

YATES PETROLEUM CORPORATION

IBLA 76-632

Decided October 12, 1976

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting appellant's high bids (NM 27918 and NM 28022) for two parcels in a competitive oil and gas lease sale.

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

The Secretary of the Interior has the authority to reject a high bid in a competitive oil and gas lease sale on the basis of an inadequate bonus where the rejection has a reasonable basis in fact.

2. Oil and Gas Leases: Competitive Leases

Where high bids tendered at a competitive oil and gas lease sale, which are not clearly spurious or irresponsible, are rejected solely on the basis of a statement by an official that the bids are inadequate and no factual basis for that conclusion appears in the case record, the decision will be set aside and the cases remanded for compilation of a proper record and readjudication of the acceptability of the bids.

APPEARANCES: A. J. Losee, Esq., Losee & Carson, P. A., Artesia, New Mexico, for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

This appeal has been filed on behalf of appellant from the decision of the New Mexico State Office, Bureau of Land Management

(BLM), to reject appellant's high bids (NM 27918 and NM 28022) for two of the parcels (numbers 14 and 48) in a competitive oil and gas lease sale held on March 30, 1976. The stated reason was that the bids are "inadequate."

The decision was apparently based on an April 5, 1976, memorandum from the Acting Area Oil and Gas Supervisor, United States Geological Survey, to the BLM which expressed the belief of Survey officials that the high bids for parcels 14 and 48 were inadequate. No basis for this conclusion was given in either the Survey memorandum or the BLM decision.

The case records disclose that appellant's bids were not the only bids submitted for the subject parcels. Two competing bids were filed for parcel 48. Appellant's bid was the higher one. For parcel 14, six competitive bids were filed. The highest was submitted by the appellant.

In its statement of reasons for appeal, appellant does not question the right of the Secretary of the Interior to reject a bid where there is a reasonable basis for the rejection shown in the decision. However, appellant asserts that no such reason is shown by the decision or the Survey memorandum in this case which states a conclusion rather than a factual basis therefore. Appellant contends that the decisions of this Board in Frances J. Richmond, 24 IBLA 303 (1976) and Arkla Exploration Co., 22 IBLA 92 (1975), are controlling here and that these precedents require remand of the case for readjudication on the basis of a proper record.

[1] The Secretary of the Interior, or his authorized delegate, clearly has the authority to reject a high bid at a competitive oil and gas lease sale on the basis of an inadequate bonus. Section 17 of the Mineral Leasing Act, as amended, provides in part:

If the lands to be leased are within any known geological structure of a producing oil or gas field, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than six hundred and forty acres, which shall be as nearly compact in form as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary * * *. [Emphasis added.]

30 U.S.C. § 226(b) (1970). This Board has upheld the authority of the Secretary or his delegate to reject bids for inadequacy of the bonus offered provided the rejection has a reasonable basis in fact. H & W Oil Co., Inc., 22 IBLA 313, 315 (1975).

[2] Where high bids which are not clearly spurious or irresponsible are rejected solely on the basis of a statement by an

official that the bids are inadequate and no basis for that conclusion appears 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. Frances J. Richmond, *supra* at 304; Arkla Exploration Co., *supra*. As was the situation in the cited cases, it is not apparent on the face of the record in the present case that the bids are clearly spurious or unreasonable. In fact, in both the parcels one or more bids of lesser amount were submitted. See Frances J. Richmond, *supra* at 304; Arkla Exploration Co., *supra* at 93.

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 allow the compilation of a proper record and readjudication of the acceptability of the high bids.

Anne Poindexter Lewis
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Martin Ritvo
Administrative Judge

