

GEORGE S. CRAWFORD

IBLA 83-257

Decided August 26, 1983

Appeal from decision of the Eastern States Office, Bureau of Land Management, rejecting prospecting permit application ES-31477.

Affirmed.

1. Mineral Lands: Prospecting Permits

The Department of the Interior has no authority to issue permits or leases for the exploration or mining of hard rock minerals in land acquired by and held under the jurisdiction of the Department of the Army.

APPEARANCES: George S. Crawford, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

George S. Crawford has appealed the decision of the Eastern States Office, Bureau of Land Management (BLM), dated December 6, 1982, rejecting application ES-31477, for a permit to prospect for gold, copper, and lead on lands in Lincoln County, Georgia. The permit application describes land 1/ which was acquired by and is under the jurisdiction of the Corps of Engineers, Department of the Army.

1/ Appellant's application described the following lands:

"BEGINNING at a point on the 350 foot elevation contour, said point being located S 88-15 E 3300 feet from triangular Bench Mark # 383 and runs N 62-00 E 24,600 feet, more or less, to a point on the road from Salem Church to a boat ramp and opposite a T intersection of a woods road, said intersection being designated as # 396 on the Woodlawn Quadrangle Department of Interior Geological Survey Map; thence S 28-00 E 3,000 feet, more or less, to a point near a road, T intersection; thence S 62-00 W 24,600 feet, more or less, to a point at the edge of the water; thence N 28-00 W 3,000 feet, more or less, to the BEGINNING, containing 1694 acres, more or less, but excepting lands covered by water estimated to be 225 acres, more or less, for a net acreage of 1469 acres, more or less. See attached map."

In reply to a letter sent by appellant to the Department of the Army, the Chief, Real Estate Division, Corps of Engineers, stated in a letter dated May 5, 1982, that:

The Secretary of the Army has no statutory authority to lease lands for the mining and developing of oil, gas, or any other minerals. This also applies to prospecting. The Secretary of the Interior is authorized under the Mineral Leasing Act for Acquired Lands, approved 7 August 1947 (61 Stat. 914; 30 U.S.C. 352), to lease Government-owned deposits of coal, phosphate, oil, oil shale, gas, sodium, potassium and sulphur. If you are interested in prospecting for these minerals, you should submit your prospecting application to the Eastern States Office, Bureau of Land Management * * *.

The Secretary of the Interior cannot lease or authorize prospecting for other minerals on acquired lands. It is possible, however, that the earth products in which you are interested are not "minerals" in the legal sense of the word (i.e. gravel, sand, certain clays, dolomite, green sand, diatomaceous earth, etc.). If so, the Secretary of the Army does have authority to authorize prospecting and to dispose of such deposits by competitive bidding.

In its decision of December 6, 1982, the Eastern States Office stated: "The Secretary of the Interior Department has no authority to lease hardrock minerals in lands acquired by the Department of the Army either under the Mineral Leasing Act for Acquired Lands of 1947 or the Reorganization Plan No. 3 of 1946 (43 CFR 3500.03(2))."

On appeal, appellant asserts that neither BLM nor the Corps of engineers will admit having jurisdiction over the lands for which he has applied.

[1] The Mineral Leasing Act for Acquired Lands of August 7, 1947, as amended, (30 U.S.C. §§ 351-359 (1976 and Supp. V 1981)), authorizes the Secretary of the Interior to issue leases for only the minerals designated therein which do not include those sought by appellant. This Board has previously held that there is no authority for this Department to issue a prospecting permit for hardrock minerals in lands acquired by and under the jurisdiction of the Department of the Army. Dresser Industries, Inc., 9 IBLA 58 (1973); Seminole Rock and Sand Co., A-27282 (Feb. 24, 1956). 2/

2/ The authority for the issuance of hardrock prospecting permits for other than leasable minerals is set forth at 43 CFR 3500.0-3(b)(2) and does not pertain to land acquired by the Department of the Army. See Joseph E. Worthington, 54 IBLA 162, 163 (1981).

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.

C. Randall Grant, Jr.
Administrative Judge

We concur.

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

