

FRANCES J. RICHMOND

IBLA 76-357

Decided April 5, 1976

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting high bids tendered for three parcels of land at a sale of competitive oil and gas leases. NM 26928, etc. (Oklahoma).

Set aside and remanded.

1. Appeals -- Oil and Gas Leases: Competitive Leases

Where high bids, not clearly spurious or irresponsible, tendered at a competitive sale of oil and gas leases, are rejected solely on the statement of a field official that the bids are inadequate, and no basis whatever for that conclusion is reflected in the case records, the decision will be set aside and the cases will be remanded for the compilation of a proper record and readjudication of the acceptability of the bids.

APPEARANCES: Mrs. Frances J. Richmond, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Mrs. Frances J. Richmond appeals from a decision dated November 20, 1975, whereby the New Mexico State Office, Bureau of Land Management, rejected her high bids for Parcels 5, 10 and 15 submitted at a competitive oil and gas lease sale for lands within known geologic structures held October 21, 1975. Twenty-eight separate parcels situated in nine different counties in Oklahoma were offered. Appellant submitted a bid of \$5 per acre for Parcel 5, and identical bids of \$3 per acre for Parcels 10 and 15, each being the high bid received for the respective parcel.

In a memorandum to the State Office dated October 29, 1975, the Oil and Gas Supervisor, Mid-Continent Area, U.S. Geological Survey, stated, inter alia:

We consider all bids received for Parcels 3, 4, 5, 10, 13, 15, 17, 18 and 19 to be inadequate, and we recommend that these bids be rejected.

No reasons were given for the Supervisor's conclusions that the subject bids were inadequate.

The sale notice provided that the Government reserved the right to reject any and all bids as well as the right to reject any bonus bid considered as inadequate on the basis of the estimated value of the parcel.

Appellant contends that the notice of sale did not specify any minimum price per acre that must be bid, but did provide that oil and gas leases were being offered to the bidders of the highest cash amount per acre. She argues that her bids being the highest for Parcels 5, 10 and 15, she should be awarded leases on those parcels.

That the Government does have the right to reject a high bid offered as bonus for an oil and gas lease, which bid is less than the estimated value of the parcel, has been affirmed many times. See, e.g., Kerr-McGee Corp., 6 IBLA 108 (1972), aff'd, Kerr-McGee Corp. v. Morton, 527 F.2d 838 (D.C. Cir. 1975); Howell Spear, 8 IBLA 93 (1972).

But where high bids, not clearly spurious or irresponsible, are tendered at a competitive sale of oil and gas leases, and thereafter are rejected solely on a statement of a field official that the bids are inadequate, and there is no basis whatever for that conclusion reflected in the case records, the decision will be set aside and the cases remanded for compilation of a proper record and readjudication of the acceptability of the bids. Arkla Exploration Co., 22 IBLA 92 (1975). Cf. John M. Kelly, 5 IBLA 324 (1972). The decision to reject these high bids is totally unsupported by the record so there is no way that the correctness of the decision can be judged on appeal. It is not apparent on the face of the record that the bids are clearly spurious or unreasonable. Indeed, on two of the three parcels there were other bids of lesser amounts submitted.

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 set aside and the cases are remanded to the New Mexico State Office for compilation of a proper record and readjudication of the acceptability of the subject bids.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Frederick Fishman
Administrative Judge

