

READ & STEVENS, INC.

IBLA 72-275

Decided January 15, 1973

Appeal from decision by New Mexico State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer (NM 14998).

Affirmed.

Oil and Gas Leases: Applications: Generally

An oil and gas lease offer filed in the name of a corporation is properly rejected where the offer is neither accompanied by a statement of corporate qualifications nor makes reference to a serial number of a record in which such statement had previously been filed.

APPEARANCES: George H. Hunker, Jr., of Hunker, Fedric & Higginbotham, P.A., Roswell, New Mexico, for the appellant.

OPINION BY MR. FISHMAN

Read & Stevens, Inc. has appealed to the Board of Land Appeals from a decision of the New Mexico State Office, Bureau of Land Management, dated January 10, 1972, rejecting its noncompetitive oil and gas lease offer.

Appellant's offer to lease was filed on November 22, 1971, in a simultaneous drawing procedure, pursuant to section 17 of the Mineral Leasing Act, as amended, 30 U.S.C. § 226 (1970). The offer was rejected because it was not accompanied by a statement of corporate qualifications, and did not make reference to a serial number of a record in which such a statement had been previously filed.

The current applicable regulation, 43 CFR 3102.4-1, 1/ provides:

If the offeror is a corporation, the offer must be accompanied by a statement showing (1) the State in

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1/ The regulation was formerly codified as 43 CFR 3123.2(g).

which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens or those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding more than 10 percent of the stock of the corporation. Where the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate statement from each stockholder owning or controlling more than 10 percent of the stock of the corporation setting forth his citizenship and holdings must also be furnished. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

Appellant first contends that it fully complied with 43 CFR 3102.4-1 on the basis that "no space or portion of the Entry Card required a showing or cross reference as to qualifications of a corporate applicant." In the alternative appellant argues that "it should have been given a reasonable opportunity within which to demonstrate to the New Mexico State Office that it was fully qualified to hold Federal Oil and Gas Lease interests under the provisions of the Mineral Leasing Act."

The entry card submitted by appellant contains the following instruction:

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

Appellant did not comply with the requirements of the regulation. Appellant's offer was not accompanied by a statement of corporate qualifications; nor was there any reference made to a serial number of a record in which such a statement had previously been filed.

Appellant has submitted on appeal a copy of a statement of its corporate qualifications and asserts that this information was on file with the Department under serial number BLM 066100 at the time it submitted its offer.

This untimely attempt to comply with the explicit requirements of 43 CFR 3102.4-1 cannot cure the defect in appellant's offer. As stated in The Polumbus Corporation, 8 IBLA 84, 85 (1972):

The fact that appellant furnished with its appeal a reference to a record in which such qualifications are set forth, does not cure the defect in the original filing. The regulation is explicit in prescribing that the statement of corporate qualifications, or reference of a previous filing, must accompany the offer, i.e., must be filed simultaneously with the drawing entry card. Under the circumstances, the land office had no choice but to reject the offer. Where the necessary corporate qualification papers are not filed with the drawing entry card or the appropriate reference is not made to case records where such showings have previously been filed, the oil and gas offer does not comply with the mandatory provisions of the regulations and must be rejected. Pan Ocean Oil Corporation, 2 IBLA 156, 158 (1971). See Love Enterprises, 1 IBLA 248 (1971).

The case is distinguishable from an over-the-counter filing, containing such a defect, which is remedied before the filing of a junior offer. William B. Collins, 4 IBLA 8 (1971).

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 affirmed.

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Frederick Fishman, Member

We concur.

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Edward W. Stuebing, Member

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Joan B. Thompson, Member

