

Appeal from a decision of Wyoming State Office, Bureau of Land Management, rejecting competitive oil and gas lease offer W-88147.

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Unit and Cooperative Agreements

Before issuance of a competitive oil and gas lease for land within the area of an approved unit agreement, it is proper to require the successful bidder to file evidence that it has entered into an agreement with the unit operator for development of the land in the lease under the terms and provisions of the approved unit agreement or to file a statement giving satisfactory reasons for failure to enter such agreement.

2. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Unit and Cooperative Agreements

Where high bidder for a competitive oil and gas lease within the area of an approved unit agreement fails to file evidence showing joinder to the unit agreement or to submit satisfactory reasons for failure to enter into agreement with the unit operator, it is proper to reject the bid and to refund the balance of the bonus bid and the first year's rental. However, where the bidder explains on appeal that it did make inquiry regarding joinder to the unit but received no response, and there are no intervening rights, the case may be remanded to BLM to allow the bidder additional time to submit proof of joinder.

APPEARANCES: Russell H. Boone, Vice President, Rodeo Oil Company, Mobile, Alabama, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Rodeo Oil Company appeals from a decision of the Wyoming State, Bureau of Land Management (BLM), dated March 27, 1985, rejecting its competitive oil and gas lease offer W-88147.

Appellant was the high bidder for parcel 58 at the competitive oil and gas lease sale held on May 23, 1984. Parcel 58 embraces 40 acres of land described as the SE 1/4 SE 1/4 sec. 8, T. 31 N., R. 108 W., sixth principal meridian, Wyoming. On July 25, 1984, BLM transmitted the lease forms to appellant for execution along with a notice that the lands in parcel 58 were within the New Fork unit and required appellant to submit unit agreement evidence within 30 days from receipt of the forms. The notice entitled Unit Agreement Evidence Required specified that appellant file either:

- (1) Evidence of having entered into an agreement with the unit operator for the development and operation of the subject lands under the terms and provisions of the approved unit agreement, or
- (2) A letter from the unit operator stating that he has no objections to lease issuance without unit joinder. If such statement is acceptable to the Bureau of Land Management, you may receive permission to operate independently with the requirement that such operations conform to the terms and provisions of the unit agreement.

On August 8, 1984, appellant returned the lease forms along with the balance of the bonus bid, first year's rental and advertising costs, and requested an extension of time to file the requested evidence. Accompanying the request for extension, appellant submitted a copy of its letter to the unit operator asking it to furnish copies of the unit agreement for signature in order to comply with BLM's request. BLM allowed appellant an extension until October 15, 1984. On March 27, 1985, BLM rejected appellant's bid stating that it had not received any evidence of unit joinder or additional request for extension of time. BLM rejected the offer for noncompliance with 43 CFR 3101.3-1.

On appeal appellant states that the unit operator has failed to answer its correspondence and request for unit joinder. Appellant believes that this should be construed by BLM as a statement by the unit operator that its joinder is not necessary to the unit operation and a consent that the lease be issued without the unit joinder.

[1, 2] The Secretary, under section 17 of the Mineral Leasing Act, as amended, 30 U.S.C. § 226(j) (1982), has discretionary authority to mandate inclusion of Federal oil and gas leases into unit agreements in the interest of conservation of the resources. That section reads in pertinent part as follows:

The Secretary may provide that oil and gas leases hereafter issued under this chapter contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

The implementing regulation, 43 CFR 3101.3-1, grants to the lease offeror of lands within the area of an approved unit agreement two options: to join the

unit agreement, or to show satisfactory reasons for failure to join. If the reasons for nonjoinder are acceptable, the lessee may then operate his lease independently, but wholly in conformity with the terms and provisions of the unit agreement.

Under the circumstances, we find that BLM's decision to reject appellant's bid was reasonable and in accord with the statute and regulation. However, appellant has explained on appeal that it did make inquiry regarding joinder to the unit, but had not received a response. Since there are no intervening rights in this case, we find that it is appropriate to allow appellant additional time to submit proof of joinder.

Appellant will be allowed 20 days from receipt of this decision to submit to the Wyoming State Office, BLM, evidence of its joinder to the New Fork unit or evidence that the operator has no objections to lease issuance without unit joinder. Failure to submit such evidence within the time allowed will result in final rejection of its high bid for parcel 58 in the competitive oil and gas lease sale held May 23, 1984, without further notice. No further appeal will be to this Board.

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 State Office for action consistent with this opinion.

Bruce R. Harris  
Administrative Judge

We concur:

Franklin D. Arness  
Administrative Judge

Gail M. Frazier  
Administrative Judge.

