

W.O.I.L. ASSOCIATES

IBLA 84-695

Decided March 28, 1985

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application W-88601.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

BLM may properly reject a first-drawn application in a simultaneous oil and gas lease drawing where the applicant has made reference to its qualifications file number, but has not complied with the requirements of 43 CFR 3102.5 as incorporated in 43 CFR 3112.2-3, which, together, require that the names of all parties in interest be stated on the application or on a sheet accompanying the application.

APPEARANCES: R. G. Llast, for W.O.I.L. Associates.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

R. G. Llast, for W.O.I.L. Associates, the first-drawn applicant for Wyoming parcel WY-674 in the September 1983 simultaneous oil and gas lease drawing, appeals the May 23, 1984, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting the lease application. The application was rejected because it was not completed in compliance with 43 CFR 3112.2-3 which requires that the names of all other parties who hold an interest in the application be set out on the lease application or on a sheet accompanying the lease application.

The space on the application marked "Full Name of Other Parties In Interest (If Applicable)" was left blank. However, appellant wrote "C-31896" in the space marked "Qualifications Serial Numbers (If Applicable)."

Appellant, in its statement of reasons for appeal filed June 22, 1984, argues that the BLM decision was invalid because the application incorporated by reference the information in appellant's qualification file #C-31898, 1/

1/ The statement of reasons refers to qualifications #C-31898. The application, however, references #C-31896.

and therefore, the applicant disclosed the parties in interest, as required by regulation.

[1] Appellant's argument would be meritorious if, when the application was processed, BLM had been operating under the reference "qualifications" system of enforcement of the regulations. For many years BLM allowed oil and gas lease applicants/offerors, including associations, to refer to certain evidence of qualifications previously filed for the record. See, e.g., 43 CFR 3102.2-1(c) (1980), 45 FR 35161 (May 23, 1980). The qualifications statements allowed BLM to monitor "Federal acreage limitations, foreign investment restrictions, multiple filing in the simultaneous oil and gas leasing program and the existence of agency relationships." 47 FR 8544 (Feb. 26, 1982). Lease applicants were permitted to incorporate by reference the information contained in their qualifications file. 43 CFR 3102.2-1(c) (1980).

This system was abandoned by BLM in February of 1982, however, because "the increase in size of the [simultaneous oil and gas leasing] program has rendered impossible the manual monitoring of these qualification documents." 47 FR 8544 (Feb. 26, 1982). The savings from eliminating this qualifications system were estimated to be \$20 million annually. Id. The Department also decided that it was "in the public interest" to discontinue processing the qualifications documents on file. Id.

In 1982, when it abandoned the system of referring to qualifications numbers assigned to previously filed documents, the Department determined to rely upon a "certification" system coupled with selective audits. 47 FR 8544 (Feb. 26, 1982); see 43 CFR 3000.2 and 43 CFR 3102.5. BLM stated, "In the future all lease applicants and assignees will be required to certify their compliance with statutory requirements on the lease or assignment application, subject to criminal sanctions of 18 U.S.C. 1001 regarding fraudulent statements." 47 FR 8544 (Feb. 26, 1982) (emphasis added).

Consequently, the regulation permitting an applicant to refer to a qualifications file number in lieu of stating, on the application, the name of the parties in interest (members of an association or partners in a partnership), was no longer in effect at the time appellant's application was filed.

43 CFR 3112.2-3, 48 FR 33679 (July 22, 1983), which became effective August 22, 1983, expressly provides that submission of a qualifications file number would no longer be acceptable:

Compliance with Subpart 3102 of this title is required. The applicant shall set forth on the lease application, or on a separate accompanying sheet, the names of all other parties who hold an interest (as defined in § 3000.0-5(k) of this title) in the application, or the lease, if issued. Submission of a qualifications file number alone shall not meet this requirement, except for offers filed under § 3112.6-1(b)(iii) of this title. [Emphasis added.]

On August 19, 1983, BLM announced that this regulation, among others, would be strictly enforced. The announcement, which was printed in the Federal Register, provided in pertinent part:

After August 22, 1983, applications for simultaneously offered parcels received from associations, including partnerships, must be accompanied by a complete list of individuals who are members thereof. This requirement is authorized under 43 CFR 3102.5. By this notice, the Bureau of Land Management formally interprets and exercises its right of demand for this information at the time application is made.

48 FR 37656 (Aug. 19, 1983). BLM stated that the purpose of strict enforcement was to "preserve the integrity of the simultaneous oil and gas leasing program by ensuring against multiple filings on a single parcel as prohibited by amended § 3112.5-1." Id. Appellant is deemed to have knowledge of 43 CFR 3112.2-3 and the requirement that association applications must be accompanied by a complete list of members because both were published in the Federal Register, and were, therefore, a matter of public record. 44 U.S.C. § 1507 (1982); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380, 385 (1947); Mac A. Stevens, 84 IBLA 124 (1984).

BLM properly rejected W.O.I.L. Associates' simultaneous oil and gas lease application for failure to state on the lease application, or to submit with the lease application, the names of all parties who hold an interest in the application or the lease. Shaw Resources, Inc., 79 IBLA 153, 177, 91 I.D. 122, 135 (1984); The Turner Association, 85 IBLA 374 (1985).

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.

Will A. Irwin
Administrative Judge

We concur:

R. W. Mullen
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

