

YATES PETROLEUM CORP.

IBLA 79-435

Decided December 2, 1980

Appeal from decisions of the New Mexico State Office, Bureau of Land Management, rejecting high bids for competitive oil and gas leases, NM 36495, NM 36499, NM 36510.

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 discretionary 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. The explanation provided must inform the bidder of the factual basis of the decision and must be sufficient for the Board to determine the correctness of the decision if disputed on appeal.

2. Administrative Procedure: Adjudication -- Oil and Gas Leases: Competitive Leases

Where the Bureau of Land Management rejects a competitive oil and gas lease offer as too low and provides no factual explanation to the offeror and where it appears from the record that the decision was not based on a reasoned evaluation of the facts, the offeror is entitled to readjudication of the bid. The case will be remanded to BLM for readjudication where subsequent justification for the rejection submitted to the Board of Land Appeals is insufficient to permit reevaluation of the bid by the Board on appeal.

APPEARANCES: David R. Vandiver, Esq., Losee, Carson & Dickerson, P.A., Artesia, New Mexico, for appellant.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Yates Petroleum Corporation appeals from decisions of the New Mexico State Office, Bureau of Land Management (BLM), rejecting its bids for oil and gas leases on three parcels of land identified as parcel Nos. 37, 41, and 54. ^{1/} For each parcel, appellant was the high bidder with a bid of \$ 77.88 per acre for parcel No. 37, \$ 427.88 per acre for parcel No. 41, and \$ 16.88 per acre for parcel No. 54.

As stated in each of the decisions, BLM rejected each bid for the following reason: "Based on the pre-sale and post-sale evaluation of this parcel, the Oil and Gas Supervisor, Conservation Division, U.S. Geological Survey, Albuquerque, New Mexico, considered this bid to be inadequate and recommended that it be rejected."

[1] In its statement of reasons, appellant recognized that the United States may reject the high bid offered for a competitive oil and gas lease so long as there is a reasonable basis for the rejection in the record. Appellant is correct. The Secretary of the Interior clearly has discretionary authority to reject a high bid as inadequate. 30 U.S.C. § 226(b) (1976); 43 CFR 3120.3-1. The Board has consistently upheld that authority so long as there is a rational basis for the conclusion that the highest bid was too low. M. S. Mack, 45 IBLA 99 (1980); B. D. Price, 40 IBLA 85 (1979); Frances J. Richmond, 29 IBLA 137 (1977).

Appellant argues, however, that the record does not indicate any basis for determining whether Geological Survey's (Survey) recommendations for each parcel or BLM's decisions were reasonable. We agree.

As noted, the decision rejecting appellant's bid contained only a conclusory statement that Survey considered the bid to be inadequate as reason for the rejection. Examination of the case file reveals no document dated prior to the decisions containing an explanation of the Survey recommendation. Following appeal of the BLM decisions, Survey did submit a memorandum on each parcel describing its evaluation process and the

^{1/} Parcel No. 37 (NM-36495) is 40 acres described as the SW 1/4 SW 1/4 of sec. 34, T. 17 S., R. 29 E., New Mexico principal meridian. Parcel No. 41 (NM-36499) is 80 acres described as the S 1/2 SE 1/4 of sec. 3, T. 19 S., R. 25 E., New Mexico principal meridian. Parcel No. 54 (NM-36510) is 80 acres described as the S 1/2 SW 1/4 of sec. 17, T. 8 S., R. 37 E., New Mexico principal meridian.

presale value determined for each parcel. ^{2/} All of the memoranda are essentially identical and none provides any analysis of the subject parcel or the factual basis for the Survey's conclusions that the bids are too low.

As we stated in M. S. Mack, 45 IBLA 99, 101 (1980), this procedure is unacceptable. The decisionmaker in this instance is BLM. Even though BLM may rely on Survey's expertise in oil and gas lease evaluation, the record of a case and the decision rejecting a bid must reflect that BLM made an independent, reasoned decision. Blanket acceptance of the Survey statement that a bid is lower than the Survey evaluation does not constitute a reasoned decision. There is no indication in the record that BLM gave adequate consideration to appellant's bids and, in addition, neither the record nor the decision provided appellant any basis for evaluating and challenging the rejections on appeal. See Southern Union Exploration Co., 51 IBLA 89 (1980).

[2] In M. S. Mack, supra, the Board remedied the problem of a deficient record by submitting the subsequent Survey justification to the appellant for comment and then considering the entire record anew. The case now before us must be handled differently, however, as the Survey memoranda supplied to the Board in support of the conclusions that appellant's bids were unacceptable, contain no information as to the factual basis of Survey's recommendations. As we held in Southern Union Production Co., supra, the explanation provided to support a rejection must inform the bidder of the factual basis of the decision and must be adequate for this Board to evaluate the correctness of the rejection on appeal. As we noted the Survey memoranda are essentially the same. Although each memorandum reflects the determined presale value for the parcel in question, we believe BLM would be hard put to explain how the same justification provides an adequate basis for the rejection of different bids on different parcels.

Where a bid is not clearly spurious, the Board had consistently held that the decision must be set aside and the case remanded for compilation of a more complete record and readjudication of the acceptability of the bid. Southern Union Production Co., 41 IBLA 81 (1979); Charles E. Hinkle, 40 IBLA 250 (1979); Gerald S. Ostrowski, 34 IBLA 254 (1978); Yates Petroleum Corp., 32 IBLA 196 (1977). Accordingly, we must remand this case for readjudication. If BLM again decides to reject appellant's bids, a reasoned basis for the decision, including the Survey presale values for the parcels must appear in the case record and must be provided to appellant.

^{2/} The determined presale value for parcel No. 37 is \$ 1,343 per acre, for parcel No. 41 is \$ 1,451 per acre, and for parcel No. 54 is \$ 62 per acre.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are set aside and the case remanded for further action consistent with this opinion.

James L. Burski
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

