

E. C. BEEDE

IBLA 70-510

Decided September 1, 1972

Appeal from a rejection by Eastern States office, Bureau of Land Management, of application for a preference right mining lease, BLMA-067179.

Affirmed.

Mineral Lands: Leases

A hardrock preference right lease application is properly rejected where the permittee does not demonstrate the existence of a workable deposit of the mineral for which the permit was issued within the term of the permit.

APPEARANCES: E. C. Beede, pro se.

OPINION BY MR. FRISHBERG

Pursuant to his application therefor, the appellant was issued a two-year prospecting permit for tripoli and uranium under Reorganization Plan No. 3 of 1946, effective June 1, 1965, covering certain acquired lands in Georgia. The permit was extended for a two-year period beyond its base term and expired on May 31, 1969. An application for a preference right lease based on an alleged discovery within the permit period was rejected by the Eastern States office, Bureau of Land Management, because the Geological Survey reported that no discovery exists within the permit area.

The appellant asserts that prospecting uncovered extensive mineralization entitling him to a preference right lease.

In accordance with the permit terms, the permittee is required to comply with all pertinent regulations of the Secretary. He is required to comply with the operating regulations and to report to the Regional Mining Supervisor concerning explorations and other matters. 30 CFR 231.5-8. If the data demonstrates a deposit of

workable minerals for which the permit was issued, the permittee, upon proper application, will be issued a preference right lease.

We requested the Geological Survey (GS) to furnish an up-dated report relative to prospecting within the permit areas. The GS noted that the permittee never submitted a report concerning prospecting during the entire four year permit period or at any time since. It traced the history of this area and remarked of earlier permits which had issued to the appellant for the period December 1, 1960, through June 30, 1962. The report stated that the alleged discoveries of workable mineral deposits by the appellant apparently resulted from the small amount of prospecting accomplished over ten years ago. That work, it said, consisted of small bulldozer trenches and several hand pits, all of which were filled in by the Forest Service for reasons of safety after the permits expired. Even though no reports had been submitted by the appellant, the Director, GS, stated that relatively small amounts of thorium, uranium and tripoli were found in the Chattanooga shale on the property. However, he stated this was insufficient in quantity to be workable or to justify a preference right lease.

In his appeal, Beede also referred to a report he made to GS in 1961, which described some drilling he had done on the permit area. Since a prospecting permit was issued thereafter and then extended, the earlier work obviously did not entitle Beede to a preference right lease. Beede does not claim that he made any new demonstration within the term of the latest prospecting permit upon which his pending application for a lease depends.

Thus, upon the record as it now stands, it is plain that Beede did nothing under the prospecting permit, BLMA 067179, to earn a preference right lease.

If the appellant had submitted reports showing what in his opinion would be workable deposits and the GS disputed his entitlement to a preference right lease, we would be disposed to order a hearing for the submission of evidence to resolve the issues. Cf. Wolf Joint Venture et al., 75 I.D. 137(1968). However, in the absence of a factual issue, a hearing would serve no purpose. Jack A. Walker, A-30492 (April 28, 1966).

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:

Martin Ritvo  
Member

Joseph W. Goss  
Member

