

WYOMING FUEL CO.

IBLA 79-492

Decided February 10, 1981

Appeal from decision of the Nevada State Office, Bureau of Land Management, rejecting uranium prospecting permit application N-21468.

Affirmed.

1. Acquired Lands--Mineral Lands: Prospecting Permits-- Mineral Leasing Act for Acquired Lands: Lands Subject to

Lands acquired by the Forest Service pursuant to the General Exchange Act of 1922 and the Federal Land Policy and Management Act of 1976 have the status of public lands and are not subject to uranium prospecting permits under the Mineral Leasing Act for Acquired Lands, but such lands are subject to location and entry under the general mining law and to leasing under the Mineral Leasing Act of 1920.

APPEARANCES: Charles V. Herron, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Wyoming Fuel Company appeals from the May 21, 1979, decision of the Nevada State Office, Bureau of Land Management (BLM), which rejected its uranium prospecting permit application N-21468. The decision is appealed only with respect to the following land: HES 127, total 157.48 acres, in secs. 27, 28, 33 and 34, T. 46 N., R. 54 E., Mount Diablo meridian, Nevada, within the Humboldt National Forest. 1/ BLM

1/ Appellant withdrew its uranium prospecting permit application and its appeal insofar as it affected the other lands itemized in the decision: Sec.3, T. 45 N., R. 54 E., Mount Diablo meridian, Nevada; and HES 81, containing 149.83 acres within secs. 33 and 34, T. 46 N., R. 54 E., Mount Diablo meridian, Nevada; and sec. 4, T. 45 N., R. 54 E., Mount Diablo meridian, Nevada.

refused to issue a uranium prospecting permit for these lands, stating simply that "these lands are not subject to hardrock mineral leasing under the Mineral Leasing Act for Acquired Lands." Appellant agrees that uranium is not subject to leasing under that Act, 2/ but contends that the Secretary of the Interior is authorized to issue prospecting permits for these lands by Reorganization Plan No. 3 of 1946 (60 Stat. 1090).

The disputed tract, once removed from the public domain by patent, was reconveyed to the United States by warranty deed, pursuant to the General Exchange Act of 1922, as amended, 16 U.S.C. §§ 485, 486 (1976), and the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1715 (1976), not 16 U.S.C. §§ 513-520 (1976) as stated by appellant, 3/ and became a part of the Humboldt National Forest.

[1] The Federal Land Policy Management Act, supra at section 1715(d), provides: "Lands and interests in lands acquired by the Secretary of Agriculture pursuant to this section shall, upon acceptance of title, become National Forest System lands subject to all the laws, rules, and regulations applicable thereto." Lands acquired for National Forest purposes under the General Exchange Act of 1922, supra, are treated as public lands embraced within the national forest and are therefore open to location and entry under the general mining laws and to leasing under the Mineral Leasing Act of 1920. Rawls v. United States, 566 F.2d 1373 (9th Cir 1978); Solicitor's Opinion, M-36421 (February 18, 1957). Accordingly, the disputed lands herein are not subject to the issuance of a uranium prospecting permit and appellant's application was properly rejected.

2/ Appellant's Reasons for Appeal at page 1 states: "The tract in question is not subject to the Mineral Leasing Act for Acquired Lands (C. W. Parcell Et Al, 61 I.D. 444). Uranium is not one of the enumerated minerals subject to the Act."

3/ By the Act of March 4, 1917 (39 Stat. 1150; 16 U.S.C. § 520) (1976), Congress provided the Secretary of Agriculture with authority to issue permits and leases for the prospecting and development of mineral resources in lands acquired for national forests under the act of March 1, 1911 (36 Stat. 962; 16 U.S.C. §§ 513-519, as amended by Act of October 22, 1976, P.L. 94-588, § 17, 90 Stat. 2962). The functions of the Secretary of Agriculture under the 1917 Act were transferred to the Secretary of the Interior by Reorganization Plan No. 3 of 1946 (60 Stat. 1099).

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.

Gail M. Frazier

Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

