

EVAN HANSEN
LEW HANSEN

IBLA 84-607

Decided October 23, 1984

Appeal from decision of Arizona State Office, Bureau of Land Management, declaring mining claim null and void ab initio. A MC-220865.

Affirmed.

1. Mining Claims: Lands Subject to -- Mining Claims: Withdrawn Land

BLM may properly declare a mining claim null and void ab initio if it was located at a time when the land was withdrawn from mineral entry for the benefit of the Virgin River Gorge Recreation Lands Area, even though the claim is purported to have historical significance which might enhance the recreational value of the area.

APPEARANCES: Evan Hansen, pro se, and for Lew Hansen.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Evan Hansen and Lew Hansen have appealed from a decision of the Arizona State Office, Bureau of Land Management (BLM), dated May 1, 1984, declaring the Mabimos-OR mining claim, A MC-220865, null and void ab initio.

Appellants' mining claim was located March 23, 1984, and filed for recordation with BLM on April 26, 1984, pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(b) (1982). The claim is situated in sec. 11, T. 41 N., R. 14 W., Gila and Salt River Meridian, Mohave County, Arizona. In its May 1984 decision, BLM declared appellants' mining claim null and void ab initio because the land was not open to the location of mining claims at the time of location of appellants' claim, having been withdrawn from entry under the mining laws by Public Land Order No. (PLO) 5263 (37 FR 20942 (Oct. 5, 1972)), on September 28, 1972, for the Virgin River Gorge Recreation Lands Area.

In their statement of reasons appellants advance the argument that the mining claim should not be declared to be null and void because the claim is not an ordinary mining claim but is "one of the most vital historical discoveries ever made in the United States," which "holds the key to recovering the identity of the original inhabitants of the American continent." In order to allow a greater understanding of the basis of appellants' case, we

believe that Evan Hansen's account of the events leading to the location of the claim should be set forth in some detail.

In the late 1970's appellant Evan Hansen (Hansen) became interested in the ancient alphabet, called Ogham, ^{1/} used by the bronze age Celts. In his studies of this written language, he came to the conclusion that the Celtic language was the basis for the language of many of the Indian nations, including Navajo. Noting the theory that the Navajo-Apache Nations were recent arrivals from the Asian continent, he surmised that the language used by the Navajos was a direct result of the existence of a Celtic culture in the western United States.

In 1980 Hansen was observing petroglyphs in the Snow Canyon State Park, Utah, when he noted certain markings which appeared to be Ogham. Not knowing if the markings were authentic Celtic writing or mere copies of the alphabet by "uneducated" members of a native tribe, he commenced a study of the petroglyphs in that area and other areas of southwestern Utah. In the course of this study he began to find markings which were the same as those in Ogham for ancient Celtic words. Soon this led him to speculate regarding the reason that the ancient Celtic people had made these petroglyphs. It was about this time that he made the remarkable discovery that these petroglyphs were maps with attending comments regarding the location of certain points of interest and the attitude of the neighboring native population. One of the points of interest noted on one of the petroglyphs was a mine. Noting the location of the mine on the petroglyphic map, and aided by Geological Survey (GS) contour maps, Hansen launched his search for the lost Celtic mine.

Like most prospectors, Hansen met with failure in his first attempt. He quickly found an area designated as a mine, but, alas, it was not a gold mine but a mine for precious gems which, unfortunately, had been mined out. Not giving up, however, Hansen pressed forward in his search, finding another location which had clearly been noted as being a mine! The difficulty in identifying the type of mine noted on the petroglyph maps caused him some delay until he realized that the Celts had written the designation of the mine in code. Hansen spent months studying the various maps and breaking the code. He was also delayed by his mistaken belief that the Celtic map was inferior to that developed by GS, but as soon as he realized that the Celtic map was in fact superior, he began using the Celtic maps as the primary tool for locating the mine and the GS maps only as supplemental tools to verify his initial determinations. Following his determination of the location of the mine, and breaking the code, which enable him to identify the mine as a gold mine, Hansen located his mining claim and began an investigation of the site.

Hansen explains that the original mine was productive sometime between 2,000 and 3,000 years ago, but recognizes that, with what remains of the workings, it is impossible to more precisely place a date on the actual time that the mine was worked. At any rate, as can be expected, after a period of

^{1/} Webster's New Collegiate Dictionary defines Ogham as the alphabetic system of fifth and sixth century Old Irish in which an alphabet of 20 letters is represented by notches for vowels and lines for consonants.

2,000 to 3,000 years, it is difficult to readily identify the site as a minesite. However, he has submitted a photograph of the site which he describes as being a shaft which had been dug out of solid rock. He explains that there is no natural explanation for the occurrence and notes the shaft is now covered by huge slabs of fallen rock which must be blasted in order to expose the actual workings. He contends that, once these workings are exposed his theory will be proven, and that in the act of so proving his theory, he will expose "one of the most important historical evidences ever discovered in America."

Like Heinrich Schliemann, who pressed forward to prove his theory regarding the location of Troy in spite of the prevailing belief that it was elsewhere, Hansen desires to reap the benefit of his efforts by recovering the gold which he believes will be found in the mine once the shaft is reopened. The minesite and the location of the mining claim are both within lands designated as the Virgin River Gorge Recreational Lands Area which has been withdrawn from mineral entry. ^{2/} He states that he does not desire to have his operations diminish the value of the recreation area, but contends that his operations will make this area one of the most important historic sites in the United States. He further states, that, in recognition of the historical value of the site, he will enter into an agreement with BLM and the State of Arizona to protect the area, so long as he is given the opportunity to prove that the site is, in fact, an ancient Celtic mine.

[1] With this background, there can be little question that what Hansen seeks is truly "no ordinary mining claim." Unfortunately, the mining claim located by appellants is an ordinary mining claim. The 1872 mining laws were not enacted to provide for a mining claim of the nature that they desire. Certain rights pass with the title to a mining claim which are contrary to the intent and purpose of the withdrawal, regardless of the good faith belief on the part of appellants that the claim can be worked in a manner which would enhance rather than detract from the recreation area or appellants' willingness to enter into an agreement which would assure that the recreation values would be protected.

PLO 5263 withdrew the land included in appellants' mining claim, subject to valid existing rights, "from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2 * * * for protection of recreation and public values in connection with the Virgin River Gorge Recreation Lands area." 37 FR 20942 (Oct. 5, 1972). It is well established that a mining claim wholly located on land previously withdrawn from mineral entry confers no rights on the locator and is properly declared null and void ab initio. Homer Owens, 81 IBLA 402 (1984), and cases cited therein.

^{2/} Appellants state that the original location of their mining claim does not include the minesite due to a mistake in map reading and that the claim should be shifted one-half mile to the west in secs. 10 and 15, T. 41 N., R. 14 W., Gila and Salt River meridian, Mohave County, Arizona. However, appellants note that "both sites are still in the proposed recreation area" (Statement of Reasons dated May 18, 1984, at 1). We will not consider the question of the validity of this purported relocation in the present context.

Appellants' entry onto the public land is by virtue of the location of a mining claim, whose purpose is the exploration for and purchase of a valuable mineral deposit. 30 U.S.C. § 22 (1982); United States v. Zimmers, 81 IBLA 41 (1984). The land has been closed to such entry because mining and possible appropriation of the land under the mining laws is felt to be inconsistent with the public values inherent in the recreation area. Therefore, we conclude that BLM properly declared appellants' mining claim null and void ab initio. Appellants will not be permitted to maintain their mining claim.

Assuming the validity of appellants' theory, we find that there is another problem presented by the statement of reasons which would preclude the operations, even if the land was subject to mineral entry. The American Antiquities Act, 16 U.S.C. § 433 (1982), provides that any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity situate on lands owned or controlled by the Government of the United States, without permission of the Secretary of the Department of the Government having jurisdiction over the lands on which such antiquities are situated, is subject to a fine and/or imprisonment. If the site is as historically significant as appellants claim, the provisions of the Antiquities Act would clearly apply. The only course of action open to appellants would be to apply for a permit to excavate the site (or any other like site identified by appellants) pursuant to the provisions of 43 CFR Part 3, Preservation of American Antiquities.

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.

R. W. Mullen
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Edward W. Stuebing
Administrative Judge