

SAMEDAN OIL CORP.

IBLA 81-592

Decided March 10, 1982

Appeal from decision of the Utah State Office, Bureau of Land Management, rejecting oil and gas lease application U-46708.

Affirmed.

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

An oil and gas lease offer filed in the name of a corporation in a simultaneous filing is properly rejected where it is not accompanied either by evidence of corporate qualifications required by the regulations currently in effect or by any reference to a serial number where such information might be found, as required by 43 CFR 3102.2-5. Such omission cannot be cured after the drawing.

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: George W. Mueller, Jr., Esq., Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

The Samedan Oil Corporation appeals the decision of the Utah State Office, Bureau of Land Management (BLM), dated April 21, 1981, rejecting oil and gas lease application U-46708 because appellant's corporate qualifications file, referenced on the application by number M-065500, was not complete as required by regulation at 43 CFR 3102.2-5.

Appellant's oil and gas lease application was selected with first priority for parcel UT-126 in the July 1980 simultaneous drawing held by the Utah State Office, BLM. Appellant referenced its qualifications file M-065500, on the application. By decision dated January 14, 1981, the Utah State Office requested that appellant submit evidence of the acceptance of its corporate qualifications with the date of the acceptance by the Montana State Office, BLM.

In response, appellant furnished a copy of documents previously tendered to the Montana State Office, BLM, and filed in M-065500. The evidence of qualifications had been accepted by that office on August 21, 1967. Although the information was supplemented occasionally, the information submitted prior to January of 1981 did not contain a list of appellant's corporate officers, referring only to two officers authorized to execute a request for approval of assignment to appellant. A list of corporate officers dated January 26, 1981, was submitted by appellant in response to the Utah State Office request.

In its decision of April 2, 1981, the Utah State Office, BLM, stated that "Samedan Oil Corporation did not have current corporate qualifications on file in M-065500 as indicated on the simultaneous oil and gas lease application * * *."

In its statement of reasons, appellant submits that at the time it filed its application for parcel UT-126, it had no reason to believe that there had been any change in the regulations governing corporate qualifications in that it did not receive a copy of the revised Federal regulations published May 23, 1980, 1/ until mid-September 1980. Appellant asserts that the Montana State Office, BLM, where its qualifications were on file, began the process of contacting, in alphabetical order, corporations whose qualification statements were left outdated by the adoption of the revised regulations. However, due to time constraints and a heavy workload, appellant states, the BLM was able to notify timely only those corporations whose names were in the first half of the alphabet. Finally appellant states that:

Under these circumstances, it is extremely unjust and inequitable for Samedan to suffer the harsh consequence of having its Lease Offer rejected simply because its corporate name happens to begin with the letter "S". Had Samedan been called "AAA Energy Co.", it would have had the opportunity to amend its corporate qualification file and thus avoided the rejection of its Lease Offer.

The applicable regulation, 43 CFR 3102.2-5, effective June 16, 1980, reads in full:

(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/ 45 FR 35156-66 (May 23, 1980).

- (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.

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

[1] An oil and gas lease offer filed by a corporation must be accompanied by a statement of qualifications setting forth the State of incorporation, that it is authorized to hold oil and gas leases, a complete list of corporate officers identifying those authorized to act on behalf of the corporation in Federal oil and gas leasing matters, the percentage of voting stock and all stock owned by aliens, and the names and addresses of any stockholders owning more than 10 percent of the corporation's stock (additional statements are required from any such stockholder). 43 CFR 3102.2-5. The regulations permit an offeror to file a statement of qualifications containing the required information for reference and to refer to the assigned serial number in lieu of refiling the information where the evidence of qualifications has been accepted and where the information on file is still current. 43 CFR 3102.2-1(c).

A noncompetitive oil and gas lease application filed by a corporation must be accompanied by complete evidence of corporate qualifications including the names of corporate officers as required by the regulation in effect at the time the application is filed or a reference by serial number to a BLM file in which such information has previously been submitted and accepted. An oil and gas lease application is defective in the absence of such information and is subject to rejection. See Horn Silver Mines Co., Inc., 60 IBLA 107 (1981); Trans-Texas Energy, Inc., 57 IBLA 32 (1981). A noncompetitive oil and gas lease for Federal lands may be issued only to the first qualified applicant. 30 U.S.C. § 226(c) (1976); McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir. 1955); Cotton Petroleum Corp., 38 IBLA 271 (1978). A simultaneous oil and gas lease application under 43 CFR Subpart 3112, as opposed to an over-the-counter lease offer, may not be cured by submission of additional information after the drawing as this would violate the rights of the second

drawn applicant who becomes the first qualified applicant, subject to establishment of that applicant's compliance with the statute and regulations. Cheyenne Resources, Inc., 46 IBLA 277, 87 I.D. 110 (1980); Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), *aff'd*, Ballard E. Spencer Trust, Inc. v. Morton, 544 F. 2d 1067 (10th Cir. 1976).

[2] In response to appellant's argument concerning notice, appellant, as a corporation dealing with the Government, is presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); 44 U.S.C. § 1507 (1976). Such regulations have the force and effect of law and are binding on the Department. McKay v. Wahlenmaier, *supra*; Bernard P. Gencorelli, 43 IBLA 7 (1979). The revised regulation regarding corporate qualifications was part of a broad revision of the noncompetitive oil and gas leasing regulations implemented after a moratorium of several months on noncompetitive leasing imposed by Secretarial Order No. 3049 (February 29, 1980). The moratorium was for the purpose of revising the regulations to eliminate certain violations of the leasing law and regulations existing in the past. Resumption of leasing on June 16, 1980, pursuant to Secretarial Order No. 3051, 45 FR 30554 (May 8, 1980), was specifically conditioned upon application of the revised regulations which were made effective simultaneously therewith. Thus, it could hardly be held that there was lack of adequate notice of the revised regulations. Appellant was on notice and should have been aware of the regulatory requirements published in the Federal Register on May 23, 1980.

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.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

