

CORINTH PARTNERSHIP (ON REMAND)

IBLA 83-1002

Decided October 25, 1984

Reconsideration on remand from the Under Secretary of the Board's decision in Corinth Partnership, 80 IBLA 31 (1984), affirming the decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease application. NM 56747.

Board decision vacated; Bureau of Land Management decision vacated; case remanded.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Drawings

An offer signed without further identification by a partner of a partnership that is the first-drawn applicant under the simultaneous oil and gas leasing program is not properly rejected under 43 CFR 3102.4 for failure to reveal the relationship between the potential lessee and the signatory.

APPEARANCES: John F. Shepherd, Esq., Washington, D.C., and Edward B. Poitevent, Esq., New Orleans, Louisiana, for appellant.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

On May 29, 1984, in accordance with 43 CFR 4.5, appellant filed a petition for review of the Board's March 28, 1984, decision affirming the August 29, 1984, decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting Corinth Partnership's (Corinth) simultaneous oil and gas lease offer for failure to comply with 43 CFR 3102.4 because the lease offer forms had been signed by a Corinth general partner, Charlotte Wagner, without further identification. Corinth Partnership, 80 IBLA 31 (1984). On June 26, 1984, the Under Secretary stayed the Board's decision.

[1] On October 18, 1984, the Under Secretary "decided to remand the case to the IBLA [Interior Board of Land Appeals], for action consistent with the recent court decision in ANR Production Co. v. Watt, Civ. No. 83-0375 (D. Wyo. January 11, 1984)." Memorandum dated October 18, 1984, to Director Office of Hearings and Appeals, from Under Secretary, entitled The Matter of Corinth Partnership. The memorandum stated:

The regulations involved in the ANR case and the Corinth appeal were intended only to require disclosure of the relationship

between principals and agents, not relationships of officers to corporations and partners to partnerships * * *. Therefore, the instant matter and all other pending appeals and decisions on like matters should be reviewed for consistency with ANR and the attached memorandum.

The "attached memorandum" referred to was BLM Instruction Memorandum No. 84-658 dated August 15, 1984, entitled Acceptability of Simultaneous Oil and Gas Applications That Are Undated or Fail to Designate Relationship of Signatory to Corporate Applicant. It provides in part:

In light of the ANR Production Company decision, all SOG applications filed on behalf of a corporation, association, or partnership that do not designate the relationship of the signatory to the applicant will not be deemed rejectable. This change in policy with regard to the acceptability of such applications, pursuant to 43 CFR 3102.4, applies only to situations in which the signatory is a member of the organization that constitutes the applicant, and not merely an outside party or an agent rendering services to the applicant. For example, a corporate officer of ABC Corporation need not designate his relationship to ABC Corporation when signing ABC's SOG application, nor need a partner or a member of an association, designate his relationship to the partnership or association respectively, when signing a SOG application filed on behalf of that partnership or association.

Any third party that is not a member of the corporation, association, or partnership that is the SOG applicant, is not relieved from the regulatory requirements to disclose agent relationships. As noted in Instruction Memorandum No. 84-269, the Federal Register notice of August 19, 1983, (48 FR 37656) emphasized to the public that the Bureau will strictly enforce 43 CFR 3112.2-3 that requires associations, partnerships, and corporations when submitting SOG applications to reveal the names of all parties in interest, namely and party who is or would be vested with any legal or equitable rights under a lease. Therefore, the signatory, if not shown as a third party, can be expected to appear in the membership list which has been submitted with the SOG application.

If there is reason to believe that the above circumstances are not in evidence to constitute a properly filed application and an unidentified third party has signed for the applicant, you may make necessary checks to verify whether there are grounds for rejection. In making such checks the old qualifications files may be referenced, keeping in mind that information contained therein is not current. Even so, indication of a qualifications file number in place of a proper identification of relationship is not adequate where a third party is involved except for offers filed under 43 CFR 3112.6-1(b)(3). [Emphasis in original.]

Therefore, in accordance with the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the Board's decision in Corinth Partnership, *supra*, and the BLM August 29, 1983, decision are vacated, and the case remanded to the New Mexico State Office, BLM, with instructions to issue a lease for the parcel applied for, all else being regular.

Will A. Irwin
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Franklin D. Arness
Administrative Judge