RUDOLPH CHASE
AND
RAYMOND W. VOSS

IBLA 72-133 Decided December 11, 1972

Appeal from a decision of the Anchorage, Alaska, State Office declaring appellants' mining claims null and void ab initio.

Affirmed.

Classification and Multiple Use Act of 1964 -- Mining Claims: Lands Subject to -- Withdrawals and Reservations: Effect of

Mining claims located after the land has been segregated from appropriation under the mining laws by notice of proposed classification under the Classification and Multiple Use Act of 1964, 43 U.S.C. §§ 1411-18 (1970), published in the Federal Register are properly declared null and void ab initio.

Federal Employees and Officers: Authority to Bind Government

Erroneous information given by employees of the Bureau of Land Management cannot give a party rights in law that he would not otherwise have.

Administrative Procedure: Hearings -- Hearings -- Mining Claims: Hearings

A mining claimant is not entitled to a hearing before his claim can be declared invalid for having been located on land which is segregated from location.

APPEARANCES: Rudolph Chase and Raymond W. Voss, pro se.

OPINION BY MR. GOSS

Appellants have appealed from a September 13, 1971, decision of the Alaska State Office declaring appellants' seventy-two mining claims null and void ab initio because the lands embraced by the claims were segregated from appropriation under the general mining laws by notice of proposed classification F-12423.

On January 1, 1970, a notice of proposed classification of lands for multiple use management, F-12423, was published in

the Federal Register. The notice provided that under authority of the Classification and Multiple Use Act of 1964, 43 U.S.C. §§ 1411-18 (1970), the lands in north and central interior Alaska described therein would be segregated from appropriation under a number of public land laws, including the mining laws, 30 U.S.C. §§ 21 et seq. (1970).

Appellants filed location notices for seventy-two mining claims during a period of five days in June and July 1971. The claims are located on both sides of Bear Creek in unsurveyed T. 15 S., R. 10 E., F.M., Alaska. The lands described in the said notice of proposed classification include T. 15 S., R. 10 E.

Appellants' location notices were filed more than a year after notice of proposed classification was published in the Federal Register. It is clear that the Federal Register publication effectively segregated the lands from appropriation under the mining laws and appellants subsequent filing of location notices was a nullity. H. E. Baldwin and John R. Keeling, 3 IBLA 71 (1971).

On appeal appellants assert that they were given assurances by State Office personnel that the land was open for the filing of mineral claims. However, reliance on any such information could not operate to vest any right that is not provided by law. 43 CFR 1810.3(c); H. E. Baldwin and John R. Keeling, supra at 76; Oscar C. Collins, Standard Oil Company of California, 70 I.D. 359 (1963).

Appellants also argue that orderly development of the mineral industry in the Bear Creek area would be in the best interests of the State of Alaska and the federal Government and that they can see no detrimental effects to public values by allowing such development. Whether or not development of the minerals in the lands segregated by notice of proposed classification F-12423 would be in the best interests of the public is a determination to be made by the Secretary of the Interior. The Classification and Multiple Use Act, supra, pursuant to which the segregation was made, is designed to allow the Secretary to curtail certain designated uses while a determination is made as to which lands should be classified as suitable for disposal and which lands should be retained in Federal ownership for interim management.

Finally, appellants contend that, according to notice of proposed classification F-12423, T. 15 S., R. 10 E., F.M., is not included in the segregated lands. A close reading of the list of lands proposed to be classified reveals the following:

Protracted Descriptions

* * *

T. 14 S., Rs. 9 and 10 E.
Excluding those portions within PL 87-327.
Tps. 15 and 16 S., Rs. 9 and 10 E.

The phrase beginning with "Excluding" is meant only as a limitation on the lands in T. 14. T. 15 S., R. 10 E., containing the mining claims involved in this appeal, was clearly included in the list of segregated lands.

As set out above, the lands embracing appellants' mining claims were segregated from appropriation under the mining laws by notice of proposed classification F-12423. No hearing is required to declare mining claims invalid where at the time of location of the claims the land was not open to such location. C. V. Armstrong, et al., A-30889 (February 28, 1968); Neil Ferre, A-30882 (November 29, 1967). Appellants' claims were properly declared null and void.

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.

Joseph V. Goss, Member

We concur:

Anne Poindexter Lewis, Member

Martin Ritvo, Member.