

JONATHAN CARR

IBLA 80-626

Decided July 15, 1980

Appeal from decision of New Mexico State Office, Bureau of Land Management, rejecting mining claim recordation filings. NMMC 91910-91945.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment – 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, and an attempted recordation of such mining claims is properly refused by the Bureau of Land Management.

APPEARANCES: Jonathan Carr, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Jonathan Carr appeals a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated April 10, 1980, rejecting his notices of location, NMMC 91910 through 91945, for lode mining claims identified as the New Cerrillos 1 through 36.

The mining claims located on February 20, 1980, and filed with BLM on March 3, 1980, are situated in sec. 7, T. 14 N., R. 8 E., New Mexico principal meridian.

According to the public land records of BLM, the land in sec. 7 passed to private ownership by cash entry patent numbers 14 and 41, without mineral reservation and therefore are no longer available for mining claim location.

Appellant alleges that he has searched the county records and finds no record of ownership for sec. 7. Appellant maintains that recordation with the county is a prerequisite for legal ownership and that the absence of such recording means that title to the property still rests with the Government.

[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. John F. Drobnick, 41 IBLA 164 (1979), Baron Mining Corp., 39 IBLA 234 (1979).

Even if appellant's assertions that the county records do not reflect ownership of sec. 7 are correct, the true status of the land and BLM official records must control. John F. Drobnick, supra. In the circumstances, BLM's refusal to record the mining claims, located on lands patented without a mineral reservation, was proper.

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.

Frederick Fishman
Administrative Judge

We concur.

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

