

JONATHAN KUTNER

IBLA 83-460

Decided June 15, 1983

Appeal from decision of New Mexico State Office, Bureau of Land Management, to issue oil and gas lease NM 54284 to the applicant whose application was given first priority in the simultaneous filing procedure.

Affirmed.

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

Where an oil and gas lease application is given first priority in the simultaneous filing procedure, and the application was filed in accordance with the regulation, 43 CFR 3102.5, it is proper for the Bureau of Land Management to issue the oil and gas lease to the applicant whose application was drawn with first priority. Bare assertions by the second-priority applicant of irregularities by the first-priority applicant do not rise to the level that would require an investigation to verify compliance.

APPEARANCES: Jonathan Kutner, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Jonathan Kutner has appealed the New Mexico State Office, Bureau of Land Management (BLM), action in awarding oil and gas lease NM 54284 for Parcel NM 189 in the July 1982 simultaneous filings to the Leister Partnership, whose application was drawn with first priority. Kutner's application was given second priority for the parcel.

The record indicates that BLM adjudicated the application of Leister Partnership under the regulations effective February 26, 1982, 47 FR 8545, and issued oil and gas lease NM 54284, February 9, 1983, effective March 1, 1983.

Appellant states the application of Leister Partnership was signed by John C. Saunders, attorney-in-fact. He asserts that Saunders is an employee of Bell Filing Service, indicated on the application as having assisted in the preparation of the application. Appellant also asserts that both Bryan Bell, d.b.a. Bell Filing Service, and Saunders have an economic interest in the application of Leister Partnership. Appellant submitted no proof of his

allegations, or evidence in support thereof. Appellant objects that BLM did not require Leister Partnership to furnish a certified true copy of its partnership agreement.

The pertinent regulation, 43 CFR 3102.5, as amended February 26, 1982, reads as follows:

§ 3102.5 Evidence.

Submission of a lease application, offer or request for approval of an assignment constitutes certification of compliance with the regulations of this group and the Act. Compliance means that the potential lessee, all other parties who hold an interest (as defined in § 3100.0-5(a) of this title) in the application, offer, assignment or lease or all parties who hold or control more than 10 percent interest in a lessee which is a corporation or association are: (a) Citizens of the United States or qualified stockholders in a domestic corporation (see § 3102.2 of this title); (b) in compliance with the Federal acreage limitations (see §§ 3101.1-5 and 3101.2-4 of this title); (c) not minors (see § 3102.3 of this title); and (d) not participants in any agreement, scheme, plan or arrangement prohibited in relation to simultaneous oil and gas leasing (see § 3112.6-1(a) of this title). Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein, may be required to submit additional information to show compliance with the regulations of this group and the Act.

[1] Appellant has submitted nothing to support his allegations that there were violations of the regulations in the preparation of the Leister Partnership application. The certification on the application is to the effect that the applicant has complied with the requirements set forth in the pertinent regulations. That certification is subject to criminal sanctions of 18 U.S.C. § 1001 (1976) regarding fraudulent statements. Within the language of 43 CFR 3102.5, BLM was correct to issue oil and gas lease NM 54284 to Leister Partnership. Appellant's bare assertions do not rise to the level that would require that an investigation be undertaken to verify compliance.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the action of BLM is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Will A. Irwin
Administrative Judge

