

**Editor's note: Reconsideration denied by order dated Dec. 17, 1981**

GENERAL H. E. W. CORP.

IBLA 81-733

Decided November 4, 1981

Appeal from decision of the California State Office, Bureau of Land Management, rejecting a recreation and public purposes purchase application. CA-9462.

Affirmed.

1. Recreation and Public Purposes Act

Where the Bureau of Land Management has transferred lands to the National Park Service for inclusion in a national recreation area, the lands are not subject to disposition under the Recreation and Public Purposes Act.

APPEARANCES: Margaret Wallace, President, General H. E. W. Corporation, for appellant.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

On March 2, 1981, Margaret Wallace, president of General H. E. W. Corporation (General), 1/ filed an application to purchase (and a concomitant petition for classification for) an undescribed 200 acres in secs. 29 and 30, T. 1 S., R. 18 W., San Bernardino meridian, under the Recreation and Public Purposes Act (R&PP Act), 43 U.S.C. § 869 (1976), with the California State Office, Bureau of Land Management (BLM). Wallace's application was ambiguous in that it indicated that she was the applicant, although she signed it as president of General. Accordingly, on April 3, 1981, BLM issued a decision holding the application for rejection, noting that individuals were ineligible to file R&PP applications and requesting a copy of General's articles of incorporation, if Wallace intended to apply on its behalf.

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1/ This corporation is referred to by Wallace as "H. E. W. Corp." However, its articles of incorporation identify it as "General H. E. W. Corp."

On April 20, 1981, before Wallace received this decision, 2/ she filed a copy of a March 16 letter about her application that she had received from the Riverside District Office, BLM, pursuant to her inquiring there. This letter advised Wallace that the lands she had inquired about in secs. 29 and 30 had been transferred from BLM control to the National Park Service (NPS) as part of the Santa Monica National Recreation Area, and that they were not available for R&PP purchase. In her April 20 letter, Wallace expressed a desire to pursue the matter with the State office. 3/

On May 12, 1981, BLM vacated its decision of April 3, 1981, but issued another decision rejecting the application, based on the district office's indication that the lands were under the control of NPS. BLM held that the R&PP Act does not apply to lands reserved for national parks, citing 43 CFR 2741.1(a). On June 4, 1981, General, through Wallace, filed a notice of appeal of this decision.

We note initially that appellant's application inadequately describes the lands to which it applies. It merely indicates a desire to purchase 200 acres in secs. 29 and 30, T. 1 S., R. 18 W., San Bernardino meridian. These sections together encompass approximately 1,280 acres. Without a specific description, BLM cannot consider any application to purchase lands, for the obvious reason that it cannot speculate about what lands the application is intended to cover.

[1] In any event, as BLM held, the unpatented areas of secs. 29 and 30 were transferred to the National Park Service on October 24, 1979, pursuant to the National Parks and Recreation Act of 1978, P.L. 95-625, 92 Stat. 3501, as part of the Santa Monica Mountains National Recreation Area. Lands that have been transferred to and are administered by NPS do not fall within the definition of public lands set out at 43 CFR 2740.0-5(c) for the purposes of the R&PP Act, since they are not administered by BLM. Therefore, the R&PP Act does not apply to these lands, and BLM is without authority to dispose of any interest in them under the R&PP Act. 43 CFR 2741.1(a). 4/

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2/ The postal service returned Wallace's service copy of the Apr. 3, 1981, decision to BLM as "unclaimed" on Apr. 21, 1981. Service was not completed until May 11, 1981, following remailing by BLM.

3/ On May 18, 1981, Wallace responded to the Apr. 3, 1981, decision by filing General's articles of incorporation, which describe its specific and primary purposes as follows: "Housing for low income individuals, education for welfare individuals or other under privileged, help for overcoming addictive habits to low income individuals."

4/ Under 43 CFR 2740.0-5(c), "'Public lands' means any lands and interest in lands administered by the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos." (Emphasis supplied.) Under 43 CFR 2741.1(a), only "public lands" are subject to disposition: "The [R&PP Act] is applicable to any public lands \* \* \*." Since the subject lands are administered by NPS, they are not "public lands," under 43 CFR Part 2740, and the R&PP Act does not apply to them.

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.

Bernard V. Parrette  
Chief Administrative Judge

We concur:

Edward W. Stuebing  
Administrative Judge

Gail M. Frazier  
Administrative Judge

