

SUZANNE WALSH

IBLA 85-601

Decided November 13, 1986

Appeals from decisions of the New Mexico State Office, Bureau of Land Management, rejecting appellant's high bids for competitive oil and gas leases NM 58062 OK and NM 58063 OK.

Affirmed.

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.

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

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. Where a decision to reject a bid has been made in a careful and systematic manner utilizing the advice of such experts, the decision will not be reversed, even though the determination may be subject to reasonable differences of opinion, notwithstanding any immaterial defects in BLM's analysis, where an appellant fails to meet its affirmative obligation to establish that its bid is a reasonable reflection of fair market value.

APPEARANCES: Suzanne Walsh, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Suzanne Walsh appeals from the April 8, 1985, decisions of the New Mexico State Office, Bureau of Land Management (BLM), which rejected for

the second time her high bids for competitive oil and gas leases NM 58062 OK (parcel 49) and NM 58063 OK (parcel 52). Appellant submitted bids of \$200 (\$5 per acre) for parcel 49 and \$480 (\$12 per acre) for parcel 52.

By decisions dated November 29, 1983, BLM had previously rejected the high bids for competitive oil and gas leases NM 58062 OK, NM 58063 OK, and NM 58073 OK, 1/ and appellant appealed those decisions. BLM's November 29, 1983, decisions were based upon a memorandum dated November 15, 1985, in which the BLM Acting Deputy New Mexico State Director, Mineral Resources, reported to the BLM Deputy New Mexico State Director, Operations, that the high bids for several parcels, including parcels 49 and 52, were lower than the presale estimates of value, and recommended rejection of appellant's high bids for these parcels. However, that memorandum disclosed neither the amount of the presale valuations nor the factual data considered in arriving at the valuations.

On appeal, in Suzanne Walsh, 83 IBLA 187 (1984), this Board set aside the November 29, 1983, decisions and remanded the three cases because it was unable to ascertain a reasonable basis for the BLM decisions on the records before it.

BLM's April 8, 1985, decisions, rejecting appellant's high bids for parcels 49 and 52 for a second time, 2/ were based upon the recommendation of BLM's Southwest Region Evaluation Team (SRET). Each decision was accompanied by a memorandum prepared by SRET, which explained that "[t]he standard used in determining whether the bonus bid on a given tract is acceptable involves a comparison of the high bid to the BLM estimate of the value of the tract." SRET's estimates of value for both parcels 49 and 52 were made solely by comparison with one other nearby lease.

In her statement of reasons for appeal of BLM's rejection of her high bid for parcel 49, appellant simply states: "I cannot dispute the results of the October State sale. There hadn't been any activity in the area prior to that sale since most parcels did not receive bids. Still my bid was the only bid received for the BLM sale held 10/26/83." Her statement of reasons respecting parcel 52 provides in its entirety:

1/ The lands included in these leases are described as follows:

NM 58062 OK (Parcel 49--40 acres)

SE 1/4 NW 1/4, sec. 21, T. 26 N., R. 19 W., I.M.,  
Woodward County, Oklahoma

NM 58063 OK (Parcel 52--40 acres)

NE 1/4 NW 1/4, sec. 17, T. 11 N., R. 24 W., I.M.,  
Roger Mills County, Oklahoma

NM-A 58073 OK (Parcel 63--80 acres)

N 1/2 SW 1/4, sec. 1, T. 14 N., R. 24 W., I.M.,  
Roger Mills County, Oklahoma

2/ Parcel 63 is not involved in this appeal, and the file does not disclose the manner in which BLM treated appellant's high bid for that parcel on remand.

Interest in the area dropped off dramatically in 1982 and early 1983 due to market conditions. The State sale that (SRET) makes mention of was a quirk. There is no interest in the Section since a dry hole was completed to the East and others to the South. Also in support of my appeal I was the only bidder, on that particular parcel even tho the sale was well advertised. I believe that (SRET) did not take into account that the State sale was 2 1/2 months prior in a dramatic market.

[1] The Secretary of the Interior has discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1982); see, e.g., Michael Shearn, 87 IBLA 168, 169 (1985); Viking Resources Corp., 80 IBLA 245 (1984). 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. E.g., Clarence Sherman, 82 IBLA 64, 65 (1984); Viking Resources Corp., supra at 246; Glen M. Hedge, 73 IBLA 377, 378-79 (1983). Departmental policy in the administration of its competitive leasing program is to seek the return of fair market value for the grant of leases, and the Secretary reserves the right to reject a bid which will not provide a fair return. Viking Resources Corp., supra at 246; Glen M. Hedge, supra at 379; Coquina Oil Corp., 29 IBLA 310, 311 (1977).

[2] The Department is entitled to rely on the reasoned analysis of its technical experts in matters involving geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases. Viking Resources Corp., supra at 247; L. B. Blake, 67 IBLA 103 (1982). However, when BLM relies on that analysis in rejecting a bid as inadequate, it must ensure that a reasoned explanation is provided in the record to support the decision. E.g., Mesa Petroleum Co., 81 IBLA 194, 195 (1984); Edward L. Johnson, 73 IBLA 253, 255 (1983). 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. E.g., Kevin J. Bliss, 82 IBLA 31, 32 (1984); Mesa Petroleum Co., supra at 195.

The critical question, then, is whether BLM has provided a "reasoned explanation" for its rejections of appellant's high bids for parcels 49 and 52. The value of parcel 49, as estimated by BLM, was \$6,000 (\$150 per acre), and appellant's high bid of \$200 (\$5 per acre) was deemed to be substantially beneath the BLM estimate. BLM adopted the "comparable sales" approach in reaching its conclusion. The State of Oklahoma had leased an 80-acre tract in the same section as the subject parcel at \$151.78 per acre. The State lease, dated October 4, 1983, was deemed to be the best indication of the value of parcel 49 as of October 26, 1983.

BLM estimated the value of parcel 52 to be \$48,000 (\$1,200 per acre), whereas appellant's high bid was \$480 (\$12 per acre). Again, BLM used the "comparable sales" method in concluding that appellant's bid was substantially beneath the BLM estimate. The State of Oklahoma had leased a 58.705-acre tract in the adjoining section in August 1983 at \$1,126 per acre. BLM

commented that the State lease was less than a mile away and the geology was relatively similar. BLM considered the State lease to be the best support for its October 26, 1983, valuation.

In numerous decisions, this Board has applied the following rule, quoted from the opinion in Suzanne Walsh, *supra* at 189:

The Board has held that the ultimate burden is on appellant to establish that his bid represents fair market value. However, a bid rejection cannot be sustained for failure to meet this burden in the absence of the presale evaluation and sufficient documentation in support thereof to establish its prima facie correctness. R. T. Nakaoka, 81 IBLA 197, 200 (1984). [3/]

On remand, BLM provided appellant with its valuation with regard to both parcels 49 and 52. It remains to determine whether there is sufficient documentation in the record to establish its prima facie correctness.

BLM relied exclusively upon comparable lease data in reaching the valuation of the subject parcels. This Board has treated the question of whether the use of such data, without more, can support a decision to reject a high bid. In Larry White, 72 IBLA 242 (1983), BLM rejected appellant's bids, less than \$8 for the subject parcels, because they were lower than its valuations. The valuations were not disclosed, but nearby parcels were sold for \$327.70 per acre within two years of appellant's bids, and for \$780 per acre within two months of appellant's bids. The Board noted that appellant's bids were not clearly spurious or unreasonable, and ruled that comparable sales data alone did not justify the rejection of those bids. The Board remanded, stating that in re-adjudicating appellant's bids, BLM should consider the arguments presented by appellant on appeal, and "if the bids are rejected again, BLM shall set forth the reasons for doing so completely, including the presale evaluation \* \* \*." Id. at 245. See also Larry White, 81 IBLA 19 (1984).

Herein, BLM rejected appellant's bids because they were substantially below the evaluations, which were based entirely upon comparable lease data. However, a critical difference is that BLM did disclose the evaluations. The comparable lease data, we conclude, is sufficient to support a prima facie case that BLM's rejection was correct. The leases compared are contemporaneous and are adjacent and in an adjoining section, respectively. These factors indicate that the lease data is "truly comparable."

---

3/ In Southern Union Exploration Co., 51 IBLA 89, 95 (1980), we held that the

"[r]efusal to inform a good-faith appellant of the basis for the rejection of a high bid renders the right of appeal, which the Secretary has afforded, virtually meaningless. \* \* \* [W]e hold that, except to the extent that the release of certain information is prohibited by law, an appellant who has submitted a high bid, which is not clearly spurious, must be informed not only of the estimated minimum values, but the subsidiary factual data which served as the predicate for the derivation of that estimate." (Emphasis in original).

This Board has recognized that certain variables may affect the comparability of leases within a small geographical area, or that fluctuating markets may affect the value in a short period of time. We do not reject such possibilities in this case. However, it is the obligation of an appellant to point out error in BLM's rejection, and to establish that her bid represents fair market value. See Viking Resources Corp., supra at 247.

Appellant has provided absolutely no support for the conclusion that her bids represent fair market value for the parcels. Nor does this appeal involve anything approaching a "close call." Id. Even if BLM's per acre minimum acceptable bids of \$150 and \$1,200 were so grossly erroneous as to be three or four times the actual fair market value of the land, appellant's bids of \$5 and \$12 per acre would still be less than the minimum acceptable bid and would be rejected.

In conclusion, appellant has done little more than suggest error in BLM's rejection. She has offered no evidence, either in the nature of geological data, or in comparable sales data not presented by BLM, that would support a conclusion that her bids represent the fair market value for parcels 49 and 52.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Bruce R. Harris  
Administrative Judge

We concur:

R. W. Mullen  
Administrative Judge

Will A. Irwin  
Administrative Judge

