

B. H. NORTHCUTT

IBLA 83-694

Decided August 30, 1983

Appeal from decision of Eastern States Office, Bureau of Land Management, rejecting low bid for competitive oil and gas lease of parcel 2, ES 32500.

Appeal dismissed.

1. Appeals--Rules of Practice: Appeals: Dismissal--Rules of Practice:
Appeals: Statement of Reasons

Failure by appellant to point to some error in a decision or to show that agency action has deprived him of some right subjects his appeal to dismissal.

2. Appeals--Oil and Gas Leases: Competitive Leases--Rules of Practice:
Appeals: Dismissal

Contention by appellant that the agency generally conducted a competitive oil and gas lease sale so as to deprive appellant of information needed to compile a reasonable competitive bid is inadequate to support an appeal where it fails to specify how any agency conduct complained of operated to appellant's detriment or how appellant is entitled to relief claimed.

3. Board of Land Appeals: Generally

The Board of Land Appeals is not a court of general jurisdiction and has only those powers delegated to it by the Secretary of the Interior. It has not been delegated authority to award money damages against the Bureau of Land Management.

APPEARANCES: B. H. Northcutt, pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

B. H. Northcutt appeals from a decision of the Eastern States Office, Bureau of Land Management (BLM), rejecting his low offer for parcel ES 32500 at a competitive oil and gas lease sale held on May 12, 1983. Appellant submitted a bid of \$51 for parcel ES 32500, an amount which was exceeded by every one of the six other bidders. The high bid for the parcel was \$15,000.

In his statement of reasons for appeal, Northcutt recites that BLM did not notify the bidders until May 12, 1983, the day of the bid opening, that parcel ES 32500 was committed to a unit agreement, and that therefore there would be greater costs associated with the parcel and additional lease stipulations would attach. He also asserts that the sale was inadequately advertised by BLM prior to sale. Contending that he was damaged as a consequence of these deficiencies, he asks for temporary suspension of the Secretary of the Interior without pay, compensatory damages in the amount of \$15,000 and punitive damages in the amount of \$10,000. He summarizes the basis for his appeal in this fashion:

The respondent has no adversity with the honorable higher bidder as the honorable higher bidder has been awarded the Parcel #2 as the proper and correct award bidder. The respondent contends that the higher bidder should not have to appropriate more costs and stipulations at his own expense. The Eastern State Office, BLM should be the liable and adverse party and be [responsible] for the defects and uncertainty in quotation bidding and liable for any other further costs to the qualified bidders who claim damages and liability against the negligent BLM for unreasonable proper processing and handling of the stipulations for Parcel #2, causing defects and uncertainty upon the bidder as a appealing respondent.

[1] Taken in its entirety, appellant's statement of reasons claims the sale was negligently conducted by BLM and that, as a consequence, appellant was prevented, to his detriment, from preparing an informed and adequate bid for the parcel to be leased. This bare assertion is wholly unsupported, however, either by an offer of proof to show actual injury or a specific statement of how this conclusion is reached. The record indicates the sale was regularly and timely advertised. While failure to give prior notice that the parcel was subject to inclusion in a unit agreement may conceivably have disadvantaged the high bidder, if unaware of the requirement of joinder, no basis for prejudice to appellant is shown by him. ^{1/} He does not describe how he prepared the \$51 bid he submitted or how he would have proceeded differently had he known of the unit agreement. While appellant's statement of reasons makes clear that he feels BLM conducted the sale unfairly and that the conduct of the sale breached a duty owed to him to enable him to compete

^{1/} Standing to appeal is restricted to a party to a case adversely affected by the decision appealed from. 43 CFR 4.410. It is hard to perceive how an unsuccessful bidder is damaged by ignorance of facts which would have caused him to make his bid even less competitive.

equally with all bidders, he fails to allege the basis for the obligation he seeks to impose upon BLM. There is simply no violation of regulation or law claimed by appellant which would, assuming there were a factual basis for his complaint, entitle him to the relief claimed.

[2] Although this appeal involves a different subject matter, the nature of the statement of reasons filed is strikingly similar to those which were before this Board in Duncan Miller, 28 IBLA 62 (1976), and Duncan Miller, 26 IBLA 37 (1976). In both the Duncan Miller decisions the Board was confronted by complaints of general errors which failed to indicate the existence of any specific defect in the proceedings complained of, and, more importantly, failed to show how the appellant had been wrongly deprived of a legal right. This appeal, like those of Duncan Miller, is facially deficient and subject to dismissal because it neither alleges an injury nor states any basis for relief.

[3] The relief sought by appellant--compensatory and punitive damages and a punitive suspension of the Secretary from duty without pay--is beyond the power of this Board to grant. The Interior Board of Land Appeals is not a court of general jurisdiction. It has only those powers delegated to it by the Secretary of the Interior. See 43 CFR 4.1. It has not been delegated authority to award money damages against BLM. See, e.g., Lillian Lord v. Commissioner of Indian Affairs, 11 IBLA 51 (1983). Appellant has not alleged the existence of any legal basis for his claim of damages, nor is the Board aware of any authority in the Secretary to award damages in such cases as claimed by appellant. His claim for relief is, like the rest of his appeal, without merit.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal of B. H. Northcutt is dismissed.

Franklin D. Arness
Administrative Judge
Alternate Member

I concur:

C. Randall Grant, Jr.
Administrative Judge

ADMINISTRATIVE JUDGE IRWIN CONCURRING:

Although I agree this appeal should be dismissed, candor compels me to comment that it taxes my credulity to take it seriously at all. The "statement of reasons" was served on no one, grounds enough to warrant summary dismissal. 43 CFR 4.402. It is exaggerated mock legalese throughout. The relief requested appears to be a joke or an insult or both. It is signed "B. H. Northcutt (White Man)," from Malden, Missouri. The entire two pages have to be seen to be believed. I would not be surprised if he chuckled all the way to the mail box: Let's see what those Washington burrocacks do with this!

This decision illustrates that the Board will earnestly consider any appeal, no matter how absurd or silly or repetitious. The time may have come to deal with such cases summarily, rather than dignifying them with discussion they do not deserve or rotely reiterating reasons--either for the benefit of appellants or BLM--instead of simply citing the controlling precedents. That would save the public's time and our resources for other cases.

Will A. Irwin
Administrative Judge

