

Appeal from a decision of the Albuquerque District Office, Bureau of Land Management, rejecting color-of-title application NM 65177 in part.

Affirmed in part, set aside in part, and hearing ordered.

1. Color or Claim of Title: Generally--Color or Claim of Title: Applications

An applicant under the Color of Title Act has the burden of proof to establish to the Secretary of the Interior's satisfaction that the statutory requirements for purchase under the Act have been met. The applicant must establish that each of the requirements for a class 1 claim has been met. A failure to carry the burden of proof with respect to one of the elements is fatal to the application.

2. Color or Claim of Title: Generally--Color or Claim of Title: Applications--Color or Claim of Title: Description of Land

In order to satisfy the statutory requirement of possession of the land under claim or color of title, an applicant must establish a chain of title based on a document which, on its face, purports to convey title to the claimed land.

3. Color or Claim of Title: Generally--Color or Claim of Title: Applications--Color or Claim of Title: Good Faith

An essential element of a color-of-title claim is the good faith requirement. Good faith under the Color of Title Act mandates that an applicant and his predecessors honestly believe that they were vested with title. In order to determine whether a claimant or his predecessor honestly believed that he was seized with title, the Department may consider whether such belief was unreasonable in light of the facts then actually known. Knowledge of Federal ownership of the land negates the

requisite good faith. To establish the requisite over 20 years of possession, an applicant may tack onto his possession a period when the land was possessed by his predecessors in title, but if this is done, their good faith must also be established. If, however, a predecessor in title did not hold in good faith, the chain is broken, the holding period of the predecessor in title cannot be tacked on, and the statutory period begins anew after the predecessor divested himself of title.

4. Color or Claim of Title: Generally--Color or Claim of Title: Applications--Color or Claim of Title: Improvements

In order to qualify for a patent under the Color of Title Act, an applicant must have placed valuable improvements on the land or reduced the land to cultivation. In order to qualify as valuable improvements under the Act, they must have existed on the land at the time the application was filed and must enhance the value of the land.

APPEARANCES: John M. Roybal, Esq., Espanola, New Mexico, for appellants; Gayle E. Manges, Esq., Office of the Field Solicitor, U.S. Department of the Interior, Santa Fe, New Mexico, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

John P. and Helen S. Montoya (the Montoyas or applicants) have appealed from a decision of the Albuquerque District Office, Bureau of Land Management (BLM), dated January 13, 1988, rejecting in part color- of-title application NM 65177.

On May 5, 1986, the Montoyas filed an application with BLM pursuant to the Color of Title Act, 43 U.S.C. § 1068 (1982), seeking title to 42.2 acres in lots 21 and 26, sec. 4, and lots 1 and 4, sec. 9, T. 20 N., R. 9 E., New Mexico Principal Meridian, Santa Fe County, New Mexico. ^{1/} In their application, the Montoyas stated that the land had been in the Montoya family for many years "under Fee Simple Title Deeded Land," and that they learned that they did not have clear title to the land in 1980. The section of Montoyas' application for describing improvements on tract was left blank, and they indicated that the land was not under cultivation. At the request of BLM they submitted Abstract of Title No. 6077 (prepared in 1962) and Supplemental Abstract of Title No. 10834 (prepared in 1986) to document their chain of title. The abstracts also contain a history of tax payments.

^{1/} A more detailed discussion of the various descriptions of the land sought by the applicants is found at Exhibit "A."

A case profile was prepared on October 29, 1987. In a decision based on the profile, dated January 13, 1988, BLM granted the Montoyas' application as to lot 21, sec. 4, but rejected their application for lot 26, sec. 4 and lots 1 and 4, sec. 9. BLM's decision set out two defects it found in the application:

1. The early descriptions contained in the Abstract of Title submitted by the applicants are fairly general and do not specifically identify the lands applied for with the exception of Lot 21, section 4, until the warranty deed from Procopio Montoya and Teresita Q. Montoya, his wife[,] to Juan P. Montoya, Jr. and Helen S. Montoya, his wife[,] dated April 18, 1962. Therefore, the applicants have failed to provide a document which on its face claims to convey the land applied for to the applicant or his predecessors.

In addition, Procopio Montoya, the grantor in the 1962 Warranty Deed was a member of the La Puebla community grazing allotment from its inception in 1952 to 1969. This in itself negates the good faith requirement of the Act of December 22, 1928, in that the applicant's predecessor in title, by reason of his grazing privileges, knew that the lands were in Federal ownership. Joe I. Sanchez, 32 IBLA 228, 232 (1977). Felix F. Vigil, 84 IBLA 182 (1984).

2. Another defect revealed in the application is the lack of improvements or cultivation on the lands applied for with the exception of a fence on the northern edge of lot 26, section 4 that does constitute an improvement, but, the lands were not acquired in good faith as stated above.

BLM informed the Montoyas that it would notify them of the procedures for obtaining a patent to lot 21 in sec. 4.

In their statement of reasons (SOR), the Montoyas argue that the deeds forming the chain of title adequately describe the land claimed, either specifically or by reference to adjoining landowners, and attach copies of eight documents which they contend conclusively prove their chain of title. These documents include: (1) a March 18, 1898, Spanish Hijuela bequeathing to Natividad Montoya portions of the estate of Anamaria Santana Montoya (Exhs. 12 and 13 attached to the SOR); (2) a Spanish Warranty Deed dated March 19, 1898, from Maria Manuela Montoya, Juan Vigil, and Pedro Montoya to Natividad Montoya (Exhs. 10 and 11); (3) a Spanish Warranty Deed dated April 9, 1920, from Francisco Esquivel to Procopio Montoya (Exhs. 8 and 9); (4) a Spanish Warranty Deed dated December 7, 1921, from Natividad Montoya to Procopio Montoya (Exhs. 6 and 7); (5) a Spanish Warranty Deed dated February 24, 1930, from Jose D. Quintana to Terecita Q. Montoya (Exhs. 4 and 5); (6) a Warranty Deed dated April 18, 1962, from Procopio Montoya and Terecita Q. Montoya, his wife, to Juan P. Montoya, Jr., and Helen S. Montoya, his wife (Exh. 3); (7) a Correction Warranty Deed dated July 28, 1962, from Procopio Montoya and Terecita Q. Montoya, his wife, to Juan P. Montoya, Jr., and Helen S. Montoya, his wife (Exh. 2); and (8) a Warranty

Deed dated August 15, 1973, from Terecita Q. Montoya, widow of Procopio Montoya, to John P. Montoya^{2/} and Helen S. Montoya (Exh. 1).

The Spanish Warranty Deeds (i.e., all of the deeds before the April 18, 1962, deed to applicants) describe the land conveyed by reference to the length of one or more sides of the parcel and the adjoining landowners. A drawing showing the location of the lands described in the deeds executed between 1920 and 1930 was submitted to demonstrate that the lands conveyed encompass the lands claimed in the color-of-title application. (See Exh. 14.)

The Montoyas further assert that the Government recognized and accepted these deeds in 1926 when it issued a final certificate to Matias Montoya for Small Holding Claim No. 6242 (Exh. 21), and again in 1986 when it issued a patent for lot 20, sec. 4 to Filadelfio M. and Filamena M. Romero, pursuant to color-of-title claim NM 44882 (Exh. 23). They argue that, having twice previously recognized these conveyances, BLM is estopped from claiming that they do not have color-of-title to the lands requested. They note that

[t]he land applied for has been in the Montoya family for many generations and the present applicants should not be penalized at this point in time as a result of the standard and customary form of conveyances used in this part of the country during the latter part of the last century and the first half of this century.

(SOR at 5).

The Montoyas concede that there were few improvements on the land when they filed the application. They explain that their application was filed approximately 30 years after their predecessors-in-interest stopped maintaining the improvements, and state that, for the last 50 years, the lands have been used primarily for grazing, although portions of the property had been under cultivation prior to that time. They note that corrals, once located on the northern edge of the land, were razed by fire years ago and were rebuilt closer to the irrigation ditch. They indicate that the only improvements currently found on the land are remnants of an old dirt road and a fence line along the eastern boundary of the land. (See Exh. 28.)

The Montoyas challenge BLM's finding that they failed to meet the good faith requirement necessary for entitlement to a color-of-title patent. BLM reached its conclusion because applicants' immediate grantor, Procopio Montoya, had been a member of the La Puebla community grazing allotment from its inception in 1952 until 1969. BLM found that, because of the nature and extent of his grazing privileges, Procopio Montoya knew the land was owned by the Government, and his knowledge precludes a finding that the land was held in good faith. The Montoyas contend:

[BLM's] argument fails for two reasons. First of all, it is illogical; the conclusion does not logically flow from the premise. Secondly, the fact that Procopio Montoya may have been a

^{2/} John P. Montoya and Juan P. Montoya, Jr., are the same person.

member of the La Puebla Community Grazing Allotment has no bearing on his claim to the lands in question. His claim arose more than 30 years prior to the inception of the La Puebla Community Grazing Allotment in 1952. Furthermore, the Grazing Allotment included a much larger tract of land than the lands which are the subject of application NM65177. Therefore, simply because Procopio Montoya may have been a member of the La Puebla Community Grazing Allotment from 1952 to 1969 does not in any way whatsoever show that he waived his claim to the subject lands. It merely shows that Mr. Montoya had grazing rights over public lands just as many of his neighbors did.

Lastly, [BLM] implies that because Procopio Montoya knew the lands were in federal ownership he could not have a good faith basis for his claim. This argument is totally illogical since the majority of the lands within the United States of America were in federal ownership at one point in time. Because so many people claimed portions of federal lands, Congress passed several acts at different points in time to resolve this conflict * * *. There is nothing inconsistent in the fact that people recognized federal ownership but still claimed private ownership as well. If Procopio Montoya had no deeds or other documents giving him color-of-title prior to 1952 then the good faith requirement would be suspect; however, in this case, his deeds go back to 1920, long before the existence of the La Puebla Community Grazing Allotment (26 STAT. 861 as amended).

(SOR at 6).

In its Answer (which incorporates a memorandum prepared by the Taos Resource Area Manager), BLM contends that the land descriptions in the pre-April 18, 1962, deeds do not conclusively demonstrate that the land described in the deeds is the same as that in the application. It further argues that the maps submitted by applicants cannot be construed as either being correct or of record, noting that public land surveys as early as 1927 do not support the placement represented by applicants. Stating that the April 18, 1962, deed is the first deed with a legally sufficient description, BLM argues that applicants have possessed the land for 18 years, not the required 20 years. 3/

BLM also challenges applicants' good faith, noting that the tax records included in the abstracts of title indicate that from 1949-1961

3/ BLM acknowledges that the Romero color-of-title application relied on some of the same deeds applicants cite in their chain of title. BLM argues, however, that standing alone the mutually applicable deeds contained insufficient land descriptions to support a color-of-title application in that case as well. BLM asserts that the Romero chain of title commenced with a June 2, 1945, deed from Procopio and Teresita Montoya which adequately described the land. That deed is actually dated June 2, 1955. (See Exh. 26.)

applicants' predecessors paid taxes on only 3.92 acres of the 42.2 acres now being sought. BLM states that applicants first appear on the tax rolls as owner of the 3.92 acres in the 1960 tax year. It notes, however, that there is no evidence that they paid taxes between 1962 and 1976, although the supplemental abstract reveals that they did pay taxes on a 3.3-acre parcel from 1976 through 1985. BLM further states that applicants paid no taxes on the additional 37.69 acres until 1985 when they paid the back taxes on that tract. BLM contends that the Montoyas' failure to pay taxes is evidence that they did not believe that they owned the 42.2 acres.

BLM also argues that some of the deeds submitted by applicants to establish their chain of title refer to the land they seek as Federal land, thus negating their claim of good faith possession based on their April 18, 1962, deed. It further states that Procopio Montoya, applicants' grantor and John Montoya's father, was a member of the Advisory Board for the La Puebla community grazing allotment. It notes that this Board was responsible for the grazing of livestock on the allotted land, and the allotment it supervised included the 42.2 acres now being sought by applicants. BLM contends that Procopio Montoya knew that the lands were Federal lands because, as a board member, he had to be familiar with the boundaries of the grazing allotment to assist with its protection, improvement, and utilization. This knowledge, according to BLM, while not necessarily imputable to applicants, precludes the tacking of Procopio Montoya's possession of the land onto applicants' 18 years of possession. Therefore, BLM concludes that, even if applicants possessed the land in good faith, they have failed to hold the land in good faith for the 20-year period required under the Color of Title Act.

BLM also argues that applicants' color-of-title claim fails because they have acknowledged that there is neither valuable improvements nor cultivation on the land. It asserts that a color-of-title applicant must demonstrate either improvements or cultivation to establish entitlement to a patent. Therefore, applicants' admission is fatal to their claim.

The Color of Title Act, 43 U.S.C. § 1068 (1982), provides in relevant part:

The Secretary of the Interior (a) shall, whenever it shall be shown to his satisfaction that a tract of public land has been held in good faith and in peaceful, adverse, possession by a claimant, his ancestors or grantors, under claim or color of title for more than twenty years, and that valuable improvements have been placed on such land or some part thereof has been reduced to cultivation, * * * issue a patent for not to exceed one hundred and sixty acres of such land upon the payment of not less than \$1.25 per acre * * *.

The method for obtaining patent outlined in subsection (a) of 43 U.S.C. § 1068 (1982) is known as a class 1 claim. 43 CFR 2540.0-5(b).

[1] Applicants under the Color of Title Act must establish to the Secretary of the Interior's satisfaction that the statutory requirements for purchase under the Act have been met. Hal H. Memmott, 77 IBLA 399,

402 (1983); Corinne M. Vigil, 74 IBLA 111, 112 (1983); Jeanne Pierresteguy, 23 IBLA 358, 83 I.D. 23 (1975); Homer W. Mannix, 63 I.D. 249 (1956). To meet this burden they must demonstrate that each requirement for a class 1 claim has been met. A failure with respect to one of the elements is fatal to the application. See Hal H. Memmott, *supra*; Lester & Betty Stephens, 58 IBLA 14 (1981).

[2] To satisfy the statutory requirement of possession under claim or color of title, applicants must submit a chain of title. This chain of title must be based on documents which, on their face, purport to convey title to the claimed land (in this case, lots 21 and 26 in sec. 4 and lots 1 and 4 in sec. 9). See Alvin E. & Mary R. Leukuma, 103 IBLA 302, 305 (1988); Jerome L. Kolstad, 93 IBLA 119, 121 (1986); Carmen M. Warren, 69 IBLA 347, 349 (1982); Anthony T. Ash, 52 IBLA 210 (1981); Marie Lombardo, 37 IBLA 247 (1978). As we have previously noted, "[t]he instrument of conveyance upon which an applicant relies is sufficient to provide color-of-title only if it describes the land conveyed with such certainty that the boundaries and identity of the land may be ascertained." Charles M. Schwab, 55 IBLA 8, 11 (1981).

The land was conveyed to applicants by the April 18, 1962, warranty deed. This deed describes the land as "lying and being situate within the Santa Cruz Grant and in Section 4 and 9, T. 20 N., R. 9 E., N.M.P.M., County of Santa Fe, State of New Mexico." The deed includes a metes and bounds description and names the adjoining land owners. All parties agree that this deed adequately describes the land being sought. ^{4/} They disagree, however, on whether descriptions in the earlier deeds in applicants' chain of title sufficiently describe the land being sought. After a review of the abstract and the documents interpreting the descriptions, we find that applicants have presented sufficient evidence to raise an issue of fact regarding whether the deeds conveyed the land now being sought to warrant a hearing on this issue. However, the same evidence has caused us to conclude that the scope of the hearing should be limited in certain respects and expanded to include the other statutory requirements for a class 1 color-of-title claim.

[3] Good faith is an essential element of any color-of-title claim. Felix F. Vigil, 84 IBLA 182, 184 (1984); Kim C. Evans, 82 IBLA 319, 321 (1984); Lawrence E. Willmorth, 64 IBLA 159, 160 (1982). Good faith under the Color of Title Act mandates that an applicant and his predecessors honestly believe that they were vested with title. *E.g.*, Hal H. Memmott, *supra* at 403; Carmen M. Warren, *supra* at 350; Lawrence E. Willmorth, *supra*. To determine whether a claimant (or his predecessor) honestly believed that he was seized with title, the Department may consider whether the belief was reasonable, when considering the facts then actually known. *E.g.*, Hal H. Memmott, *supra*; Carmen M. Warren, *supra*; Minnie E. Wharton, 4 IBLA 287, 295-96, 79 I.D. 6, 10 (1972), *rev'd on other grounds*, United States v. Wharton, 514 F.2d 406 (9th Cir. 1975). Knowledge of Federal ownership

^{4/} The deed states that 17.484 acres, more or less, was being conveyed.

negates good faith. 43 CFR 2540.0-5(b); United States v. Wharton, *supra*; Day v. Hickel, 481 F.2d 473 (9th Cir. 1973).

In its decision BLM did not question applicants' good faith possession between 1962 when they acquired the land and 1980 when they became aware of the Federal ownership. ^{5/} The land must be held in good faith for over 20 years to meet the statutory requirement, and applicants' good faith ownership lasted for a period of 18 years. This fact does not automatically defeat a claim because an applicant may tack on the period when the land was held by his predecessors in title. However, when this is done, the predecessors' good faith must also be established. Kim C. Evans, *supra* at 322; Lawrence E. Willmorth, *supra*. When it is found that a predecessor in title did not hold the land in good faith, the chain is broken, the period the predecessor held title cannot be tacked on, and the statutory period begins anew with the new title holder. Kim C. Evans, *supra*; Hal H. Memmott, *supra*.

BLM argues that Procopio Montoya, applicants' immediate predecessor in the chain of title lacked the requisite good faith because, as a member of the La Puebla community grazing allotment, he knew that the land now being sought was Federal land. *Cf.* Carmen M. Warren, *supra*; Joe I. Sanchez, 42 IBLA 176 (1979). Applicants do not deny that Procopio Montoya served on the community grazing allotment board. Instead they argue that his membership should not be construed to be a waiver of his claim to the land, and that recognition of Federal ownership within the district is not inconsistent with a claim of private ownership over a small parcel which may not be readily identified as being a part of the district lands. We find that, when considering the facts as shown in the record, both sides to this controversy have valid arguments which in the context of this case create a question of fact.

As previously noted, Procopio Montoya, the grantor in the 1962 Warranty Deed was a member of the La Puebla community grazing allotment from its inception in 1952 to 1969. BLM argues that this fact, in and of itself, negates the good faith requirement of the Act because Procopio Montoya's active participation and exercise of grazing privileges is evidence that he knew that the lands were in Federal ownership. Joe I. Sanchez, 32 IBLA 228, 232 (1977); Felix F. Vigil, *supra*. To the extent that the record indicates that this is the case, we agree with BLM. However, if, for example, a portion of the lands in question were fenced off and segregated from the public domain, this assumption cannot automatically apply to the segregated tract, unless it can be shown that the allotment boundaries were known and clearly marked as including the fenced lands.

BLM has placed nothing in the record to indicate the boundaries of the Federal ownership in the grazing district, as depicted in district maps between 1952 and 1969. ^{6/} Maps of a land survey were made on behalf of the applicants and submitted to BLM (Exhs. 14 and 28). These maps

^{5/} The question of applicants' good faith possession between those dates was placed in issue for the first time in BLM's Answer.

^{6/} The land in the area has been subdivided into a number of irregular tracts. Many of these tracts originated in the Mexican land grant days,

clearly indicate that those portions of lots 1 and 4, sec. 9, T. 20 N., R. 9 E., New Mexico Principal Meridian, being sought by appellants have not been physically segregated from the balance of those lots, which are in turn a part of a larger tract of Federal land. We therefore find that, for lots 1 and 4, sec. 9, the presumption applies and that this presumption has not been overcome by applicants. Therefore, BLM's decision is affirmed as to the lands in sec. 9.

The record does not support this conclusion regarding lot 21 and at least a portion of the land in lot 26 in sec. 4, however. The map submitted to BLM was prepared by a registered surveyor. In his certificate, the surveyor states that the map represents what he found upon the land in 1980. The maps depict a right-of-way for a road running through lot 26, with a fence running along the northerly side of the right-of-way. This fence segregates the northerly portion of lot 26 from the balance of the land being sought and makes it a part of a fenced parcel of land which includes lot 21 and other lands owned by applicants in fee. If this fence existed during the time that Procopio Montoya was a member of the community grazing allotment, its existence would be sufficient to overcome the presumption of knowledge on his part and we are therefore including that issue as one which should be addressed at the hearing.

[4] Applicants' claim to the land in sec. 9 fails for an additional reason. Under the Color of Title Act, the land being sought must either contain valuable improvements erected by the applicant (or his predecessors) or be under cultivation. 43 U.S.C. § 1068 (1982). Any valuable improvements claimed by the applicant must exist at the time the application was filed and enhance the value of the land. Jerry G. Perry, 85 IBLA 93, 94 (1985); Malcolm C. & Helena M. Huston, 80 IBLA 53, 57 (1984); Pedro A. Suazo, 75 IBLA 212, 214 (1983); Lester & Betty Stephens, *supra* at 19. Similarly, for a finding that the land has been reduced to cultivation, it must be cultivated at the time of the application. Jerry G. Perry, *supra*. Applicants admit that the last time the land was cultivated was over 50 years ago, and concede that their predecessors stopped maintaining the improvements placed on the property 30 years before the color-of-title application was filed. Therefore, applicants have failed to satisfy the cultivation or valuable improvements requirement of the Act, and their application for the lands in sec. 9 must be rejected for that reason as well.

fn. 6 (continued)

and the question of grazing district boundaries is much more complex than would be in a normal case. For example, we agree with BLM that applicants satisfied the color-of-title claim for lot 21 even though it stems from the same grantor. This 0.3-acre tract was surrounded on all sides by patented land. It is obvious that the presumption now being discussed should not apply to that tract. It is equally obvious that mere membership in a grazing district is not automatically sufficient to defeat the good faith requirement. A causal relationship must be demonstrated.

On the other hand, we have previously mentioned the existence of a fence segregating a part of the lands in lot 26. ^{7/} In addition, the survey plat submitted by applicants shows a shed located within the segregated tract in lot 26. Having no contrary evidence regarding the existence or value of this shed, we will also place the issue of improvements in lot 26 in issue.

The following burdens of proof shall apply at the hearing. Appellant shall have the burden of showing by a preponderance of the evidence that deeds which created a color-of-title for a 20-year period preceding 1980 contain a legal description sufficiently accurate to have included lot 26, sec. 4, T. 20 N., R. 9 E., New Mexico Principal Meridian, Santa Fe County, New Mexico. They shall also have the burden of proof of showing the extent of improvements and/or cultivation located on said tract, and the ultimate burden of showing that they have satisfied the requirements set out in 43 U.S.C. § 1068 (1982). Having raised the issue of Procopio Montoya's membership as being a showing of a lack of good faith, BLM shall have the burden of going forward and establishing the extent to which Procopio Montoya's active participation and exercise of grazing privileges is evidence that he knew that all of the lands in lot 26 were in Federal ownership.

The survey plats submitted by applicants clearly indicate that the portions of lots 1 and 4, sec. 9, T. 20 N., R. 9 E., New Mexico Principal Meridian, being sought have not been physically segregated from those lots, cultivated, or improved. We therefore affirm BLM's decision as to the lands in sec. 9.

Accordingly, 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 affirmed in part, set aside in part, and referred to the Hearings Division for further action consistent herewith.

R. W. Mullen
Administrative Judge

I concur:

James L. Byrnes
Administrative Judge

^{7/} BLM noted that a fence in lot 26 constituted an improvement, although it did not state that the improvement was valuable.

Exhibit "A"

The application describes the land claimed as "T. 20 N., R. 9 E., [secs.] 4 & 9[.] Approx. 42 acres as shown on Abstract. Lot 21, Section 4, 0.20 Acre." Abstract of Title No. 6077, prepared in 1962, describes the land as follows:

Beginning at a point on the southerly line of the Santa Cruz Grant, said point being marked by a U.S.G.L.O. Brass Cap and designated as M.C. 16, from which point the 4 Mile Marker bears N. 56 [degrees] 40 [minutes] E. a distance of 366.3 feet; thence N. 15 [degrees] 58 [minutes] E. a distance of 137.3 feet; thence N. 23 [degrees] 23 [minutes] W. a distance of 236.4 feet to the point and place of beginning of the land herein being conveyed, this being a point on a southerly line of the property being described; thence S. 79 [degrees] 37 [minutes] W. a distance of 160 feet to the Southwest corner and point on the easterly line of the Santa Fe County Road; thence N. 3 [degrees] 34 [minutes] W. along the easterly line of the Santa Fe County Road a distance of 174.7 feet to the Northwest corner; thence N. 86 [degrees] 18 [minutes] E. a distance of 121.9 feet, thence N. 68 [degrees] 55 [minutes] E. a distance of 38.4 feet; thence N. 80 [degrees] 12 [minutes] E. a distance of 71.2 feet, thence N. 4 [degrees] 20 [minutes] W. a distance of 71.65 feet; thence N. 80 [degrees] 23 [minutes] E. a distance of 124.8 feet to the Northeast corner; thence S. 4 [degrees] 20 [minutes] E. to intersect the said South boundary of the Santa Cruz Grant; thence along the said Grant Boundary 26 feet, more or less, to intersect the line of the Filadelfio Romero property; thence N. 50 [degrees] 26 [minutes] W., 44 feet, more or less, to the property corner of said Filadelfio Romero property; thence S. 4 [degrees] 20 [minutes] E., 50 feet, more or less to intersect the aforesaid Grant Boundary; thence along said Grant Boundary S. 56 [degrees] 40 [minutes] W., to intersect the East Boundary of the Procopio Montoya property; thence N. 2 [degrees] 14 [minutes] W., 336 feet, more or less, to a point; thence S. 79 [degrees] 37 [minutes] W., 73.3 feet to the point of beginning. All as shown on map of survey by Joseph Lujan, Licensed Surveyor, dated 14 April 1962.

Supplemental Abstract of Title No. 10834, prepared in 1986, describes the land as encompassing two tracts: Tract I, including lands situate within lots 8 and 9 of sec. 4 and lots 1 and 4 of sec. 9; and Tract II, including land within the Santa Cruz Grant, and lots 8 and 9, Small Hold-ing Claim No. 6259 Tract 1, in sec. 4. It also describes the covered land in metes and bounds, referring to a plat of survey prepared by Samuel S. Montoya dated Oct. 1980.

In its case profile, dated October 29, 1987, BLM refers to the land requested in the application as embracing lots 21 and 26 in sec. 4, and lots 1 and 4 in sec. 9.