

JOHN F. MALONE
VICKI L. MALONE

IBLA 84-385

Decided November 26, 1984

Appeal from the decision of the Anchorage District Office, Bureau of Land Management, declaring mining claims to be null and void ab initio. AA 52934 through AA 52942.

Dismissed.

1. Rules of Practice: Appeals: Dismissal -- Rules of Practice: Appeals: Statement of Reasons

An appeal from a decision declaring mining claims null and void because they were located on land withdrawn from mineral entry may be dismissed where the appellants failed to file a statement of reasons, and there is no likelihood they could prevail on the merits of the case in any eventuality.

2. Mining Claims: Determination of Validity -- Mining Claims: Lands Subject to -- Mining Claims: Withdrawn Land -- Withdrawals and Reservations: Effect of

A mining claim located on land previously withdrawn from appropriation under the mining laws is null and void ab initio.

APPEARANCES: John F. Malone and Vicki L. Malone, pro sese.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

John F. Malone and Vicki L. Malone 1/ appeal a decision of the Anchorage District Office, Bureau of Land Management (BLM), dated February 29, 1984, which declared nine mining claims null and void ab initio. 2/ The decision declares the mining claims to be null and void because they were located on land withdrawn from mineral entry.

1/ John F. Malone signed the notice of appeal as "adverse party", and the case file contains a proof of service signed by Vicki L. Malone as "adverse party" in which she acknowledges personal receipt of the notice of appeal. 2/ Those claims are as follows: Proud Foot Nos. 1-5, AA-52934 through AA-52938, and Vickies Nos. 8-11, AA-52939 through AA-52942.

Appellants filed a notice of appeal with BLM on March 26, 1984, but provided no reasons for the appeal, and no statement of reasons has been provided by them.

[1, 2] Regulation 43 CFR 4.402(a) provides that an appeal to this Board will be subject to summary dismissal "[i]f a statement of the reasons for the appeal is not included in the notice of appeal and is not filed within the time required."

Public Land Order Nos. 5179, 5181, and 5184, all published in the Federal Register in March 1982 (37 FR 5579-5584, Mar. 16, 1982), withdrew the lands on which the subject mining claims were located from all forms of appropriation under the public land laws. The location dates of the mining claims were September 1983. It is well established that mining claims located on land previously withdrawn from appropriation under the mining laws are null and void ab initio. J. Pat Kaufman, 71 IBLA 183 (1983).

Since no statement of reasons was filed, and since there is no likelihood that appellants would prevail on the merits of the case in any eventuality, the matter is properly subject to summary dismissal.

For the foregoing reasons, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Will A. Irwin
Administrative Judge

We concur:

Franklin D. Arness
Administrative Judge

Wm. Philip Horton
Chief Administrative Judge.

