

**Editor's note: Reconsideration granted; decision reaffirmed -- See Donald Laughlin (On Reconsideration), 26 IBLA 154 (Aug. 2, 1976); Appealed -- stipulated order of dismissal, Civ. No. 77-380-WPC (D.Ariz. Nov. 20, 1979)**

DONALD J. LAUGHLIN  
d/b/a RIVERSIDE RESORT & CASINO

IBLA 76-419

Decided May 12, 1976

Appeal from decision of the Yuma, Arizona, District Office, Bureau of Land Management, rejecting Special Land Use Permit Application Y-0165.

Affirmed.

1. Public Lands: Special Use Permits--Special Use Permits

Issuance of special land use permits is discretionary, and it is proper to reject an application for such a permit if the use for which the application is made is inconsistent with the objectives of the Bureau of Land Management and programs for public use of the land.

APPEARANCES: Donald L. Wood, Esq., Morris & Wood, Las Vegas, Nevada, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Donald J. Laughlin, d/b/a Riverside Resort and Casino, appeals from a decision of the Yuma, Arizona, District Office, Bureau of Land Management (BLM), dated November 13, 1975, rejecting special land use application Y-0165 for the stated reason that the Bureau does not want to develop the area subject to the application until an activity plan is completed.

Riverside Resort and Casino is one of several gambling establishments on the Nevada shore of the Colorado River north of Bullhead City, Arizona. Appellant seeks to build a parking lot and a dock on the Arizona shore opposite his club and to provide a ferry service to make it more convenient for Arizona residents to patronize his establishment. One of appellant's competitors, the Nevada Club, is located almost a mile downstream from appellant at a point across the river from the northern edge of the developed

area of Bullhead City. Appellant asserts that in 1972 the Nevada Club graveled and lighted an area on the Arizona shore for a parking lot and boat dock with no authority at all, and that the Nevada Club was later issued a special land use permit by BLM. Appellant was able to purchase rights to establish a parking lot and boat dock about a mile downstream from his casino, but he contends that he suffers a competitive disadvantage because he cannot develop facilities on the Arizona shore opposite his casino. He feels that it is unfair for the Nevada Club to enjoy a competitive advantage which he contends is derived from the club's initial trespass on public land.

The maps and photographs in the record indicate that the characteristics of the land opposite appellant's club differ from those of the land opposite the Nevada Club. Although the parking lot and dock for the Nevada Club's ferry is on the northern edge of the developed area of Bullhead City, almost 1 mile of undeveloped shoreline separates the Nevada Club's dock from appellant's proposed site. However, while the area of appellant's site is more remote, we note that it is just across State Route 95 from the Bullhead City Airport.

By letter dated September 23, 1975, the District Office informed appellant that the Activity Plans for the Bullhead City area have not been finalized, but that the land appellant seeks plays an important role in those plans, and that the future utility of the land could be adversely affected by a parking lot and dock. The letter also expressed concern about establishing a practice of issuing individual permits for each casino that might develop along the Nevada shoreline, and proposed a discussion about a joint arrangement for the casinos. By letter dated October 27, 1975, following a meeting at the District Office, appellant indicated his preference for the individual permit for which he had applied.

We note that appellant presently uses private facilities which provide access to the Arizona market. The fact that appellant suffers a competitive disadvantage by having to ferry his customers a greater distance is attributable more to the location of his establishment rather than to any unfairness on the part of BLM.

[1] The issuance of special land use permits is not authorized by any specific statutory provision. However, under the general authority of the Secretary of the Interior to administer the public lands, a permit may be issued for purposes not specifically provided for by existing law. 43 CFR 2920.0-2(a); 43 CFR 2920.0-3; Wyoming Highway Department, 14 IBLA 258, 260 (1974); Allen M. Boyden, 2 IBLA 128, 131 (1971). Furthermore, issuance of special land use permits is discretionary, and the BLM may reject

an application for such a permit if the use for which the application is made is inconsistent with the Bureau's objectives and programs for public use of the land. Wyoming Highway Department, supra; Desert Outdoor Advertising, Inc., 2 IBLA 344, 349 (1971); Allen M. Boyden, supra. We are not persuaded that the District Office's decision is in error in holding that that the public interest would not be served by granting appellant an individual permit prior to the completion of the studies for the area.

Appellant has requested "an opportunity to make a personal presentation." The request is denied. 43 CFR 4.25; 43 CFR 4.415.

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.

Frederick Fishman

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Administrative Judge

We concur:

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Joan B. Thompson  
Administrative Judge

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Edward W. Stuebing  
Administrative Judge

