

DRESSER INDUSTRIES, INC.

IBLA 72-306

Decided January 12, 1973

Appeal from decision (ES 6998-7004) of Eastern States Office, Bureau of Land Management, rejecting permits to prospect for lead, zinc, copper, nickel, barite and associated minerals.

Affirmed.

Mineral Lands: Leases--Mineral Lands: Prospecting Permits

The Department of the Interior has no authority to issue permits or leases for the exploration or mining of hard rock minerals in land acquired by and held under the jurisdiction of Department of the Army.

APPEARANCES: O. M. Johnson, Jr., Manager, Geology Department, Dresser Minerals Division of Dresser Industries, Inc.

OPINION BY MR. RITVO

Dresser Industries, Inc. has appealed from a decision of the Assistant Manager, Eastern States Office, Bureau of Land Management, dated January 27, 1972, rejecting applications ES 6998 through 7004 for permits to prospect for lead, zinc, copper, nickel, barite and associated minerals on lands in Smith and Jackson Counties, Tennessee.

The application described land which was acquired for the Cordell Hull Dam and Reservoir Project and is under the jurisdiction of the Corps of Engineers, Department of Army. In accordance with the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. §§ 351-359 (1970)) or Reorganization Plan No. 3 of 1946 (60 Stat. 1097), the Bureau of Land Management sought an opinion from the Corps of Engineers as to the permissibility of prospecting for minerals on the land.

In reply, the Chief, Real Estate Division, Corps of Engineers, stated in a letter of July 23, 1970, that the prospecting and extracting of minerals would interfere with the completion of the project.

In its decision of January 27, 1972, the Eastern States Office, after noting these comments, said:

\* \* \* There is no authority of law whereby this Bureau may issue permits to prospect for hard rock minerals on land acquired for flood control purposes under the jurisdiction of the Corps of Engineers.

Appellant contended that the minerals would lie in excess of 1,000 feet below the surface, and would not interfere with the flood control program. Appellant felt that the Mineral Leasing Act for Acquired Lands, supra, did not intend that rights may be obtained to prospect for oil, gas and sulphur on lands controlled by the Corps of Engineers while hard rock prospecting at approximately the same depths is prohibited. Appellant contended that the removal of authorization from the Bureau for granting prospecting permits for hard rock materials on acquired lands pertained to prospecting near the surface and not at great depths below the surface.

We cannot ascertain how or when appellant believes the Department gained and then lost authority to issue the permits it seeks. The Mineral Leasing Act for Acquired Lands authorizes the Secretary to issue leases for only the minerals listed in it, which do not include those sought by appellant. As the Eastern States Office held, there is no authority for the Department to issue a prospecting permit for hardrock minerals in lands acquired by and under the jurisdiction of the Department of the Army. 1/ Seminole Rock and Sand Company, A-27282 (February 24, 1956).

Therefore, 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.

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Martin Ritvo, Member

We concur.

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Edward W. Stuebing, Member

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Frederick Fishman, Member

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1/ For situations in which hardrock prospecting permits may be issued see 43 CFR 3500.0-3(b)(2); 43 CFR Subpart 3510; Henry N. Gerritsen and John Xanthos, 3 IBLA 90 (1971).

