

COLORADO PREFERRED INVESTMENT, LTD.

IBLA 74-250

Decided July 25, 1974

Appeal from a decision of the Canon City District Office, Bureau of Land Management, cancelling qualifications for section 3 grazing privileges.

Remanded.

Grazing Permits and Licenses: Appeals—Grazing Permits and Licenses: Cancellation and Reductions—Rules of Practice: Appeals: Generally

Appeals from decisions of District Managers involving cancellation of section 3 grazing privileges should be directed to an Administrative Law Judge for a hearing. Where appeals of that nature have been mistakenly sent to the Board of Land Appeals, the case will be remanded to the appropriate state office of the Bureau of Land Management for transmittal to the hearings division.

APPEARANCES: M. R. Hendricks for Colorado Preferred Investments, Ltd.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Colorado Preferred Investments, Ltd. has appealed from the January 15, 1974 decision of the District Manager, BLM, Canon City, Colorado. The District Manager cancelled qualifications of the appellant for grazing privileges pursuant to section 3 of the Taylor Grazing Act, as amended, 43 U.S.C. § 3156 (1970). The appellants had acquired the base property but had failed to respond to a show cause order which had demanded a statement from appellant that it was, in fact, engaged in the livestock business.

Appellant filed a timely notice of appeal with the District Office. The District Manager transmitted the case file to the State Director who in turn transmitted the case to this Board. However, the appropriate regulation, 43 CFR 4115.2-3, provides that:

Any applicant whose interest is adversely affected by a final decision of the District Manager may appeal to an Examiner in accordance with § 4.470 of this title. The conduct of hearings is provided for in §§ 4.471 through 4.475 of this title. Appeals from the Examiner's decision may be made to the Board of Land Appeals pursuant to § 4.476 of this title and in accordance with Department Hearings and Appeals Procedures contained in Part 4 of this title.

Since the appeal clearly should have been directed to an Administrative Law Judge for a hearing, the case file will be returned to the Colorado State Director for transmittal to the appropriate hearings office.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the case is remanded for action consistent with the opinions expressed herein.

Edward W. Stuebing
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

