

HANNA MINING COMPANY

IBLA 72-137

Decided June 30, 1972

Appeal from Montana state office, Bureau of Land Management (BLM), rejecting a petition to amend a hard rock prospecting permit, BLM-A-073725 (Minn.).

Affirmed.

Mineral Lands: Prospecting Permits

A prospecting permit for hard rock minerals will not be amended subsequent to a discovery and after the expiration of the permit so to include in a preference right lease lands which were not previously embraced within that permit.

APPEARANCES: S. L. Engel, attorney.

OPINION BY MR. FRISHBERG

A prospecting permit for hard rock minerals was issued to the appellant under the authority of 43 CFR Subpart 3500. The permit expired on June 30, 1970. However, it was determined that the appellant was entitled to a preference right lease inasmuch as it had demonstrated a discovery within the lifetime of the permit. After the permit expired appellant requested an amendment thereof to embrace certain land not previously included therein. The Montana state office, BLM, rejected the application because there is no provision for amending prospecting permits.

Appellant, having earned a preference right lease based upon a discovery of land within permit BLM-A-073725, seeks to include in the about-to-be-issued lease lands which were not included in the permit. To allow this, in effect, would be to amend the expired permit nunc pro tunc to grant a preference right lease for land not previously covered by that permit. The regulations do not authorize this.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F.R. 12081) the decision below is affirmed.

---

Newton Frishberg, Chairman

We concur:

---

Joseph W. Goss, Member

---

Joan B. Thompson, Member

6 IBLA 282

