

HOWARD E. TINGLEY

IBLA 81-757

Decided March 19, 1982

Appeal from decision of the Nevada State Office, Bureau of Land Management, rejecting desert land application N-29688.

Affirmed.

1. Applications and Entries: Generally -- Conveyances: Generally --  
Desert Land Entry: Lands Subject to -- Public Lands: Generally --  
Withdrawals and Reservations: Effect of

The Bureau of Land Management has no authority to allow an application for desert land entry on land which has been conveyed from Federal ownership by quitclaim deed or which has been withdrawn from disposition under the public land laws. Even if the applicant had received erroneous advice concerning the status of the land, this does not entitle him to have his application allowed.

APPEARANCES: Howard E. Tingley, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Howard E. Tingley appeals from the May 11, 1981, decision of the Nevada State Office, Bureau of Land Management (BLM), rejecting desert land application N-29688. Part of the land described by the application had been conveyed by quitclaim deed to Boulder City on January 4, 1960. 1/ The remainder of the land described by appellant's application was segregated from entry pursuant to the Act of March 6, 1958, P.L. 85-339, 72 Stat. 31, and was also withdrawn for the Pacific Northwest-Pacific Southwest Intertie (Reclamation) Project by Public Land Order No. 4250, 32 FR 10260 (July 11, 1967). 2/ In his statement

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1/ The conveyance to Boulder City affects appellant's application for the SE 1/4 sec. 21, T. 23 S., R. 64 E., Mount Diablo meridian.

2/ PLO No. 4250 and the Act of Mar. 6, 1958, affect appellant's application for the NE 1/4 sec. 28, T. 23 S., R. 64 E., Mount Diablo meridian.

of reasons, appellant contends that the State Office had indicated that the lands for which he applied were open to entry, and he describes his efforts in selecting a site and preparing his application.

[1] The State Office properly determined that the land was not open to entry and rejected appellant's application. BLM has no authority to allow an application for title to land under the public land laws when title has already been conveyed. See Robert Dale Marston, 51 IBLA 115 (1980). Furthermore, land which is withdrawn is not subject to appropriation under the desert land laws. Robert A. Adams, 57 IBLA 370 (1981); Ralph J. Mellin, 6 IBLA 193 (1972). Although the case record does not include a master title plat for the date appellant filed his application, the file includes one prepared shortly thereafter which indicates that it is current to April 11, 1980. While it may have been difficult to determine the availability of the land by examining the plat, it does bear notation of the quitclaim deed, the public land order, and the statutory segregation. Even if appellant had unfortunately received erroneous advice regarding the status of the land, this does not entitle him to have his application allowed. See Robert A. Adams, supra; David R. Rasmussen, A-30549 (Oct. 11, 1966). As 43 CFR 1810.3(c) provides: "Reliance upon information or opinion of any officer, agent or employee or on records maintained by the land offices cannot operate to vest any right not authorized by law."

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.

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Anne Poindexter Lewis  
Administrative Judge

We concur:

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Bruce R. Harris  
Administrative Judge

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C. Randall Grant, Jr.  
Administrative Judge

