

MATHEW WOLF

IBLA 86-1160; IBLA 86-1161;
IBLA 86-1162

Decided June 29, 1987

Appeals from decisions of the Wyoming State Office, Bureau of Land Management, rejecting competitive oil and gas lease bids W-98671, W-98661, and W-98662.

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 when the record discloses a rational basis for the conclusion that the amount of the bid is 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. When an appellant fails to meet its affirmative obligation to establish that its bid is a reasonable reflection of fair market value, a decision by BLM to reject a bid will be sustained.

APPEARANCES: Mathew Wolf, pro se; Lowell L. Madsen, Esq., Office of the Regional Solicitor, Denver, Colorado, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Mathew Wolf has appealed from three decisions of the Wyoming State Office, Bureau of Land Management (BLM), dated March 27, 1986, which rejected his high bids for competitive oil and gas leases W-98671, W-98661, and W-98662. Appellant was the high bidder for parcels 81, 71, and 32 in the February 1986

competitive oil and gas lease sale. Appellant submitted bids of \$6,918.40 (\$21.62 per acre) for parcel 81; \$9,037.98 (23.91 per acre) for parcel 71; and \$1,942 (9.71 per acre) for parcel 32. ^{1/}

On February 28, 1986, BLM issued notices informing appellant that his bids were lower than the presale estimate of value (PEV) assigned to the parcels and that they were being considered for rejection. BLM afforded appellant an opportunity to provide information to establish that his bids were reasonable and should not be rejected. BLM gave appellant 15 days from receipt of the notices to file the information. Appellant responded February 28, 1986, stating simply "in light of the collapse of world oil prices I feel that my bids were more than adequate."

By memorandum dated March 20, 1986, the Deputy State Director, Operations, advised the Wyoming State Director that the high bidder's information had already been considered and recommended rejection of the bids.

In its March 27, 1986, decisions, BLM rejected appellant's bids because they were less than the PEV. With respect to parcel 81 the decision stated in part:

On February 18, 1986, you were advised as to probable rejection of your bid (NOPR) and asked to submit data substantiating your bid. We have received your submission.

The presale estimate of value (PEV) of \$200 was based on a positive discounted cash flow (DCF) and market sales indicating a value greater than \$100/acre. Comparable sales could not identify how far above \$100/acre the PEV should be, so the DCF was relied on to supply a top end for the value range.

The information you submitted was considered in the PEV, but since your bid of \$21.62/acre was well below the PEV, it is rejected.

The decision rejecting the bid for parcel 71 stated:

On February 18, 1986, you were advised as to probable rejection of your bid (NOPR) and asked to submit data substantiating your bid. We have reviewed your submission.

^{1/} Parcel 81 containing 320 acres is situated in the Heldt Draw Field, sec. 24, E 1/2, T. 46 N., R. 77 W., sixth principal meridian, Johnson County, Wyoming. The appeal is docketed IBLA 86-1160. Parcel 71 containing 377.43 acres is situated in the Pumpkin Buttes Field, sec. 3, lots 3, 4, S 1/2 NW 1/4; sec. 9, S 1/2 SW 1/4, SE 1/4, T. 44 N., R. 76 W., sixth principal meridian, Campbell County, Wyoming. The appeal is docketed IBLA 86-1161. Parcel 32 containing 200 acres is situated in the Well Draw

The presale estimate of value (PEV) of \$50 was based on four sales from the February 1985 sale which ranged from \$135 to \$222/acre and were near or adjacent to this parcel. These sales were adjusted for time to reflect the poor current market conditions but still indicated a market value range of \$50 to \$100/acre. The lower end of this range was used based on the negative discounted cash flow.

The information you submitted based your bid on the "collapse of world oil prices." These poor market conditions were considered in the PEV, so no new information has been received.

Since your bid of \$23.95 is well below the PEV, it is rejected.

The decision rejecting the bid for parcel 32 reads in part:

On February 18, 1986, you were advised as to probable rejection of your bid (NOPR) and asked to submit data substantiating your bid. We have reviewed your submission.

The presale estimate of value (PEV) of \$50 was based on two inferior sales from February 1985 and October 1985, both at \$52/acre. These sales are both in the Well Draw field but have less net reservoir sand than this parcel and so have inferior potential. They are one year old and four months old, respectively, and so are superior for this time, due to declining market conditions. Overall, they indicate a market value at or slightly above \$50/acre.

Since your bid of \$9.71 is well below the PEV, it is rejected.

Appellant submitted identical statements of reasons in these appeals. He argues that the lease should be issued to him because:

[P]resale estimates were calculated using a late January or early February price of crude in the range of \$20 per barrel (Please see attached). As of close on April 8, the price of crude for May delivery was \$12.50 per barrel which represents a 37.5% decrease. Any method you choose to calculate your PEV with the current price of crude will certainly indicate that my bids were adequate, if not inflated, in light of the present world oil price collapse.

Fn. 1 (continued)

Field, sec. 4, SW 1/4 NW 1/4; sec. 10, SE 1/4, T. 34 N., R. 70 W., Sixth principal meridian, Converse County, Wyoming. The appeal is docketed IBLA 86-1162.

The attachment submitted with his statement of reasons is a continuation of an article from the Wall Street Journal dated April 9, (year not provided) which discusses Soviet oil policy.

BLM in its answer advises that the condition of the oil and gas market was considered and discounted in the analysis to arrive at the PEV for the parcels. It argues that oil prices after the sale date cited by appellant are not germane in determining the correctness of the PEV on the sale date or the adequacy of the high bid relative to the PEV. It emphasizes that the record shows a rational basis for rejection of the bids, and notes that appellant has presented no evidence to establish that BLM's PEV is incorrect, or that his bids represent the fair market value.

[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). The 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 records in each of these appeals contain detailed factual data and appraisal reports by a BLM appraiser as of January 1986, which provides a complete and rational analysis of the fair market value of the tracts based on both a calculation of discounted cash flow analysis and a comparable sales approach.

Appellant has presented no evidence with his appeals to show that the BLM PEV's for the parcels are in error or that his bids more accurately represent the fair market value for the parcels. While appellant was provided the

opportunity to submit documentation and analysis to establish the reasonableness of his bids, he failed to do so. It is well settled that an appellant has as affirmative obligation to demonstrate not only that the Government's estimate is inaccurate but that his bid represents the fair market value. Southern Union Exploration Co., 97 IBLA 275 (1987); The Westlands Co., 83 IBLA 43 (1984).

Appellant has made no such showing relative to any of his bids and we conclude that they were properly rejected.

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.

Gail M. Frazier
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

Will A. Irwin
Administrative Judge.

