

RICH KNOBLOCK

IBLA 81-760

Decided February 3, 1982

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring the This Is It No. 4 lode mining claim null and void. I MC 20418.

Vacated and remanded.

1. Administrative Procedure: Hearings--Mining Claims:
Generally--Mining Claims: Contests--Mining Claims: Determination
of Validity--Mining Claims: Hearings

Where a contest complaint charges that no qualifying discovery of mineral has been made, an answer which alleges that there are "good values" and exposed veins on the claim is sufficient to raise a justiciable issue to be resolved at a hearing.

APPEARANCES: Rich Knoblock, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

On March 3, 1981, the United States Department of the Interior, Bureau of Land Management (BLM), on recommendation of the United States Department of Agriculture, Forest Service, filed a contest complaint against the validity of the This Is It No. 4 (a.k.a. This Is It #4) lode mining claim. The mining claim is situated within the Sawtooth Wilderness, Sawtooth National Recreation Area, Boise National Forest and Sawtooth National Forest.

The complaint charged: (1) That there are not, nor were there disclosed on August 22, 1972, within the boundary of the This Is It No. 4 lode mining claim, materials in place of a variety subject to the mining laws sufficient in quality, quantity, and value to constitute a discovery; (2) that the land embraced within the This Is It

No. 4 lode mining claim is nonmineral in character; and (3) that to the extent that the amended location dated October 18, 1973, filed as instrument 155891, records of Elmore County, Idaho, purported to change the location of the claim on the ground, such amended location is invalid by reason of the fact that the area within which the claim is located was withdrawn from mineral location by creation of the Sawtooth National Recreation Area.

On May 1, 1981, BLM issued a decision declaring the This Is It No. 4 lode mining claim null and void. The decision found that the complaint was served on March 5, 1981, by certified mail to the claimant, Richard Knoblock; that a certified letter from Knoblock was received by BLM on March 18, 1981; and that in the letter he did not express a desire to have a hearing, nor did he indicate that he would file papers with the U.S. Department of Agriculture, nor did he specifically respond to the allegations of the complaint. Therefore BLM, in its decision, declared the subject mining claim to be null and void.

Knoblock filed an appeal of BLM's May 1, 1981, decision. In his statement of reasons appellant stated that he had filed an answer; that the decision did not state that he could have a hearing; and that he intended to keep the claim until such a time as he would get excavation equipment there to prove it out. Appellant stated that changing positions of a claim is a common procedure, and that such did not constitute the filing of a new claim.

In his March 15, 1981, letter in response to the complaint, appellant states that the This Is It No. 4 claim is nearly in the center of a group and has good values on three sides of it, and that the subject claim has several veins exposed which will probably show good values with depth.

The statements in appellant's March 15, 1981, letter, although ambiguous to some extent, 1/ are sufficient to constitute a simple denial of the allegations of the complaint.

[1] Because several issues of fact must be resolved in order to determine whether the This Is It No. 4 lode mining claim should be declared null and void, it is appropriate to refer the case to an Administrative Law Judge for a hearing.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the

1/ For example, his allegation that the claim "has good values on three sides of it" leaves it unclear whether these "good values" are within the claim's boundaries or beyond them.

decision appealed from is vacated and the case is remanded to BLM for referral to an Administrative Law Judge.

Edward W. Stuebing
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Bruce R. Harris
Administrative Judge

