

ARI-MEX OIL & EXPLORATION, INC.

IBLA 80-86

Decided February 26, 1981

Appeal from a decision of the Idaho State Office, Bureau of Land Management, holding a noncompetitive oil and gas lease offer for rejection. I-14037.

Set aside and remanded.

1. Oil and Gas Leases: Applications: Filing -- Oil and Gas Leases:  
Noncompetitive Leases

Where an oil and gas lease offeror makes reference by serial number in its offer to its corporate qualifications which were previously filed in another Bureau of Land Management State Office and such qualifications were on file in that office on the date of the lease offer, the offer may not be rejected because at the time of consideration of the offer the qualifications had been removed from active status without the offeror's knowledge.

APPEARANCES: I. D. Nightingale, President, ARI-MEX Oil & Exploration, Inc., for appellant.  
OPINION BY ADMINISTRATIVE JUDGE HARRIS

ARI-MEX Oil & Exploration, Inc., has appealed from a decision of the Idaho State Office, Bureau of Land Management (BLM), dated October 16, 1979, holding for rejection oil and gas lease offer, I-14037, pending submission of a corporate qualifications statement pursuant to 43 CFR 3102.4-1.  
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1/ The lease offer listed the offerors as ARI-MEX Oil & Exploration, Inc., -- 50 percent and Republic Oil & Mining Company -- 50 percent.

In the oil and gas lease offer, received October 25, 1977, it was stated: "Both offerors are corporations and both have filed BLM qualification papers with the B.L.M. in Salt Lake City, Utah in file No. U-0142200." However, the Idaho State Office was informed by the Utah State Office that U-0142200 was not a current file and that it had no qualifications on file for appellant. For that reason BLM held the lease offer for rejection. 2/ By its decision it allowed appellant 30 days from receipt of the decision in which to submit its corporate qualifications. 3/ Rather than file the qualifications, appellant took this appeal.

In its statement of reasons for appeal appellant asserts that in 1972 it filed qualifications with the Utah State Office that were accepted and filed under general qualifications No. U-0142200. It states that since that time it has acquired various Federal oil and gas leases by assignment. Appellant asserts that after it received the BLM decision it contacted the records section of the Utah State Office and was told by a new supervisor that "probably the pror [sic] supervisor found something delinquent and maybe new qualification papers should be filed since it is simple procedure [sic]." Appellants state that while it is a "small chore" to file new documents, they do not believe that such documents will "carry back" to the date the offer to lease was filed.

Appellant urges the Board to find its qualifications in good standing and direct issuance of the lease.

On July 14, 1980, the Board received a memorandum from the Utah State Office concerning appellant's corporate qualification documents. It stated:

In an attempt to keep our files current, our office required, in late 1977 and early 1978, all corporations, partnerships, estates and other legal entities which had not updated their qualifications for an extended period of time, to reply to a notice, a copy of which is enclosed. As stated in the notice, an interval of 60 days from the receipt of the notice was given to reply. Failure to reply during this time period would result in the removal of those qualifications from an active status.

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2/ The decision made no mention of the corporate qualifications of Republic Oil & Mining Company. Apparently BLM was able to locate that company's qualifications.

3/ The BLM decision also stated that "this office was not able to verify your qualifications under Utah State Office's file number U-38700." U-38700 is the new general qualifications number set up by the Utah State Office for updated qualifications.

Specifically, a notice was mailed to Ari-Mex Oil and Exploration, Inc. on December 20, 1977, as evidenced by the enclosed copy of certified mail register page, as kept by the mail clerk at the Utah State Office as a regular course of business. This notice was never returned to our office and the certified mail card was either not returned, misplaced, or absconded from the case file.

On September 15, 1978, almost 9 months after the notice was sent, the Ari-Mex Oil and Exploration, Inc. file was noted to be in a closed status. The file was not considered reopened until finally a reply from Ari-Mex was submitted on November 23, 1979.

[1] Submission of a corporate qualification statement with an oil and gas lease offer or reference to case records where such material has previously been filed is mandatory. 43 CFR 3102.4-1. Failure to do so will result in rejection of an oil and gas lease offer. Wyoming Oil & Development Co., Inc., 4 IBLA 94 (1971); Pan Ocean Oil Corporation, 2 IBLA 156 (1971). At the time appellant submitted its oil and gas lease offer in October 1977, a corporate qualifications statement was on file with BLM and reference to such file was made in the offer. The fact that appellant's qualifications were removed from active status in 1978 for failing to respond to a December 1977 notice to update those qualifications does not affect the result in this case. There is apparently no evidence that appellant ever received the notice to update its qualifications. In addition, the Utah State Office memorandum indicates that appellant's file has been reactivated following a submission by appellant on November 23, 1979. Assuming appellant's qualifications are found to be acceptable as of October 25, 1977, appellant has complied with 43 CFR 3102.4-1, and if all other requirements have been met, the lease may issue.

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.

Bruce R. Harris  
Administrative Judge

We concur:

Bernard V. Parrette  
Chief Administrative Judge

James L. Burski  
Administrative Judge

