

JOHN F. DROBNICK  
DORCAS M. DROBNICK

IBLA 78-490

Decided June 18, 1979

Appeal from decision of California State Office, Bureau of Land Management, which declared lode mining claim null and void ab initio. CA 5108.

Affirmed.

1. Mining Claims: Lands Subject to

Land which has been patented without a reservation of minerals to the United States is not available for the location of mining claims, and mining claims located on such land after it is so patented are null and void ab initio.

APPEARANCES: John F. Drobnick and Dorcas M. Drobnick, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Appellants appeal from a decision of the California State Office, Bureau of Land Management (BLM), dated May 12, 1978, which declared the Jerry Dean lode mining claim null and void ab initio.

The Jerry Dean lode mining claim is situated in protracted secs. 5 and 6, T. 27 N., R. 3 E., San Bernardino meridian.

According to the public land records of BLM, the land located within this claim has been patented since October 6, 1914, without mineral reservation and, therefore, is no longer available for location of mining claims. The status records show that the above mentioned area is contained in Patent No. 434102.

Appellant argues that the records of the Inyo County assessor's office showed the area of his claim to be open Government land available for filing.

[1] Mining claims may only be located on lands open to the operation of the United States mining laws. Land which has been patented without a reservation of minerals to the United States is not available for the location of mining claims. Mining claims located on such land after it is so patented are null and void ab initio. E.g., J.P. Hinds, 25 IBLA 67, 70, 83 I.D. 275, 276 (1976). Even if it could be assumed that the Inyo County records were incorrect, the true status of the land and BLM official records must control. James W. Hansen, 1 IBLA 134 (1970).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision below is affirmed.

Joseph W. Goss  
Administrative Judge

We concur:

Edward W. Stuebing  
Administrative Judge

Joan B. Thompson  
Administrative Judge

