

IMMANUEL LICHTENSTEIN

IBLA 73-377

Decided June 4, 1973

Appeal from Bureau of Land Management decision of April 25, 1973, rejecting coal prospecting permit application W-28490.

Affirmed.

Coal Leases and Permits: Applications

A decision rejecting coal prospecting permit applications will be affirmed where the decision was made pursuant to and in accordance with Secretarial Order 2952 of February 13, 1973.

APPEARANCES: John A. King, P.O. Box 1147, Laramie, Wyoming 82070.

BY THE BOARD

This is an appeal from a decision rejecting appellant's coal prospecting permit applications. The decision recited that it was promulgated pursuant to Secretarial Order 2952, which directed that all coal prospecting permit applications must be rejected pending further instructions.

Appellant states that while he seeks a coal prospecting permit, his application, in fact, is "directed to the development of Tschermigite" which cannot be mined "save by extracting the coal". He further stated that he has no intention of commercially exploiting the coal.

We are not now prepared to say whether tschermigite is a leasable or locatable mineral or concerning the proper method of obtaining mineral rights to that mineral in the lands under application. It is clear, however, that a coal prospecting permit is not the proper vehicle for obtaining such rights. Appellant's filing must be considered only for that which it purports to be, i.e., a coal prospecting permit application.

Secretarial Order No. 2952 of February 13, 1973, precludes the issuance of any new coal prospecting permits pending preparation of a program for more orderly development. It directed that all applications for prospecting permits shall be rejected pending further

instructions. Pursuant to the Mineral Leasing Act, 30 U.S.C. § 201(b) (1970), the Secretary is authorized to issue such instructions. We will review the decision below to assure those instructions were followed. Marvin E. Weaster, 10 IBLA 277 (1973); Richard K. Todd, 68 I.D. 291 (1961), aff'd in Duesing v. Udall, 350 F.2d 748 (D.C. Cir. 1965), cert. den. 383 U.S. 192 (1966).

In the instant case BLM correctly applied the instructions of Order 2952 and properly rejected appellant's prospecting permit application.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision below is affirmed.

