

SOUTHERN UNION EXPLORATION CO.

IBLA 84-205

Decided February 29, 1984

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting high bid for competitive oil and gas lease offer. NM 58048

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

Where a competitive oil and gas lease high bid is not clearly spurious or unreasonable on its face and the record fails to disclose a sufficient factual basis for the conclusion that the bid is inadequate, the decision will be set aside and the case remanded for compilation of a more complete record and readjudication of the bid. A justification memorandum that does not reveal the estimated minimum value for the parcel and sufficient factual data cannot support rejection of the high bid for the parcel.

APPEARANCES: Dennis K. Morgan, Esq., Dallas, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

This appeal is taken from a decision dated November 29, 1983, by the New Mexico State Office, Bureau of Land Management (BLM), rejecting appellant's high competitive oil and gas lease bid NM 58048 for parcel 32 at the October 26, 1983, sale. 1/

BLM rejected the bid based on a memorandum from the Deputy State Director, Mineral Resources. The only reference to the parcel in the memorandum is in paragraph 4, which states:

4. The high bids for parcels 9, 13, 14, 27, 28, 31, 32, 36, 38, 39, 43, 48, 49, 52, 54, 56, 58, 60, 61, 62 and 63 were lower than our presale estimates of value. We recommend rejection of the high bids for 7 parcels -- 14, 28, 32, 41, 49, 52 and 63. The

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1/ The parcel is described as follows: "T. 26 S., R. 35 E NMPM Sec. 17, SE 1/4 SE 1/4 Sec. 20 NE 1/4 N 1/2 SE 1/4, SE 1/4 SE 1/4 Lea County -- Undefined Field 320 acres."

presale valuation for parcel 41 was based upon terms of the communitization agreement (part 6 of Corporation Commission Order No. 118809.) The valuation was revised on the post-sale analysis due to the amount of money being held in suspense to be assumed by the successful bidder. [Emphasis supplied.]

Appellant's bid for the parcel was \$16,000 or \$50 per acre. Appellant contends its bid is not spurious and asserts that it has been provided no reasoned explanation for the rejection.

[1] The Department is entitled to rely on the reasoned analysis of its technical experts in matters concerning geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases. When BLM relies on that analysis in rejecting a bid as inadequate, it must ensure that a reasoned explanation is provided for the record to support the decision. Southern Union Exploration Co., 41 IBLA 81, 83 (1979). 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 readjudication of the acceptability of the bid. Southern Union Exploration Co., supra; Charles E. Hinkle, 40 IBLA 250 (1979); Yates Petroleum Corp., 32 IBLA 196 (1977). The Board has elaborated on the reasons 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 record does not provide an adequate basis for understanding and accepting the bid rejection or disputing it before this Board. <sup>2/</sup> Appellant's bid is not spurious, and it has had no opportunity to refute the presale evaluations. Neither the presale valuation nor the method of calculation has been disclosed to appellant or this Board. We are unable to determine the correctness of the BLM decision without such information. This does not mean the Board will substitute its judgment for that of Minerals Management Service in determining fair market value for the parcels, but rather that the Board will require sufficient facts and analysis to ensure that a rational basis for the determination is present. Viking Resources Corp., 77 IBLA 57 (1983); Snyder Oil Co., 69 IBLA 259 (1982); M. Robert Paglee, 68 IBLA 231 (1982).

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<sup>2/</sup> Moreover, there is no comparison of the criteria by which 14 of the 21 bids lower than the presale estimates were found to be acceptable, whereas 7 were not.

The case is remanded to BLM for readjudication of appellant's bid. If the bid is rejected again, BLM shall set forth the reasons for doing so, including the presale evaluation, so the Board can properly consider the issues in case of an appeal.

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 is remanded for further consideration consistent with this opinion.

Franklin D. Arness  
Administrative Judge  
Alternate Member

We concur:

James L. Burski  
Administrative Judge

Edward W. Stuebing  
Administrative Judge

