized to hold such oil and gas lease, that the partner executing the lease is authorized to act for and on behalf of the partnership, and the names and addresses of all members owning or controlling more than 10% of the association. A separate statement from each person owning or controlling more than 10% of the association setting forth his citizenship and holdings must also be furnished. Reference to the serial number of a case where such evidence earlier has been filed will be accepted.

This regulation is mandatory in its language. Since J-S Enterprises has asserted that it is a partnership, its offer to lease was required to comply with the pertinent provisions of the cited regulation when first filed. ^{2/} As the lease offer was not accompanied by the required evidence, nor was reference made to a case file where such evidence earlier had been submitted, the lease offer W 20361 was properly rejected. See Love Enterprises, 1 IBLA 248 (1971).

Further, the Department has consistently held that lease offers are properly rejected for failure of the applicants to furnish all required statements of interest and explanation of the agreement between the parties not later than 15 days after filing of the lease offer where the statements need not accompany the offer (43 CFR 3102.7, 35 F.R. 9680), and that furnishing some of the information with an appeal to the Director, Bureau of Land Management, could not revive

^{2/} Although the drawing card does not set forth the terms of the applicable departmental regulations, it contains an express warning that:

"Compliance must be made with the provisions of 43 CFR 3123.2."

the offer. E. S. Lippert, A-31173 (May 14, 1970); Stephen J. Hlincik et al., A-30652 (January 18, 1967).

As the Department said in Hlincik, *supra*:

... It is not unreasonable to assume that anyone filing such a drawing card, whether they be a 'professional filer' or a person filing such a card for the first time, upon reading the note that compliance with the regulation is required, would naturally read the regulation to ascertain what he must do, and would thus clearly be apprised of the statements to be furnished and the time limitation. There is no authority for interpreting and applying Departmental regulations on a different basis depending upon the experience that an applicant might have in filing oil and gas lease offers. The United States Court of Appeals for the District of Columbia Circuit has stressed that the Secretary of Interior is bound to treat alike all violations of his regulations promulgated under the Mineral Leasing Act, and such regulations have the full force of law so long as they remain in effect. McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir. 1955).

It is not clear whether J-S Enterprises is the sole party in interest in offer W 20361, or whether Myra F. Skelton is also an interested party beyond her interest by virtue of the partnership. In either event, qualifications of Mrs. Skelton to hold interests in Federal oil and gas leases have not been shown. The offer must be read as it was filed, and the offeror must accept the consequences of any errors in the filing. See Harvey v. Udall, 384 F.2d 883 (10th Cir. 1967); Timothy G. Lowry, A-30487 (March 16, 1966); Lorraine Lafiner, A-31002 (May 16, 1969). Accordingly, the appellant's lease offer was properly rejected for the deficiencies noted.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (21 DM 13.5; 35 F.R. 12081), the decision appealed from is affirmed.

Martin Ritvo, Member

We concur.

Francis E. Mayhue, Member

Anne Poindexter Lewis, Member.

