

CIMARRON CORP.

IBLA 82-105

Decided December 31, 1981

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application, M-49921, for failure to submit a required list of corporate officers.

Affirmed.

1. Oil and Gas Leases: Applications: Filing--Oil and Gas Leases: First-Qualified Applicant--Oil and Gas Leases: Noncompetitive Leases

A noncompetitive oil and gas lease may be issued only to the first-qualified applicant. Where on a simultaneous oil and gas lease application a corporate applicant references a corporate qualifications file which is incomplete, the application is defective, the corporation has not established its qualifications as required by 43 CFR 3102.2-5, and pursuant to 43 CFR 3112.6-1(b), BLM properly rejects the application.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Ivan B. Yerger, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Cimarron Corporation has appealed the decision of the Montana State Office, Bureau of Land Management (BLM), dated October 7, 1981, rejecting simultaneous oil and gas lease application, M-49921, filed

for parcel MT 48 in the January 1981 drawing. BLM ruled that 43 CFR 3112.6-1(b) requires rejection of the application for failure to submit the complete list of appellant's corporate officers in accordance with 43 CFR 3102.2-5(a)(3).

BLM noted that on its application, appellant had referenced its corporate qualifications file, NM 0558400, which was previously filed with the New Mexico State Office in 1977. Although such reference is permitted by the regulations when proper (see 43 CFR 3102.2-1(c)), regulation 43 CFR 3102.2-5(a), effective June 16, 1980, newly required the filing of a complete list of corporate officers in order to establish corporate qualifications to hold a lease. ^{1/} Citing 43 CFR 3102.2-1(c), BLM indicated that amendments to a previously filed statement of qualifications must be filed promptly and the serial number not used if the statement on file is not current. The BLM decision explained that the filing period for the January drawing closed on January 22, 1981, and that according to information received from the New Mexico State Office, appellant's corporate qualifications were not complete until after February 4, 1981. BLM thus concluded that the application was defective when filed.

In its statement of reasons, appellant states that its records on file with the New Mexico State Office were judged complete as of April 14, 1977, and that BLM did not require a list of corporate officers in 1977, only a list of persons authorized to act on behalf of the corporation. Appellant reports that Wheeler M. Sears and Raleigh S. Usry were its only officers from April 1977 through January 1981 and that there were no other changes during that time which would have necessitated an update of their corporate qualifications file. Finally, appellant indicates that it was unaware of the new filing requirement until the New Mexico State Office sent it a letter dated February 4, 1981, requesting an update and that it submitted the information which was accepted on May 21, 1981, with a new serial number, NM-43000.

The case record herein contains a copy of appellant's 1977 statement of corporate qualifications naming Wheeler M. Sears as authorized to act on behalf of the corporation, a copy of the New Mexico State Office February 4, 1981, request for a complete list of corporate officers in accordance with the June 1980 regulatory changes, and a copy of appellant's updated statement of qualifications, dated May 11, 1981, listing Wheeler M. Sears and Raleigh S. Usry as its officers. Appellant has also submitted copies of documents submitted by it to the Colorado State Office in December 1979 which list both Sears and Usry as officers authorized to act on behalf of the corporation. The New Mexico State Office, by memorandum dated November 9, 1981, reported its finding that there has been no change in appellant's qualifications since 1977.

^{1/} General revisions to the oil and gas leasing regulations were made effective June 16, 1980. See 45 FR 35156 (May 23, 1980).

[1] A noncompetitive oil and gas lease for Federal lands may be issued only to the first-qualified applicant. McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir. 1955); Cotton Petroleum Corp., 38 IBLA 271 (1978); 30 U.S.C. § 226(c) (1976). In order to establish its qualifications to hold an oil and gas lease, a corporation must comply with 43 CFR 3102.2-5. As noted by BLM, 43 CFR 3112.6-1(b) requires rejection of a simultaneous lease application where a corporate applicant has not complied with 43 CFR 3102.2-5. Regulation 43 CFR 3112.6-1(b) reads: "Unqualified applicants. The application of any applicant who is unqualified or has not filed or cause to be filed all evidence of qualification required by Subpart 3102 of the title shall be rejected."

The regulation detailing the information necessary to establish corporate qualifications, 43 CFR 3102.2-5, reads in part as follows:

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

- (1) The State in which it is incorporated;
- (2) That it is authorized to hold oil and gas leases;
- (3) A complete list of corporate officers, identifying those authorized to act on behalf of the corporation in matters relating to Federal oil and gas leasing;
- (4) The percentage of voting stock and of all the stock owned by aliens; and
- (5) The names and addresses of the stockholders holding more than 10 percent of the stock of the corporation.

In lieu of separate filings each time it files a new application, the corporate applicant may file an appropriate statement for reference in one of the BLM State Offices requesting that it be given an identification number, and refer to that number on subsequent applications so long as it remains current. 43 CFR 3102.2-1(c). Amendments to the file may be attached to an application if the file is not current and reference to the file made to establish qualifications for a particular application. In this case, however, appellant referenced a file which was not current without attaching the required additional information and, therefore, its application was defective. In the simultaneous filing system, an applicant must establish its qualifications at the time of filing and cannot later cure any deficiencies. But cf. Trans-Texas Energy, Inc., 57 IBLA 32 (1981) (over-the-counter noncompetitive lease offer may be cured but takes later priority). Strict compliance with the requirements of the regulations is required to ensure fairness and uniformity to all applicants for each simultaneous drawing.

Appellant's filing with the Colorado State Office in 1979 was submitted in connection with a Colorado oil and gas lease and designated Sears and Usry merely as officers authorized to act on behalf of the corporation. It does not purport to be an amendment to appellant's corporate qualifications file, NM 0558400, and, in fact, does not even reference such file. The responsibility rests with appellant to ensure that its qualifications are complete with respect to every application submitted. BLM has no obligation to cross-reference filings it receives in the various state offices. What is important in this case is that appellant designated an incomplete file to show its qualifications. See Zappia Exploration Group, 60 IBLA 336 (1981) (Judge Burski concurring).

[2] It is to no avail for appellant to point out that it was not aware of the change in the regulatory requirements. All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Gary Milske, 44 IBLA 21 (1979). BLM properly rejected applicant's simultaneous lease application.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Montana State Office is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

