

DUELLA M. ADAMS
LYLE R. ADAMS

IBLA 82-1196

Decided January 10, 1983

Appeal from decision of the Oregon State Director, Bureau of Land Management, rejecting desert land entry petition-applications. OR 23761, OR 23762.

Affirmed.

1. Desert Land Entry: Applications -- Desert Land Entry: Classification -- Desert Land Entry: Lands Subject To -- Public Lands: Classification

When lands have been classified under a final order of the Secretary of the Interior as being unsuitable for disposal under the desert land laws, a desert land entry petition-application will not be allowed.

APPEARANCES: Duella M. Adams and Lyle R. Adams pro sese.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

On June 16, 1982, the Oregon State Director, Bureau of Land Management (BLM), issued a joint decision denying the petitions for classification of certain lands in Oregon as suitable for desert land entry and rejecting the applications for such entry of 68 persons because desert land entry was not in the public interest, did not serve important public objectives, and was not supported in general by other affected publics. Duella M. Adams and Lyle R. Adams have appealed that decision as to their petition-applications, OR 23761 and OR 23762, respectively. 1/

The Board of Land Appeals has no jurisdiction to hear appeals from BLM decisions denying petitions for classification. See 43 CFR 4.410(a)(1) (47 FR 26392 (June 18, 1982)) and 2450.5(d). Under 43 CFR 2450.5, an initial classification decision of a State Director becomes a final order of

1/ The lands affected by petition application OR 23761 are the SW 1/4, W 1/2 SE 1/4 sec. 2 and E 1/2 SE 1/4 sec. 3, T. 27 S., R. 18 E., Willamette meridian. Those in OR 23762 are the NW 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4 sec. 11, T. 27 S., R. 18 E., Willamette meridian.

the Secretary of the Interior if the Secretary, either on his own motion or that of any protestant, petitioner-applicant, or the State Director, has not exercised his supervisory authority to review the decision within 30 days from receipt by parties-in-interest. 2/ The case files do not reflect that the Secretary acted to assume authority over the State Director's decision at issue in this case.

When lands have been classified under a final order of the Secretary as being unsuitable for disposal under the desert land laws, a desert land entry petition-application may not be allowed under 43 CFR 2450.6(a) and this Board properly affirms a BLM decision rejecting the desert land entry applications. Rulon Van Tassel, 33 IBLA 221 (1977). Appellants' argument on appeal concerning the availability of water in the region and their assertion that they believe that desert land entry is the best use for the land are directed to the rationale of the classification decision and therefore beyond the review authority of this Board.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Oregon State Director rejecting desert land entry applications OR 23761 and OR 23762 is affirmed.

Will A. Irwin
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Douglas E. Henriques
Administrative Judge

2/ We note that while the State Director's decision afforded a right to appeal to the parties, it provided no information concerning the procedures for protesting the classification decision in accordance with 43 CFR 2450.4. Nor is it apparent that the State Director followed the procedures set forth in 43 CFR 2450.3 and 2450.4 in issuing his decision.

