

FRANCES J. RICHMOND

IBLA 77-72

Decided March 3, 1977

Appeal from rejection of high bid tendered for a parcel of land offered at a sale of competitive oil and gas leases. NM 26928 (Okla.)

Affirmed.

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

Rejection of the high bid tendered for a parcel of land offered at a sale of competitive oil and gas leases will be affirmed on appeal where the case file contains memoranda from the U.S. Geological Survey sufficient to establish that the pre-sale minimum evaluation for the tract was accomplished by a GS lease sale committee consisting of an engineer and a geologist, and their reasoned evaluation was considerably in excess of appellant's bid.

2. Oil and Gas Leases: Generally--Oil and Gas Leases: Competitive Leases

The U.S. Geological Survey is the Secretary's technical expert in matters concerning geological evaluation of tracts of land offered at a sale of competitive oil and gas leases, and the Secretary is entitled to rely on the Survey's reasoned analysis.

3. Oil and Gas Leases: Competitive Leases

Under 43 CFR 3120.3-1, the United States reserves the right to reject any and all bids submitted at a competitive oil and gas

lease sale. However, a decision involving the exercise of administrative discretion must be supportable on a rational basis.

APPEARANCES: Frances J. Richmond, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Frances J. Richmond appeals from a decision dated November 22, 1976, wherein 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 held October 21, 1976. The appeal relates only to Parcel 5 in the Mocane-Laverne Field, Beaver County, Oklahoma, NM 26928 (Okla.). 1/

This case is before the Board for the second time. The first appeal was filed from a decision dated November 20, 1975, in which the New Mexico State Office rejected appellant's bids for Parcels 5, 10, and 15, on the ground that they were below the minimum acceptable bonus bids established by the Geological Survey. Appealing from this decision, Mrs. Richmond contended that her bid was high for each parcel and in the absence of a minimum price set out in the bidding invitation, her bids should be accepted. This Board issued a decision, Frances J. Richmond, 24 IBLA 303 (1976), in which it found that the decision of the State Office was totally unsupported by the record, thereby affording no means by which the correctness of that decision could be judged on appeal. The Board set aside the State Office decision and remanded the cases to that office for compilation of a proper record and a readjudication of the acceptability of Mrs. Richmond's bids.

On November 22, 1976, the State Office issued its second decision, in which it stated it had reconsidered the acceptability of the Richmond bids in light of additional information provided by the Geological Survey. The decision explained as follows:

The pre-sale minimum acceptable bonus for Parcel No. 5, described as lot 4 sec. 6, T. 2 N., R. 28 E., Cimarron meridian, Beaver County, Oklahoma, was \$ 20.00 per acre, as determined by the Lease Sale Committee (which is composed of one geologist and one petroleum engineer). This tract is located on the undefined known geologic structure of the Mocane-Laverne field. The field has a Morrow gas completion located in the SE 1/4 NW 1/4 sec. 31, T. 3 N., R. 28 ECM, which was completed on February 12, 1969, for a COF of 3,500 MCFGPD. A well located in the C SE 1/4 SE 1/4

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1/ The BLM decision rejecting the bids of Mrs. Richmond for Parcels 10 and 15 for lands in Major County, Oklahoma, has become final. NM 26932 (Okla.) and NM 26936 (Okla.).

sec. 9, T. 2 N., R. 28 ECM, was completed on March 27, 1976, in the Morrow Formation for an IPF of 2,590 MCFGPD, and another well located in W 1/2 W 1/2 W 1/2 SE 1/4 sec. 10, T. 2 N., R. 28 ECM, was completed on December 17, 1975, as a dual oil and gas well, in the Morrow Formation for an IPF of 194 BO and 600 MCFGPD, and in the Cherokee Formation for an IPF of 156 BO and 522 MCFGPD. By historical comparison of the bid offered for this tract with oil and gas leasing bonuses received for other similar lands in T. 2 N., R. 28 ECM, this office has been unable to locate any bonus ever being accepted as low as \$ 5.00 per acre, which is the bid offered by Mrs. Frances J. Richmond. Our records indicate that past bonuses paid in the area have been more in the \$ 20.00 to \$ 40.00 per acre range. Based upon all available information, it was the determination of the Lease Sale Committee, prior to the opening of bids, that the acceptance of any bonus less than \$ 20.00 per acre would not result in the public receiving a fair market value return, as required by Secretarial Order 2948. (Mrs. Richmond bid \$ 5.00 per acre on Parcel No. 5.)

On the basis of this information, the State Office accepted the recommendation of the Geological Survey and again rejected Mrs. Richmond's bids. This appeal followed.

Appellant merely reiterates her earlier complaint that the sale notice did not set out any minimum acceptable bid figure. She has not alleged any error in the evaluation made by the Geological Survey lease sale committee, but contends only that had a minimum figure been included in the notice, she would have submitted a bonus bid of not less than such amount. She has expressed a willingness to amend her bid to equal the pre-sale evaluation figure of the Geological Survey.

[1, 2, 3] Examination of the case file discloses that it now contains memoranda from the Geological Survey, Tulsa, Oklahoma, dated May 21 and October 6, 1976, respectively. These memoranda adequately establish that the pre-sale minimum evaluation for the subject tracts of land was accomplished prior to the time of sale by a lease sale committee consisting of an engineer and a geologist, employed by the Survey. Their reasoned evaluation of the tracts produced a value considerably in excess of the bid submitted by appellant.

The Geological Survey is the Secretary's technical expert in matters concerning geologic evaluations, and the Secretary is entitled to rely on the reasoned analysis by the Geological Survey in such matters. See Clear Creek Inn Corporation, 7 IBLA 200, 213-214 (1972). The persons who made the evaluation study and consequent recommendation to reject the bids of Mrs. Richmond were duly authorized to do so by the Director of the Geological Survey.

The applicable regulation, 43 CFR 3120.3-1, provides that the United States reserves the right to reject any and all bids submitted at a competitive sale of oil and gas leases. A decision involving the exercise of administrative discretion must be supportable on a rational basis. In light of the additional information submitted by the Geological Survey in its memoranda of May 21 and October 6, 1976, we find that the determination made by the New Mexico State Office to reject the bids at issue is supported by the record. Arkla Exploration Co., 25 IBLA 220 (1976); John H. Larsen, 12 IBLA 244 (1973).

Appellant stated that if the notice of sale had indicated a minimum acceptable bid she would have submitted a bonus bid of not less than such sum. She now asks permission to modify her bid to the minimum pre-sale evaluation figure set by the Geological Survey, \$ 20 per acre for Parcel 5. She has given no precedent to support her request and we know of none. In our opinion, to permit modification of a high bid, even by increasing its amount, would jeopardize the integrity of the competitive bidding system. Accordingly, appellant's request is denied.

If and when the New Mexico Office reoffers these parcels for competitive oil and gas leasing, notice should be given to Mrs. Richmond. At that time, she may submit new bids which will be examined in light of the circumstances then prevailing.

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.

Douglas E. Henriques

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Administrative Judge

We concur:

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Anne Poindexter Lewis  
Administrative Judge

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Joseph W. Goss  
Administrative Judge

