

RULON VAN TASSEL

IBLA 77-199

Decided December 22, 1977

Appeal from decision of the Idaho State Office, Bureau of Land Management, rejecting desert land petition-application I-12227.

Affirmed.

1. Applications and Entries: Generally -- Desert Land Entry: Applications -- Desert Land Entry: Classification -- Desert Land Entry: Lands Subject To -- Public Lands: Classification

When lands have been classified under a final order of the Secretary of the Interior as being unsuitable for disposal under the desert land laws, a desert land entry petition-application will not be allowed.

APPEARANCES: Alfred E. Barrus, Esq., Burley, Idaho, for Appellant.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Rulon Van Tassel has appealed from the January 19, 1977, decision of the Idaho State Office, Bureau of Land Management, rejecting his desert land petition-application because the land had been classified as unsuitable for entry under the Desert Land Act, 43 U.S.C. § 321 et seq. (1970).

[1] On July 8, 1975, the State Office had issued an initial decision classifying the land in issue here as unsuitable for desert land entry in response to a petition-application filed by one Glenn D. Anderson. Pursuant to procedures provided by 43 CFR 2450.5, this classification was reviewed and affirmed by a Secretarial decision dated July 7, 1976. Departmental regulation 43 CFR 2450.6(a) states the effect of such a decision:

A final order of the Secretary shall continue in full force and effect so long as the lands remain subject to classification under the authorities cited in Subpart 2400 until an authorized officer revokes or modifies it. Until it is so revoked or modified, all applications and petition-applications for the lands not consistent with the classification of the lands will not be allowed. Any payments submitted therewith will be returned. If the order is revoked or modified, the land will be opened to entry on an equal-opportunity basis after public notice in accordance with applicable regulations for the purpose for which it may be classified.

The regulation clearly requires rejection of Appellant's petition-application. Ralph G. Faulkner, 26 IBLA 110 (1976).

All of Appellant's arguments attack the appropriateness of the Secretarial classification decision, a matter which 43 CFR 2450.5(d) and the above-quoted regulation place beyond the review authority of this Board.

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.

Joseph W. Goss
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Martin Ritvo
Administrative Judge.

