

BOBBY W. BROWN

IBLA 75-200

Decided December 31, 1974

Appeal from Bureau of Land Management decision, AA-8941, holding homestead location notice unacceptable for recordation.

Affirmed.

1. Applications and Entries: Generally -- Alaska: Land Grants and Selections: Generally

A State of Alaska selection filed under the Statehood Act segregates the land described therein from all appropriations based on settlement and location. A notice of location asserting settlement after a state selection application is filed is unacceptable for recordation and no rights can be established by settlement after that date.

APPEARANCES: Bobby W. Brown, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

This is an appeal from a decision of the Alaska State Office, Bureau of Land Management, declaring appellant's homestead location notice unacceptable for recordation because the land was covered by an Alaska State selection (AA-8928) under the Statehood Act. The State's application was filed on March 22, 1974, three days before appellant's alleged settlement.

[1] The regulation, 43 CFR 2627.4(b), provides that lands applied for by the State of Alaska will be segregated from all appropriations based upon application or settlement and location after the State files its application to select.

It appears that Alaska filed its selection application after appellant had checked the land status and was informed that the land was open and unappropriated. The State's filing, however, was prior to the date appellant asserts settlement was initiated. Since

the land was embraced in a state selection application when appellant sought to effect settlement the location notice was properly found to be unacceptable for recordation. Cf., James Milton Cann, 16 IBLA 374 (1974); 43 CFR 2567.2(c). Appellant could not establish any right in the land at that time. Nor may this Board consider the expenses incurred by appellant in attempting to effect a homestead settlement.

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.

Douglas E. Henriques
Administrative Judge

We concur:

Joan B. Thompson
Administrative Judge

Martin Ritvo
Administrative Judge

