

MORRILL A. NIELSON

IBLA 80-407

Decided July 11, 1980

Appeal from decision of the Utah State Office, Bureau of Land Management, rejecting application for millsite, U 43862.

Affirmed.

1. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

2. Administrative Authority: Generally

Reliance upon erroneous information given by BLM employees cannot confer upon an applicant for millsite patent any rights not authorized by the regulations.

3. Applications and Entries: Generally

An application for millsite patent which does not comply with the clear and unequivocal requirements of the regulations in 43 CFR Part 3860 relating to millsites must be rejected.

APPEARANCES: Morrill A. Nielson, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Morrill A. Nielson appeals from the decision, dated February 12, 1980, wherein the Utah State Office, Bureau of Land Management (BLM), rejected his application for a millsite patent, U 43862, for the reason that it did not comport with the regulatory requirements. The decision set out in detail the deficiencies and omissions of Nielson's application, among them the appellant's failure to submit a mineral survey performed by a qualified mineral surveyor.

Appellant has demonstrated a complete lack of knowledge of the pertinent regulations in 43 CFR Part 3860 and of the procedures thereunder required for a mineral patent. He attempts to foist the onus of his troubles onto personnel of BLM, who allegedly did not properly instruct him in the requirements for his patent application.

[1] It is axiomatic that one who deals with the Government is presumed to have knowledge of duly promulgated regulations and statutes, regardless of his actual knowledge of what is contained in such regulations and statutes. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Edwin Forsberg, 47 IBLA 235 (1980); 44 U.S.C. §§ 1507, 1510 (1976)

[2] Reliance upon erroneous information given by BLM employees cannot confer any rights upon an applicant not authorized by the law or regulations. 43 CFR 1810.3(c); Mary E. Cummings, 47 IBLA 10 (1980).

[3] A Departmental regulation promulgated pursuant to statutory authority has the force and effect of law. An application which does not comply with the clear and unequivocal requirements of the regulations be rejected. Frank Allison, 3 IBLA 317 (1971). An application is not made until it is properly filed. See, e.g., Robert E. Rowe, A-27063 (Apr. 11, 1955).

As appellant did not file an application in accordance with the pertinent regulations in 43 CFR Part 3860, BLM properly rejected the tendered submission.

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:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

