

HARRY PTASYNSKI

IBLA 79-477

Decided June 17, 1980

Appeal from the decision of the California State Office, Bureau of Land Management, rejecting the high bid for competitive oil and gas lease CA 5797.

Affirmed.

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 where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate.

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

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

APPEARANCES: W. F. Drew, Esq., Brown, Drew, Apostolos, Massey & Sullivan Casper, Wyoming, for appellant.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Harry Ptasynski has appealed from the decision of the California State Office, Bureau of Land Management (BLM), rejecting his high competitive oil and gas lease bid, CA 5797, for Parcel 9 at the March 14, 1979, lease sale. Parcel 9 contains 80 acres and is the W 1/2 NW 1/4 sec. 10, T. 32 S., R. 10 E., Mount Diablo meridian, Kern County, California. Appellant's high bid was in the amount of \$2,200.80 or \$27.51 per acre.

As basis for the rejection, BLM indicated that the Geological Survey (Survey) had recommended that the bid be rejected as inadequate and quote from the Survey's recommendation memorandum as follows:

In accordance with our ongoing cooperative activities and Secretarial Order 2948, Section 3(C) we have reviewed the bids received on the subject sale as well as the technical information on all tracts. We recommend acceptance of the high bids on all tracts with the exception of Parcel 9 which we recommend be rejected.

Our recommendations are based upon our pre-sale geologic analyses conducted for all tracts in the sale combined with a comparable sales analysis of prior lease sales. On the basis of that evaluation the bid on Parcel 9 pre-sale evaluation was \$50/acre for the tract.

Available geological engineering and production data suggest that Parcel No. 9 has no more potential for primary oil production. However the reservoir and fluid characteristics of the Midway-Sunset field are favorable for the application of the new enhanced oil recovery techniques, for example steam drive, fire flood etc., which makes it profitable to drill wells in areas previously considered depleted or subcommercial.

Three comparable parcels within the Mid-Sunset known geologic structure were sold in competitive lease sales held in California during 1978. The bids received for each of these parcels were as follows:

Parcel No.	Sale date	No. of bids	Highest bid per acre	Lowest bid per acre	Average of all bids per acre	Average of bids excluding highest & lowest bid
No. 2	1/25/78	10	\$765.42	\$ 3.00	\$123.70	\$58.50
No. 10	5/10/78	16	\$811.00	\$10.11	\$118.00	\$76.30
No. 22	1/25/78	7	\$ 97.00	\$ 5.00	\$ 32.50	\$25.10
Averages of all three parcels			\$557.80	\$ 6.00	\$ 91.40	\$53.30

The resource value for Parcel No. 9 should be consonant with the bonus for comparable acreage in the vicinity, which in this case would be \$50 per acre or more. It is also noteworthy that Tract No. 8 in this sale, located less than a mile from this tract and situated geologically less favorably, received a high bid of \$125.38 per acre which is substantially higher than the offered bid on Tract 9.

BLM then concluded that "[t]he difference between the amount bid and the amount U.S. Geological Survey concluded was an adequate bid is substantial," and rejected the bid.

In his statement of reasons, appellant argues that:

(1) He based his bid on primary production not enhanced recovery techniques;

(2) If the bidders had evaluated the tract at the comparison average (\$557.80), his bid would not have been the highest;

(3) High bids for other parcels at the lease sale were less than his bid yet they were accepted;

(4) The lease sale announcement stated the minimum acceptable bid was \$10 per acre when in fact it was \$50 per acre; and

(5) The decision indicates that sale of the parcel will be held again but there is no basis for anticipating a bid higher than his.

[1] The Secretary of the Interior has discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1976); 43 CFR 3120.3-1. This Board has consistently upheld that authority so long as there is a rational basis for the conclusion that the highest bid does not represent a fair market value for the parcel. M. S. Mack, 45 IBLA 99 (1980); B. D. Price, 40 IBLA 85 (1979); Frances J. Richmond, 29 IBLA 137 (1977). Departmental policy in the administration of its competitive leasing program is to seek the return of fair market value for the grant of leases and the Secretary reserves the right to reject a bid which will not provide a fair return. Coquina Oil Corp., 29 IBLA 310, 311 (1977). See Exxon Co., U.S.A., 15 IBLA 345, 357- (1974).

[2] Survey is the Secretary's technical expert in matters concerning geologic 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. Gerald S. Ostrowski, 34 IBLA 254 (1978); Coquina Oil Corp., supra; Arkla Exploration Co., 25 IBLA 220 (1976). When BLM relies on that analysis in rejecting a bid as inadequate, it must ensure that a reasoned explanation is provided for the record to support the decision. Southern Union Exploration Co., 41 IBLA 81, 83 (1979).

Appellant states that he based his bid on an analysis of primary production and suggests that the susceptibility of Parcel No. 9 to enhanced recovery techniques is a matter of conjecture and must be based on engineering rather than geological analysis. We note that the Survey report specifically states that "[a]vailable geological engineering and production data suggest that Parcel No. 9 has no more potential for primary oil production. However, the reservoir and fluid characteristics * * * are favorable for * * * enhanced oil

recovery techniques" (Emphasis added). The fact that appellant himself does not consider enhanced recovery techniques does not make the Survey evaluation incorrect; it merely points out the different basis for the two evaluations. As we shall discuss, appellant has not shown any error in the Survey's recommendation.

Survey compared three 1978 lease sales as part of its basis for determining a fair market value for Parcel No. 9. Appellant suggests that the bidders on the parcel would have bid at the level of this comparison if they had evaluated it at that level. We note again, however, that the Department sets fair market value. The bids received on any parcel do not necessarily represent an accurate test of fair market value as bidders may consider other factors in making their bids. See M. S. Mack, supra at 10. In addition, the fair market value of the other 11 parcels at the lease sale has no bearing on the value for Parcel No. 9. Each tract is evaluated individually and one may clearly be more valuable than another for a variety of reasons.

The \$10 floor for bidding indicated in the sale notice merely sets the starting point in a general fashion for the bidding. The very next sentence of the notice states that "[t]he United States reserves the right to reject any and all bids regardless of the amount bid" (Emphasis added). As previously noted, the Department's policy is to seek a return of fair market value for each parcel.

Finally, the fact that BLM did not receive a fair market bid at one lease sale on a particular parcel does not mean that BLM will not receive an acceptable bid for the same parcel at another sale.

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.

James L. Burski
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

