

Appeal from decision of Nevada State Office, Bureau of Land Management, declaring mining claims null and void ab initio N MC 196806 through N MC 196819.

Affirmed.

1. Mining Claims: Lands Subject to--Segregation--Withdrawals and Reservations: Effect of

Where an act of Congress directs segregation of certain lands from "all forms of entry under the public land laws," the question of whether such a segregation prohibits mineral entry under the general mining laws is answered by determining congressional intent from the act itself, the legislative history of the act and, in addition, from historical interpretations of the Department concerning the act or other similar acts.

2. Mining Claims: Lands Subject to--Mining Claims: Withdrawn Land--Withdrawals and Reservations: Generally

A mining claim located on land at a time when the land is segregated from mining location by a withdrawal confers no rights on the locator and is properly declared null and void ab initio.

3. Estoppel--Federal Employees and Officers: Authority to Bind Government

Reliance on erroneous information provided by a Bureau of Land Management employee cannot relieve the owner of an unpatented mining claim of an obligation imposed by statute or regulation, or create rights not authorized by law.

APPEARANCES: John L. Grassmeier, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

John L. Grassmeier appeals the August 4, 1982, decision of the Nevada State Office, Bureau of Land Management (BLM), which declared 12 of his mining claims null and void. 1/

The record shows that these 12 claims, among others, were originally located in 1955 and recorded with BLM in 1979. When appellant failed to file his notice of intent to hold or proof of labor for the claims by December 30, 1980, the BLM declared the claims abandoned and void by decision of April 27, 1981, pursuant to section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2. That decision pointed out that "subject to valid intervening rights of third parties or the United States, void or abandoned claims or sites may be relocated and, based on the new location date, the appropriate instruments may be refiled within the time periods prescribed by the regulations." When appellant did not file a timely appeal to this Board from the BLM decision regarding the recording deficiencies of these claims, that decision became the Department's final ruling on the abandonment of the original claims.

Appellant contends in his statement of reasons:

I telephoned the BLM and was advised that the best course of action to take to correct the problem was to relocate and not bother with filing an appeal. I asked if this would affect any of the rights of the claims and was told it would not.

Assuming this information correct I filed re-location notices with the County Recorder on May 4, 1981 and on May 20, 1981 filed the Certificates of Re-Location along with \$75.00 with the BLM to re-register the claims.

Subsequently, BLM declared these relocations void ab initio, stating that the lands involved, along with other areas,

were segregated on April 7, 1958 by a Secretary's Order from all forms of entry under the public land laws of the United States by virtue of the authority and direction contained in section 2 of the Act of March 6, 1958 by Public Law 85-339 (72 Stat 31).

1/ The 12 claims involved are as follows:

<u>DATE OF LOCATION</u>	<u>DATE OF FILING</u>	<u>NAME OF CLAIM</u>	<u>N MC NUMBER</u>
May 1, 1981	May 26, 1981	Iron Mountain	196806
"	"	Iron Mountain #1	196807 thru
"	"	thru 4	196810
"	"	Rainbow	196811
"	"	Rainbow #1 thru 4	196812 thru
"	"		196815
"	"	Skyline #2 & 3	196817 &
			196819"

The Order provided for the withdrawal of lands in the El Dorado Valley to the Colorado River Commission of Nevada acting for the State of Nevada. The lands were closed to the location of mining claims at the time the subject claims were located and are still closed as of this date.

Appellant asks the Board to reinstate the claims emphasizing that: "To void these claims now is to completely ignore 27 years of Assessment and Exploration Work, or thousands of dollars invested in Mining Equipment. This also takes valuable Mineral Deposits away from my sister, brother, and myself."

[1] A review of the record confirms the BLM determination that the lands claimed by appellant within the claims in question were closed to mineral entry by the Director's order of April 7, 1958. Appellant is correct when he points out that neither the Act of March 6, 1958, supra, nor the BLM Director's order issued pursuant thereto expressly referred to the mining laws. Rather, both merely note the closing of the land to entry "under the public land laws." Thus, appellant contends, the initiation of mining claims was not interdicted.

In Pathfinder Mines Corp., 70 IBLA 264, 90 I.D. 10 (1983), this Board examined a similar contention as it related to the Grand Canyon National Game Preserve. As we noted therein, "a statute or order may close land to mineral entry without expressly mentioning the mining laws." Id. at 269, 90 I.D. at 13. In Pathfinder, we held that where an act of Congress authorizes the setting aside of lands for particular public purposes and such act neither expressly continues nor prohibits the operation of the general mining laws, the intent of the Congress in that respect must be gathered from the act itself, or by historical interpretation of this Department of that act and similar acts relating to lands of the same states.

In our recent decision in O. Glenn Oliver, 73 IBLA 56 (1983), we had occasion to review the precise act at issue in the instant appeal. As we noted therein, the purpose of the Act of March 6, 1958, supra, was to provide for the orderly transfer of public lands from the United States to the Colorado River Commission. The Board concluded "the location of mining claims on such lands would be inconsistent with or might materially interfere with the purposes for which the land was segregated." Id. at 58. Thus, we concluded that both the Act and the director's order, in effect, withdrew the land from operation of the mining laws. 2/ The same conclusion must apply herein. In addition, we noted in Oliver that the land remained withdrawn to this date either pursuant to section 3 of the Act or through application of the notation rule. 3/ Appellant has not submitted anything which would show that such is not the case in this appeal.

2/ That Congress intended the withdrawal to embrace mineral entries is also clear from section 4(c) of the Act which directed the Secretary to make an appraisal of the fair market value of the lands "including mineral and material values." Not only did the transfer obviously contemplate a sale of the mineral estate, it would make no sense to have the Government appraise the value of the mineral estate where it was possible that the Government might be divested of such an estate at any time prior to transfer.

3/ As we noted in O. Glenn Oliver, supra, section 3 of the Act provided that an application filed prior to the expiration of the statutory period of

[2] It is well established that a mining claim located on land which is not open to such location confers no rights on the locator and is properly declared null and void ab initio. Jack D. Canon, 30 IBLA 112 (1977); John Boyd Parsons, 22 IBLA 328 (1975). Accordingly, the lands could not be relocated for appellant's mining claims, and the claims were properly declared null and void ab initio.

[3] As to the contention that BLM misled appellant as to the effect of relocation of the claim, the Board has repeatedly held that the public may not rely on erroneous information given out by an employee of the Department. Reliance on erroneous information provided by a BLM employee cannot relieve the owner of an unpatented mining claim of an obligation imposed by statute or regulation, or create rights not authorized by law, or relieve the claimant of the consequences imposed by statute for failure to comply with its requirements. Madison D. Locke, 65 IBLA 122 (1982); John Plutt, Jr., 53 IBLA 313 (1981), and cases cited therein. ^{4/} See also 43 CFR 1810.3(c).

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.

James L. Burski
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Douglas E. Henriques
Administrative Judge

fn. 3 (continued)

segregation would have the effect of extending the period of segregation until it was finally disposed of by the Secretary.

^{4/} In any event, appealed admits that his notice of intent to hold for 1980 was not received by BLM until Dec. 31, 1980. The statute expressly requires that the annual filings be made prior to December 31 of each year. Even had appellant taken a timely appeal from BLM's Apr. 27, 1980, decision, it is clear that the appeal would not have been successful. See, e.g., Carl H. Quandt, 67 IBLA 355 (1982). Thus, in point of fact, appellant was not injured by his reliance on the advice of BLM employees.

