

STEPHEN A. PITT
L & P INVESTMENTS

IBLA 81-861

Decided September 8, 1981

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting simultaneous noncompetitive oil and gas lease application. NM 45089.

Affirmed as modified.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: First Qualified Applicant

An application drawn first in a simultaneous drawing which is filed by a partnership but which is not accompanied by statements required by the pertinent regulation or which does not refer to the file serial number of the record where the statements have previously been filed is defective and must be rejected.

2. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: First Qualified Applicant

It is not permitted to file a simultaneous noncompetitive lease application bearing both the names of an association and of an individual. Where an individual intends to submit an application on behalf of the partnership, he should list its name alone on the application and sign the card as its authorized agent.

3. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: First Qualified Applicant

A partnership's defective simultaneous noncompetitive oil and gas lease application is not curable by submission of required evidence of qualifications after the drawing.

APPEARANCES: Paul R. Jackman, Esq., Detroit, Michigan, for appellants.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

Stephen A. Pitt and L & P Investments have appealed from a decision dated June 24, 1981, by the New Mexico State Office, Bureau of Land Management (BLM). This decision rejected appellants' simultaneous noncompetitive oil and gas lease application for parcel NM-326 in the April 1981 drawing. BLM held that the application violated the requirement that a showing as to the corporate qualifications must accompany the application, in the absence of a reference on it to a previous filing of this information.

The application bore both the name of Pitt and L & P Investments on its front. Pitt signed it on its back and also placed "L & P Investments" in script in the signature area. No statement of qualifications accompanied the application. In the area designated to identify the serial number of records containing statements of qualifications filed previously, appellants placed the word "None."

[1] Appellants' statement of reasons describes L & P Investments as "a Michigan Co-partnership in which [Pitt] is an equal partner with Julius G. Lewandowski, Certificate of Co-partnership dated July 1, 1977, and filed July 8, 1977, with the Macomb County Register of Deeds, and certified on May 11, 1981." Thus, L & P Investments is governed by 43 CFR 3102.2-4 (1980), concerning the filing of oil and gas leases by associations, which expressly includes partnerships and provides as follows:

(a) An association which seeks to lease shall submit with its offer, or application if leasing is in accordance with Subpart 3112 of this title:

(1) A certified copy of its articles of association or partnership;

(2) A statement that it is authorized to hold oil and gas leases; and

(3) A complete list of all general partners or members together with a statement as to their citizenship and identifying those authorized to act on behalf of the association or partnership in matters relating to Federal oil and gas leasing.

(b) A separate statement from each person owning or controlling more than 10 percent of the association, setting forth citizenship and compliance with the acreage limitations of §§ 3101.1-5 and 3101.2-4 of this title, shall be filed with the proper Bureau of Land Management office not later than 15 days after the filing of the offer, or application if leasing is in accordance with Subpart 3112 of this title.

Appellants did not submit the information required by 43 CFR 3102.2-4(a) along with the application and did not refer BLM to previously filed statements of qualifications, nor did it file the additional information required by 43 CFR 3102.2-4(b) within 15 days after filing the application. Accordingly, it was proper for BLM to reject this application. SID Partnership, 37 IBLA 165 (1978); Norcross Partners, 31 IBLA 181 (1977); Lyle O. Johnson, 13 IBLA 233 (1973); J-S Enterprises, Ltd., 2 IBLA 9 (1971).

Apparently because of the lack of specificity on appellants' application, BLM assumed that L & P Investments was a corporation and ruled that the regulatory provisions requiring corporate applicants to list qualifications had been violated. Insofar as it did so, BLM's decision is modified in light of the clarification of L & P Investments' legal status on appeal.

The purpose of requiring applicant partnerships to disclose the identities of their partners is to prevent unqualified "blind" partners from shielding illegal participation in oil and gas leasing by associating with qualified persons. Compare, Estate of Glenn F. Coy, 52 IBLA 182, 188-191, 88 I.D. 236, 239-240 (1981). Only by requiring full disclosure of the identities of all partners, on pain of disqualification, can the integrity of the leasing system be maintained by preventing illegal participation.

[2] We note that appellants' application also violates 43 CFR 3112.2-1(c) (1980), which provides that "[t]he name of only one citizen, association, corporation or municipality may appear as applicant on any application." If Pitt intended the application to be on behalf of the L & P Investments partnership, which seems likely, he should have listed its name alone on the DEC and signed it in the manner provided in 43 CFR

3112.2-1(b) (1980). ^{1/} Anchors & Holes, 33 IBLA 339, 342 (1978); Norcross Partners, *supra* at 182.

We cannot, as appellants suggest, regard this application "as a sole application on the part of" Pitt, for it is clear that this is untrue. In any event, had Pitt filed a sole application without revealing the interest therein which his partner held, he would have run afoul of the requirement set out at 43 CFR 3102.2-7 that all parties having interests be identified and their interests described.

[3] Finally, we cannot, as appellants request, consider the material filed by them on appeal as satisfying the pertinent disclosure requirement. The regulation clearly requires that the information be submitted with the partnership's application. Giving unqualified entrants such as appellants additional time to cure their applications by waiving mandatory requirements would illegally infringe on the rights of the second-drawn qualified entrants. Don C. Bell II (Trustee), 42 IBLA 21 (1979); Charles J. King, 40 IBLA 276 (1979); University of the Trees, 40 IBLA 74, 77 (1979); Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), *aff'd per curiam*, 544 F.2d 1067 (10th Cir. 1976).

Appellants cite 43 CFR 3102.2-4(a) in support of their contention that an association need not submit required data until the time it submits its offer, which has yet to occur. The answer to this contention lies in the regulation itself, which states: "An association which seeks to lease shall submit with its offer, or application if leasing is in accordance with Subpart 3112 of this title: [the specified required information]." (Emphasis added.)

Subpart 3112 of 43 CFR, of course, governs appellants' simultaneously filed noncompetitive application. Accordingly, appellants were required to submit this information with their application and not with their offer.

^{1/} This section provides as follows:

"(b) The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship. (Example: Smith, agent for Jones; or Jones, principal, by Smith, agent.) Machine or rubber stamped signatures shall not be used."

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 as modified.

Bernard V. Parrette
Chief Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

James L. Burski
Administrative Judge

