

W. R. AND G. R. STRICKLER

IBLA 76-745

Decided October 26, 1976

Appeal from decision of the Alaska State Office, Bureau of Land Management, declaring appellants' mining claims null and void ab initio.

Affirmed.

1. Mining Claims: Relocation -- Mining Claims: Withdrawn Lands -- Withdrawals and Reservations: Effect of

A mining claim located on land at a time when such land was withdrawn from mineral entry is properly declared null and void ab initio. The finding that appellants have no rights under September 1974 locations does not affect any rights which may have been deeded to them by the holder of a 1952 claim located prior to the time the land was withdrawn from mineral locations.

APPEARANCES: W. R. and G. R. Strickler, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

W. R. and G. R. Strickler have appealed from a decision of the Alaska State Office, Bureau of Land Management (BLM), dated June 8, 1976, declaring the Discovery, and #1 Below Discovery placer mining claims null and void. The claims in question, situated in the Fairbanks Recording District, were posted on September 19, 1974, and recorded October 8, 1974. Both claims are entirely within the area withdrawn from location and entry under the mining laws by Public Land Order 5250 of September 14, 1972, in aid of legislation concerning addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, and for classification. The withdrawn areas relevant to this appeal are T. 27 N., R. 22 E., and T. 28 N., R. 22 E., C.R.M.

[1] It is well settled that mining claims located on land closed to mineral entry are null and void ab initio. John Boyd Parsons, 22 IBLA 328 (1975); Russ Journigan, 16 IBLA 79 (1974); Leo J. Hottas, 73 I.D. 123 (1966), aff'd sub nom. Lutzenheiser v. Udall, 432 F.2d 328 (9th Cir. 1970). We are cognizant of the sums appellants may have expended in developing the mining claims in issue. However, there is no known remedy under existing law to validate the claims.

Notwithstanding this Board's determination that appellants have no rights to this land under their 1974 location, they remain free to assert whatever rights they may have taken from the previous claimant, Mrs. Wilkey. Nothing in the BLM decision addresses the question of the appellants' rights under the 1952 mining claim 1/ which was quit-claimed to them and that issue is not before us now. Our finding that the 1974 locations are void and without effect has no bearing on any rights which appellants may have under any earlier locations. R. C. Jim Townsend, 18 IBLA 407 (1975).

Accordingly, 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
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Joan B. Thompson
Administrative Judge

1/ The 1952 location was not reflected in the record prior to the rendition of the decision appealed from.

