

AMOCO PRODUCTION CO.

IBLA 79-436

Decided March 2, 1981

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting high bid for competitive oil and gas lease. NM 36507.

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 for a competitive oil and gas lease where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate.

2. Oil and Gas Leases: Competitive Leases

Where a high bid tendered at a competitive oil and gas lease sale, not clearly spurious or irresponsible, is rejected solely on the basis of a conclusory statement by the Geological Survey that the bid was inadequate and no substantial factual basis for that conclusion appears in the record, the decision will be set aside and the case remanded for compilation of a proper record and readjudication of the bid.

APPEARANCES: Clyde A. Mote, Esq., Amoco Production Company, Houston, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Amoco Production Company has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated April 25, 1979, rejecting its high bid for competitive oil and gas lease, NM 36507, because the bid was considered "inadequate" and was recommended for rejection by the Geological Survey (Survey) "[b]ased on the pre-sale and post-sale evaluation" for parcel 50. That parcel is described as: NE 1/4 NE 1/4 sec. 17, T. 24 S., R. 35 E., New Mexico principal meridian, Lea County, New Mexico.

In its statement of reasons for appeal, appellant contends that the BLM decision was arbitrary and capricious in that its bid of \$304.57 per acre was "almost twice as much as the total amount of the other six [bids] combined" for parcel 50 and the average per acre bid on all 42 New Mexico parcels offered at the competitive oil and gas lease sale was "only \$172.91." (Emphasis in original.) Moreover, appellant contends that no factual basis for rejection of its bid was provided in the BLM decision.

[1] The Secretary has the discretionary authority to reject a high bid for a competitive oil and gas lease where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate. Bernard Gencorelli, 46 IBLA 53 (1980) and cases cited therein. The Departmental policy is to seek the return of fair market value for the grant of competitive oil and gas leases. Coquina Oil Corp., 29 IBLA 310 (1977).

[2] Survey is the Secretary's technical expert in matters concerning geologic evaluation of parcels of land offered at a sale of competitive oil and gas leases and the Secretary is entitled to rely on Survey's reasoned analysis. Harry Ptasynski, 48 IBLA 246 (1980); M. S. Mack, 45 IBLA 99 (1980). However, where a high bid, not clearly spurious or irresponsible, is rejected solely on the basis of a conclusory statement by Survey and no substantial factual basis for that conclusion appears in the record, the decision will be set aside and the case remanded for compilation of a proper record and readjudication of the bid. Southern Union Exploration Co., 51 IBLA 89 (1980); Charles E. Hinkle, 40 IBLA 250 (1979) and cases cited therein.

Appellant's bid is not clearly spurious or irresponsible and rejection of its bid was apparently based on a conclusory statement by Survey that the bid was inadequate. The only supporting documentation in the record is a memorandum dated July 17, 1979, subsequent to the BLM decision, from the Acting Oil and Gas Supervisor for the Southern Rocky Mountain Area indicating that the subject land was evaluated "using available geologic, engineering, and economic data." The memorandum briefly describes a "cash flow program" used to arrive at a

presale value per acre of \$3,238, which value was reviewed by a lease sale evaluation committee consisting of Survey geologists and engineers. The memorandum also states that the lease sale evaluation committee reviewed appellant's bid and concluded that it was "inadequate."

The memorandum from Survey describes only the process for determining a presale value per acre for the subject land but does not provide any factual basis for Survey's conclusion that appellant's bid was inadequate. Accordingly, BLM improperly relied on Survey's conclusion in rejecting appellant's bid. See Charles E. Hinkle, supra.

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 case remanded to the Bureau of Land Management for compilation of a proper record and readjudication of the bid.

Bruce R. Harris
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

