

EVELYN EVRARD

IBLA 79-430

Decided October 21, 1980

Appeal from decision of the Eastern States Office, Bureau of Land Management, rejecting in part application for hardrock prospecting permit. ES 17036.

Set aside and remanded.

1. Mineral Lands: Prospecting Permits

Where on appeal an application for a hardrock prospecting permit for acquired lands in a national forest has been amended as to the lands and minerals concerned, the application may be remanded to Bureau of Land Management for review and referral to the Forest Service for metes and bounds description of any additional areas recommended for exclusion.

APPEARANCES: Evelyn Evrard, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Evelyn Evrard has appealed from a decision of the Eastern States Office, Bureau of Land Management (BLM), dated April 17, 1979, rejecting in part an application for a hardrock prospecting permit, ES 17036, for acquired lands situated in the NE 1/4 and the N 1/2 SE 1/4 sec. 4, T. 33 N., R. 15 E., fourth principal meridian, Oconto County, Wisconsin, within the Nicolet National Forest. BLM held the description of the land in the application was not "complete and accurate" as required by 43 CFR 3501.1-3. The description referred to the land by legal subdivision, section, township, and range and did not take into account "several excepted acreages."

In the statement of reasons for appeal, appellant seeks to amend the application description by excluding certain land within highway, railroad, and power line rights-of-way, which information was supplied

by the Forest Service, U.S. Department of Agriculture. Appellant also seeks to include additional land and minerals as part of the application.

[1] Under 43 CFR 3511.1-7, pertaining to prospecting permits, an applicant is required to comply with 43 CFR 3501.1-3 and 3501.2-4 regarding the description of lands. Section 3501.1-3 applies to public domain lands and section 3501.2-4 applies to acquired lands. BLM mistakenly applied 43 CFR 3501.1-3. The subject land is acquired.

The pertinent regulation, 43 CFR 3501.2-4(a), provides in part:

Surveyed lands. If the land has been surveyed under the rectangular system of public land surveys, and the description can be conformed to that system, the land must be described by legal subdivision, section, township, and range. Where the description cannot be conformed to the public land surveys, any boundaries which do not so conform must be described by metes and bounds, giving courses and distances between the successive angle points with appropriate ties to the nearest existing official survey corner.

The Forest Service had indicated it needed to protect certain areas from unrestricted mineral development. Appellant's amended application should be remanded to BLM for its consideration. Cf. Milan S. Papulak, 30 IBLA 77 (1977). The amended application should also be referred to the Forest Service for a metes and bounds description of any additional land to be excluded.

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 set aside and remanded to the Eastern States Office for appropriate action.

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Joseph W. Goss  
Administrative Judge

We concur:

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Frederick Fishman  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge

