

BILLY KRUMBEIN

IBLA 83-482

Decided August 23, 1983

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting competitive bid for oil and gas lease NM 55153.

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.

APPEARANCES: Billy Krumbein, pro se; John H. Harrington, Esq., Office of the Field Solicitor, Santa Fe, New Mexico, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Billy Krumbein has appealed the January 31, 1983, decision of the New Mexico State Office, Bureau of Land Management (BLM), which rejected his high competitive oil and gas lease offer NM 55153, of \$26 per acre for parcel 41 1/ at the lease sale held December 14, 1982. BLM rejected this bid as inadequate, given the recommendation of the Deputy Conservation Manager for Resource Evaluation, Minerals Management Service (MMS), Albuquerque, New Mexico. The decision states that "[b]ased on their [MMS] presale evaluation of the above parcel, they considered the bid to be inadequate."

BLM attached to the decision a memorandum dated January 4, 1983, from the Deputy Minerals Manager for Resource Evaluation to the Chief, Oil and

1/ The tract is the SW 1/4 SW 1/4 of sec. 28, T. 18 S., R. 33 E., New Mexico principal meridian, in Lea County, New Mexico.

Gas Section, BLM, summarizing the results of the December 14, 1982, oil and gas lease sale. The memorandum stated that the high bids for 24 of the 63 parcels listed were lower than the presale estimates. Of those 24, 13 parcels, including parcel 41, were recommended for rejection and 11 for acceptance. BLM also attached this additional justification relative to parcel 41.

BID ON PARCEL NO. 41 IN THE
DECEMBER 14, 1982 OIL AND GAS LEASE SALE

Parcel No. 41 is a 40-acre tract located in T. 18 S., R. 33 E., section 28, Lea County, New Mexico. It received four bids, the highest being \$1,040.00 (\$26.00/acre) submitted by Billy Krumbien [sic].

Oil and/or gas wells virtually surround parcel No. 41, primarily producing from the Morrow and Wolfcamp formations. A Wolfcamp producer was completed in February, 1980 approximately 1/6 mile northeast of parcel 41 (28-K), and has produced over 30,000 barrels since that time. An excellent Morrow well is completed in the same section (28-C) in which parcel 41 is located. This well has produced in excess of 5.2 billion cubic feet of gas. Less prolific Morrow wells are located in the adjacent sections to the west, north, southwest, and east.

Our presale evaluation was based upon these factors and is higher than the high bid received.

Appellant gives the following reasons for his appeal. He points out that high bids which fell below presale evaluations for other parcels were accepted. He objects that no minimum bid requirement was stated beforehand. He insists that his bid reflects the true value of the parcel, given its small size, the lack of major oil company bids and the state of industry.

The Office of the Field Solicitor entered an appearance and forwarded a copy of a memorandum prepared in response to this appeal. The memorandum points out that the sale announcement reserved to the Government the right to reject any and all bids. The document provides comparable sales data but no estimated minimum acceptable bid.

[1] The Secretary of the Interior has the 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 fair market value for the parcel.

Snyder Oil Co., 69 IBLA 259 (1982); Harry Ptasynski, 48 IBLA 246 (1980). Departmental policy in the administration of its competitive leasing program is to seek the return of fair market value for the grant of leases. Exxon Co. U.S.A., 15 IBLA 345, 357-58 (1974). The Secretary reserves the right to reject a bid which will not provide a fair return. M. Robert Paglee, 68 IBLA 231 (1982); Coquina Oil Corp., 29 IBLA 310, 311 (1977).

BLM is the Secretary's technical expert in matters concerning geologic evaluation of tracts of land offered at a competitive oil and gas lease sale. ^{2/} The Secretary is entitled to rely on its reasoned analysis if a comprehensible explanation of it is in the record of BLM's decision. L. B. Blake, 67 IBLA 103 (1982); Gerald S. Ostrowski, 34 IBLA 254 (1978). Otherwise, if the bid is not clearly spurious or unreasonable on its face, the Board has consistently held that the decision must be set aside and the case remanded for compilation of a more complete record and then readjudication of the acceptability of the bid. M. Robert Paglee, *supra*. The Board has set out the rationale for this as follows:

[T]he appellant is entitled to a reasoned and factual explanation for the rejection of its bid. Appellant must be given some basis for understanding and accepting the rejection or alternatively appealing and disputing it before this Board. The explanation provided must be a part of the public record and must be adequate so that this Board can determine its correctness if disputed on appeal. Steven and Mary J. Lutz, 39 IBLA 386 (1979); Basil W. Reagel, 34 IBLA 29 (1978); Yates Petroleum Corp., 32 IBLA 196 (1977); Frances J. Richmond, 24 IBLA 303 (1976); Arkla Exploration Co., 22 IBLA 92 (1975).

Southern Union Exploration Co., 51 IBLA 89, 92 (1980).

The case before us involves the same oil and gas lease sale as Glen M. Hedge, 73 IBLA 377 (1983), in which the rejection of the high bid for parcel 16 was challenged. As in that case, we note that appellant's high bid was not clearly spurious, and appellant has not had the opportunity to refute the presale evaluation. Neither the presale evaluation nor the method of calculation has been disclosed to appellant and the Board. We are unable to determine the correctness of the BLM decision without this information, nor are we able to determine why BLM recommended rejection of only some of the bids that did not exceed the presale estimates.

Therefore, we remand this case to BLM for readjudication of appellant's bid. If the bid is rejected again, BLM shall set out its reasons for doing so, including the presale evaluation, so the Board can properly consider it in the event of an appeal.

^{2/} BLM is the successor to the onshore minerals functions of the MMS not relating to royalty management. 48 FR 8962 (Mar. 2, 1983).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the New Mexico State Office is set aside and the case remanded for further consideration, consistent with this opinion.

Will A. Irwin
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

R. W. Mullen
Administrative Judge

