

JOHN C. MILLS

IBLA 73-228

Decided August 24, 1973

Appeal from a decision of the State Office, Santa Fe, New Mexico, Bureau of Land Management, rejecting public sale application NM 16894.

Affirmed.

Public Sales: Applications -- Public Sales: Sales under Special Statutes

An application to purchase land filed pursuant to the Unintentional Trespass Act of September 26, 1968, is properly rejected when the application is made after the expiration date of the Act.

Public Sales: Applications -- Public Sales under Special Statutes

Where the Congress has enacted a statute adding a specific tract of public land to a national forest, an application for the sale of such land is properly rejected, and the fact that the application was pending when the legislation was enacted has no bearing on the disposition of the case.

APPEARANCES: John C. Mills, pro se.

OPINION BY MR. STUEBING

John C. Mills appeals from a decision of the New Mexico State Office dated November 24, 1972, rejecting his application to purchase 45.92 acres of land filed pursuant to the Act of September 26,

1968, 43 U.S.C. §§ 1431-1435 (1970). 1/ The application was rejected because the land had been included within the Santa Fe National Forest boundaries under Public Law 92-465 of October 6, 1972, 86 Stat. 776.

Appellant filed his petition for classification and public sale application on August 18, 1972. On October 6, 1972, Congress passed Public Law 92-465 which modified the boundaries of the Santa Fe National Forest to encompass new land. The land for which appellant had applied was included. Because of this law, the State Office rejected appellant's application. It also noted that future negotiations by the applicant should be made through the Forest Service, Department of Agriculture.

In his statement of reasons, Mills asserts that he is acting on behalf of himself and others of Lower Colonias 2/ who have houses, corrals, and other ranch-type improvements on the land in question. Mills claims that they have a right to the land and that his application was made prior to the inclusion of the land within the national forest.

In the Act of September 26, 1968, Congress provided that this Act would expire on September 26, 1971, with the provision that if an application had been made prior to September 26, 1971, it might be acted upon after that date. 43 U.S.C. § 1435 (1970). Since appellant's application was not filed until August 18, 1972, he failed to meet the time requirement imposed by the Act itself and by 43 CFR 2243.3-1 (1970), issued pursuant to the Act. The Department does not have authority to dispose of land pursuant to this Act after the termination date set by Congress. This is conclusive

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1/ The form used by appellant in applying for the sale of this land, i.e., Form 2710-1 (July 1969) is employed both for applications under Revised Statute 2455 and under the Act of September 26, 1968. There are check blocks on the form to be marked by the applicant to indicate under which statute he is applying. Mills failed to check either block. The BLM treated the case as an application under the Act of September 26, 1968, and the decision below so stated. In his appeal Mills has not claimed otherwise. We should note however that even had Mills intended to apply under Revised Statute 2455, favorable consideration under that statute would be barred by the inclusion of the land in the national forest.

2/ While the appellant has the right to represent himself before the Department, he has not shown that he has the right to represent others. 43 CFR 1.3.

of the issue of whether or not the Bureau can accept such an application.

Appellant's argument that he applied for the lands before their inclusion in the forest is without merit. The filing of an application bestows no vested right on the applicant with respect to the land in question. See J. D. Carter, 3 IBLA 44 (1971).

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

Edward W. Stuebing, Member

We concur:

Joseph W. Goss, Member

Martin Ritvo, Member

