

DEBORAH LOWMASTER

IBLA 80-781

Decided January 26, 1981

Appeal from decision of the Alaska State Office, Bureau of Land Management, rejecting homestead entry application F-65085.

Affirmed.

1. Withdrawals and Reservations: Generally

A public land order withdrawing land is considered to be valid notice of its contents and becomes effective upon its publication in the Federal Register despite any alleged failure to properly note it on land office records.

2. Alaska: Homesteads--Homesteads (Ordinary): Lands Subject to--Withdrawals and Reservations: Effect of-- Withdrawals and Reservations: State Selections

An application to make homestead entry on land previously classified for selection by the State of Alaska is properly rejected.

APPEARANCES: Deborah Lowmaster, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

This appeal is taken from a decision dated June 13, 1980, by the Alaska State Office, Bureau of Land Management (BLM), rejecting appellant's homestead entry application for a homestead located within protracted sec. 22, T. 7 N., R. 9 E., Fairbanks meridian. The application was filed under 43 U.S.C. § 161 (1976) 1/ on March 25, 1980.

1/ Section 702 of the Federal Land Policy and Management Act of 1976, P.L. 94-579, 90 Stat. 2743, repealed the homestead laws effective October 21, 1976, except with respect to Alaska, where such repeal becomes effective on and after October 21, 1986.

Because the land applied for had been classified for State selection by Public Land Order (PLO) No. 5657, and was entirely within State selection application F-43759 when appellant filed her homestead entry application, BLM rejected the application.

Appellant asserts in her statement of reasons that at the time she filed her application there was no indication in the BLM records that the State had a prior claim. Appellant contends that in order to be valid the State's claim must have been filed and noted on BLM records prior to her own claim.

PLO 5657 was published in the Federal Register, 44 FR 5433 (Jan. 26, 1979), and was effective as of that date. Its purpose was to classify certain lands, including those covered by appellant's application, for State selection.

[1] It is unfortunate that appellant may have relied on incomplete land office records in filing her application. However, such reliance cannot operate to vest any rights not authorized by law. PLO 5657 must be considered valid notice of its contents and became effective upon its publication in the Federal Register, despite any alleged failure to note it on land office records. Henry E. Reeves, 31 IBLA 242 (1977); Rod Knight, 30 IBLA 224 (1977).

[2] Since appellant's application embraced lands covered by a previous withdrawal, it was unacceptable and properly rejected by BLM. Jack Z. Boyd (On Reconsideration), 15 IBLA 174, 81 I.D. 150 (1974).

Accordingly, 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.

Gail M. Frazier

Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

