

HAROLD GREEN

IBLA 83-676

Decided August 26, 1983

Appeal from decision of Colorado State Office, Bureau of Land Management rejecting the high bid for a parcel of land offered at a competitive oil and gas lease sale. C 37743.

Referred for hearing.

1. Oil and Gas Leases: Competitive Leases

Where a high bid for a competitive oil and gas lease is rejected as being too low, and where, on appeal, substantial questions of fact are raised concerning the methodology used by the Bureau of Land Management in determining the minimum acceptable value for a parcel of land offered at a competitive oil and gas lease sale, the matter may be referred for a hearing to allow appellant an opportunity to show that the valuation determination was incorrect.

APPEARANCES: Harold Green, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Harold Green appeals the Colorado State Office, Bureau of Land Management (BLM), decision of April 19, 1983, which rejected his high bid for a parcel of land containing 40 acres in the NE 1/4 SW 1/4 sec. 4, T. 7 S., R. 99 W., sixth principal meridian, Garfield County, Colorado. Appellant submitted the high bid at the competitive oil and gas lease sale held February 24, 1983. His bid was \$22.75 per acre, or \$910 for the parcel.

The bid of Green was rejected because it was substantially below the minimum acceptable bid determined by BLM. The minimum acceptable bid was based on a geologic report of the parcel and the surrounding area, a computer printout of oil lease history in Garfield County, a discounted cash flow analysis, and common acreage values as indicated in an "industry publication." A summary of the information used was set out in the decision. Specifically, it was stated that there is no comparable sale information within 6 miles of the parcel, but the most common value for oil and gas leases in Garfield County, Colorado, is \$35 per acre, ranging up to \$200 per acre. Geologic data was taken from the Kimball Creek Unit Geologic Report containing confidential information submitted by the unit operator, and from a report prepared by the District Supervisor, Grand Junction, Colorado, based on the Albertson Ranches 13-4 well in sec. 13, T. 7 S., R. 99 W. The subject parcel is 165 feet higher on the structure and has a probability of 25 percent of

obtaining similar production. The discounted cash flow analysis was also based on the Albertson Ranches 13-4 well.

Appellant argues that use of confidential data and information is an abuse of discretion, citing Southern Union Exploration Co., 51 IBLA 89 (1980). Appellant states the Albertson Ranches 13-4 well has been shut-in since completion so that there has been no cash flow attributable to the well and thus, no data available for analysis. Appellant also states that the generalization of comparable sales is meaningless without specifying any basic facts to show the actual comparability.

[1] The Board has held that the explanation for rejection of a high bid must be sufficient for the Board to determine the correctness of the BLM decision. Southern Union Exploration Co., supra. 1/ Thus, where appellant raises substantial questions of fact concerning the methodology used or the accuracy of the BLM calculations, the Board may refer the matter to the Hearings Division for a hearing on the disputed facts. Milton L. Morrison, 75 IBLA 107 (1983). In this case appellant has brought to issue BLM's methodology in arriving at its valuation of the parcel, so we believe the proper course of action is to refer this case for a hearing. 2/

Accordingly, pursuant to 43 CFR 4.415, we refer the matter to the Hearings Division for assignment to an Administrative Law Judge who will convene a hearing at a place most convenient for presentation of evidence concerning the potential for production from the land in issue and the proper valuation of that land. Appellant, as the party challenging the BLM determination, shall have the burden of showing by persuasive evidence that the valuation determination is incorrect. The Judge will issue a decision determining whether appellant's bid is acceptable, which, in the absence of a timely appeal to this Board, will be final for the Department.

Douglas E. Henriques
Administrative Judge

We concur:

Bruce R. Harris R. W. Mullen
Administrative Judge

Administrative Judge

1/ This Board in Southern Union Exploration Co., supra, did not preclude use of confidential or proprietary data in evaluating the adequacy of a bid. The Board did distinguish between proprietary data provided by private parties and data and analysis generated internally by a Government agency. The decision held that disclosure of the latter may be required to support a decision.

2/ The Board has frequently held that a decision rejecting a high bid which is not clearly spurious or unreasonable must be set aside and remanded for compilation of a complete record and readjudication where the record does not contain sufficient elaboration and analysis of relevant data to establish a rational basis for the decision. See, e.g., TXO Production Corp., 73 IBLA 258 (1983). In this case, in view of appellant's challenge to the basic methodology of evaluation undertaken by BLM, it appears that a hearing would be more productive and the Board will exercise its discretion under 43 CFR 4.415 to order a hearing.

