

JOHN H. LARSEN

IBLA 73-147

Decided July 19, 1973

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting appellant's competitive oil and gas lease bid W-36592.

Affirmed.

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

Where the notice of competitive bidding for upland oil and gas leases reserves to the Government the right to reject any and all bids, and the Geological Survey after a pre-sale examination of the land placed a bonus value of \$1 per acre on the land, it is proper to reject a high bid of \$.50 per acre.

Appearances: John H. Larsen, pro se.

OPINION BY MR. HENRIQUES

John H. Larsen appeals from the decision of the Wyoming State Office, Bureau of Land Management, dated September 20, 1972, which rejected his bonus bid of \$.50 per acre, W-36592, pursuant to a recommendation of the Geological Survey. Though the decision did not state that the reason for rejection was the inadequacy of the bonus bid, appellant correctly perceived that such was the rationale animating the State Office action.

The land in issue was designated as Parcel 36 in the Wyoming competitive lease sale of August 20, 1972. The parcel consisted of S 1/2 SW 1/4, sec. 20; W 1/2 NE 1/4, SE 1/4 NE 1/4, W 1/2, NE 1/4 SE 1/4 sec. 29, T. 27 N., R. 89 W., 6th P.M., Carbon County, Wyoming, containing 560 acres. The parcel is located in the Bunker Hill field. Four other parcels within that field were also offered. None of the other parcels received a single bid. Appellant placed the only bid received on Parcel 36. The notice of the lease sale provided that "[t]he right is reserved to reject any or all bids."

On appeal, the appellant contends that his bid was not too low, noting that no other bids were tendered on any of the acreage within the Bunker Hill field, and that other than the gas production achieved in 1937 at Bunker Hill and since depleted, efforts to find producible oil and gas deposits have met with no success.

The record as originally transmitted to this Board was devoid of any justification for the rejection of appellant's bid. Pursuant to a request of this Board, the Geological Survey provided the basis for its evaluation of the offer. The crucial data in determining the level of acceptable bids was stated as follows:

Lower Cambrian or Flathead may be stratigraphically thin. Potential exists in Paleozoic formations, especially #35 and 36, from possible hydrodynamic gradient down to NW therefore creating a tilted o/w [oil-water] contact down on the NW flank.

Furthermore, the analysis noted that prior successful competitive bids in 1961 were in the \$2 to \$5 an acre range and in 1967 was \$8.47 an acre. The U.S. Geological Survey therefore established a nominal value for the parcels of \$1 to \$5 an acre.

This Board, on a number of occasions, has upheld the authority of the responsible officials to reject the high bid in a competitive drawing on the basis of the inadequacy of the bonus bid. See e.g., John M. Kelly, 5 IBLA 324 (1972), Humble Oil and Refining Company, 4 IBLA 72 (1971). The Board has required, however, that this power of rejection be exercised on a rational basis. Thus, in C.S.V. Oil Exploration Co., 10 IBLA 50 (1973), the Board reversed a BLM State Office decision rejecting certain bonus bids, ranging from \$.25 per acre to \$.57 per acre. In that case, the Mining Engineer had recommended acceptance of the bid offers noting that "technical information relative to the individual tracts supports the conclusion that the tracts have little to no bid value." The Mining Engineer also noted that the tracts therein involved had been offered several times in the past and had failed to receive any bids. This recommendation was rejected by the State Director pursuant to a traditional custom that no bid under \$1 would be accepted. The State Office's decision was reversed because rather than relying on a basis attuned to the factual situation of the lands offered, it had applied an arbitrary valuation which had no necessary relationship to relevant technological or economic considerations.

The case at bar is easily distinguished from C.S.V. Oil Exploration Co., supra. Though the decision below is premised on potential

possibilities (and thus obviously lacking in substantial certitude), it represents a considered judgment premised on data relevant to the land in issue. As was stated in Antoine "Fats" Domino, 7 IBLA 375, 377 (1972):

The Secretary (or his delegate) is not required to show 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. (Emphasis added).

We cannot say that the State Office decision is lacking in a reasonable basis.

Accordingly, 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.

Douglas E. Henriques, Member

We concur:

Edward W. Stuebing, Member

Joan B. Thompson, Member

