

CLARK CANYON LUMBER COMPANY

IBLA 71-90

Decided September 13, 1971

Timber Sales and Disposals

A request for extension of a timber sale contract is properly denied where the purchaser has not shown that its delay in cutting and removal was due to causes beyond its control.

3 IBLA 247

IBLA 71-90 : 14-11-0008-25050-TSO-03
CLARK CANYON LUMBER : Timber sale contract
COMPANY : extension denied
: Affirmed

DECISION

Clark Canyon Lumber Company has appealed from a decision dated October 15, 1970, by which the district manager, Dillon District, Montana, Bureau of Land Management, denied its application for an 8-month extension on timber sale contract 14-11-0008-25050-TSO-03. The district manager held that no valid reason had been set forth to justify an extension. He pointed out that the small size of the sale is not an important factor in the overall operation of the Company's mill, and the inability of obtaining a logger should have been considered before the sale was held.

The contract in issue authorizes the appellant to remove from lands in Silver Bow County, Montana, an estimated 249 M. board feet, for a price of \$747.00. The contract was executed on behalf of the United States on October 16, 1969, and expired 12 months later, on October 15, 1970.

The Company contends it was the only bidder on the sale, and unless the extension is granted, there is little likelihood that a second sale of the timber will be successful. It argues that the extension will benefit the local economy as well as help the Government's revenues. It stated that it could not find any logger willing to cut the small volume of timber involved.

The district manager has reported that sales of similar size in the Dillon District have been completed in from 3 to 6 months time. The 12-month period allowed in the contract comported with the district's practice on small sales and should have been adequate if the purchaser had planned its operation properly. The sale prospectus emphasized that the duration of the contract would be only 12 months. The inability of the purchaser to obtain loggers to complete the cutting and removal of the timber sold within the 12-month period allowed is not a cause beyond the purchaser's control as we construe the terms of the contract expressed in section 9 thereof:

Extension of Time and Reappraisal. If the Purchaser shows that his delay in cutting and removal was due to causes beyond his control and without his fault or negligence, the Authorized Officer may grant an extension of time, not to exceed one year upon written request of the Purchaser. Market fluctuations are not cause for consideration of contract extensions 43 CFR 5463.2 (1971).

The appellant has not shown any cogent reason for exercise of the Secretary's discretionary authority contrary to the Department's policy of adhering strictly to the terms of the timber sale contracts, nor have we found any such reason. See Nordic Veneers, Inc., 3 IBLA 86 (1971).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5, 35 F.R. 12081), the decision appealed from is affirmed.

Newton Frishberg, Chairman

We concur:

Martin Ritvo, Member

Joan B. Thompson, Member

