

HOWELL SPEAR

IBLA 71-293

Decided November 6, 1972

Appeal from a decision (NM 13735) of the New Mexico State Office, Bureau of Land Management, rejecting bid for competitive oil and gas lease as inadequate.

Affirmed.

Contracts: Formation and Validity: Bid and Award--Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Competitive Leases

Where the notice of sale by competitive bidding for oil and gas leases reserves to the Government the right to reject any and all bids, and further states any bonus bid considered as inadequate on the basis of the estimated value of the parcel will be rejected, a bonus bid of \$1.00 per acre is properly rejected where the estimated value of the parcel is greater than \$1.00 per acre.

APPEARANCES: Howell Spear, pro se.

OPINION BY MR. FISHMAN

Howell Spear has appealed from a decision dated May 7, 1971, of the New Mexico State Office of the Bureau of Land Management, rejecting his bid for a competitive oil and gas lease. Appellant made a bid of \$1.00 per acre for an 80-acre parcel described as Parcel No. 8, the N 1/2 NW 1/4, sec. 33, T. 20 S., R. 34 E., N.M.P.M., New Mexico. Appellant was the sole bidder on this parcel. His bid was rejected as inadequate.

Appellant points out several reasons to support the position that his bid should be accepted. He states that: he was the sole bidder; a strong domestic oil business requires that nothing be done by the Government to hinder the drilling of additional oil wells; the decision of the Geological Survey that the bonus bid was inadequate must be based upon speculation because of the uncertain nature of oil and gas deposits; the Government would receive immediate income by accepting his bid; there is no assurance anyone will pay more bonus for the tract if it is offered again; and rejection of the bid hurts the economy of the area. Appellant finally states

that "if [he] had known that the Geological Survey had a private and undiscovered minimum of \$10.00 to \$15.00 per acre value bonus wise on this tract, he would have been glad to have bid it."

The pertinent part of the notice of sale provides:

"The right is reserved to reject any and all bids. Any bonus bid considered as inadequate on the basis of the estimated value of the parcel will be rejected."

The situation presented in the case at bar is controlled by the rationale of John M. Kelly, 5 IBLA 324 (1972). In Kelly a bonus bid of \$10.95 per acre was made by a bidder for land which had an estimated oil and gas bonus value of \$20 per acre. The notice of sale contained language identical to the language in the notice of sale quoted above. In affirming the decision of the Bureau of Land Management, which rejected the bid on the basis of inadequacy, this Board stated:

The overriding issue in the case at bar is the authority of the Department to exercise its discretion in a manner which results in the rejection of all bids for a particular parcel, where it has reserved that right in the notice of sale. Humble Oil and Refining Company, 4 IBLA 72 (1971), supports the view that the Department has such authority. See 43 CFR 3120.3-1 which states that "* * * the authorized officer, subject to his right to reject any or all bids, will award the lease to the successful bidder."

See Annot., 31 A.L.R. 2d 471. 489 (1953).

Although appellant would have us believe that \$1 per acre is a fair bonus value for the parcel in question, we note his eagerness to bid ten or fifteen times that amount. 1/

The fact that appellant was the sole bidder on Parcel No. 8 does not require the acceptance of his bid. A bid may properly be rejected on the basis of inadequacy, notwithstanding the fact that it is the only bid made. C. C. Thomas, A-27380 (November 7, 1956). See also Tipperary Land and Exploration Corporation, 7 IBLA 270 (1972).

1/ While not the ratio decidendi, the case file indicates that at least one other person feels that \$1 per acre for Parcel No. 8 was an unusually low bid, and has indicated a desire to bid \$5 to \$10 per acre if the tract is re-offered.

It is well settled that the Secretary (or his delegate) is not obligated to demonstrate that a bid is inadequate, unreasonable, or lacking in good faith in order to exercise his judgment in determining whether a bid should be accepted or rejected. It is sufficient that his determination to reject a given bid is supported by the record. Antoine "Fats" Domino, 7 IBLA 375 (1972); Pan American Petroleum Corp., A-29510 (August 13, 1963).

In the case at bar, the rejection of the appellant's bid is supported by the record and will not be disturbed.

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.

Frederick Fishman, Member

We concur:

Douglas E. Henriques, Member

Martin Ritvo, Member

