

TEXAS AMERICAN CORPORATION

IBLA 74-61

Decided January 24, 1974

Appeal from rejection of oil and gas lease offer NM 18972.

Affirmed.

Oil and Gas Leases: Applications: Generally

An oil and gas lease offer 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.

Oil and Gas Leases: Applications: Drawings

A first-drawn simultaneous drawing entry card which is defective because of noncompliance with a mandatory regulation must be rejected and may not be "cured" by submission of further information.

APPEARANCES: Horace L. Atnipp, Vice President of Texas American Corporation, for the appellant.

OPINION BY MR. STUEBING

Texas American Corporation filed an oil and gas lease offer by submitting a simultaneous drawing entry card. In the drawing, conducted by the New Mexico State Office on July 5, 1973, the offer of Texas American was drawn first for Parcel No. 39. However, by its decision of July 27, 1973, the State Office rejected the offer for the principal reason that there was no indication on the entry card that it was accompanied by a statement of corporate qualifications, nor was there any reference on the card to a serial number of a

record in which such statement had previously been filed, as required by 43 CFR 3102.4. 1/

In its statement of reasons for its appeal from this decision appellant alleges that filings of all requisite statements had previously been made for the corporation by a law firm, and appellant therefore believed its qualification was in order. Further, it is argued that the serial number referring to the statement of corporate qualifications was not put on the drawing entry card because the instructions printed on the card do not so provide, nor is any such provision contained in 43 CFR 3112.2-1. Moreover, it says that the proper information was submitted to the State Office immediately upon receipt of the decision rejecting the offer. 2/ Finally, appellant asserts that the omissions cited in the decision were inadvertent and caused by misunderstanding. Accordingly, appellant asks that it be issued the lease in question.

The drawing entry card cannot, as a matter of simple practicality, be designed so as to carry present instructions to cover every circumstance and contingency. However, the following reference is plainly printed on the card:

NOTE: Compliance must be made with the provisions of 43 CFR 3102.

That subpart of the regulations is entitled "Qualifications of Lessees" and specifically describes the requirements for corporate qualifications at section 3102.4.

We have no doubt that the appellant's failure to comply was simply due to a misunderstanding based on a lack of familiarity with the regulations. Nevertheless, the requirement is mandatory, and this Department has repeatedly and consistently held in identical cases that an offer which does not meet the mandatory requirement of the regulation must be rejected. American Mineral Petroleum Corporation, 10 IBLA 185 (1973); Apollo Drilling and Exploration, Inc., 10 IBLA 81 (1973); Love Enterprises, 1 IBLA 248 (1971).

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1/ The decision of the State Office also held that the offer must be rejected because the signature on the drawing entry card was not legible, and because there was no evidence to show that the person who signed for the corporation was authorized to sign on its behalf. In light of our holding with reference to the statement of corporate qualifications, we need not discuss these additional issues.

2/ Although the statement of reasons provides the omitted information, the case record does not reflect any separate submission of such information.

If this were a situation where the lease offer had been filed "over-the-counter" the defect could be remedied prior to the filing of any junior offer and earn priority as of the time the curative data was filed. Bear Creek Corp., 5 IBLA 202 (1972). However, where the offer has been filed pursuant to the simultaneous filing procedures, as in this case, a defective offer may not be "cured" by the filing of supplemental information after the drawing is held. Cf. William B. Collins, 4 IBLA 8, 10 (1971); 43 CFR 3112.5-1.

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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Edward W. Stuebing, Member

We concur:

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Martin Ritvo, Member

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Joan B. Thompson, Member

