

THE UNITED METHODIST CHURCH ET AL.

IBLA 85-540, et al.

Decided June 26, 1986

Consolidated appeals from decisions of the Alaska State Office, Bureau of Land Management, rejecting Public Land Order No. 1613 applications AA-54173, et al.

Affirmed.

1. Act of August 1, 1956 -- Public Lands: Alaska -- Public Sales: Applications -- Public Sales: Preference Rights -- Withdrawals and Reservations: Revocation and Restoration

BLM properly rejects PLO 1613 applications to purchase lands adjoining lands that were not in private ownership or in a pending application on Apr. 7, 1958.

APPEARANCES: Thom White Wolf Fassett, District Superintendent, for the United Methodist Church; Joseph M. and Carolyn T. Vallieres, pro sese; Dan K. Coffey, Esq., for Essie Lee Mitchell.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Appellants in these consolidated appeals 1/ each filed Public Land Order No. (PLO) 1613 applications for tracts of land that lie between their property and the Old Glenn Highway in Alaska. Because they acquired their property after the date of PLO 1613, the Alaska State Office, Bureau of Land Management, rejected their applications in decisions dated March 14, May 2, and August 7, 1985.

[1] PLO 1613, 23 FR 2376 (Apr. 11, 1958), was issued April 7, 1958, to implement the Act of August 1, 1956, 43 U.S.C. §§ 971a through 971e (1982), that authorized the Secretary of the Interior to sell lands previously withdrawn for highways, telephone lines or pipelines in Alaska, giving a preference right to holders of adjoining claims or entries and owners of adjoining private lands upon revocation of the withdrawals. 43 U.S.C. §§ 971a, 971b. The purpose of the Act was to "permit the disposal of lands restored from [such] withdrawals * * * in such a manner as to recognize the equities of

1/ IBLA 85-540, the United Methodist Church (AA-54173); IBLA 85-641, Joseph and Carolyn Vallieres, (AA-54759); IBLA No. 85-908, Essie Lee Mitchell (AA-54895).

those landowners who have acquired lands abutting such withdrawals prior to their restoration." 2/ (Emphasis added.) PLO 1613 revoked these withdrawals in paragraphs 1 and 2 and provided in paragraph 7 that "[t]he lands released from withdrawal by paragraphs 1 and 2 of this order, which, at the date of this order, adjoin lands in private ownership, shall be offered for sale * * *. Owners of such private lands shall have a preference right to purchase * * * so much of the released lands adjoining their private property as the authorized officer * * * deems equitable * * *." 3/ (Emphasis added.)

The records in these cases establish that appellants first made application for the public lands that adjoin the released (i.e., restored) lands after April 7, 1958. Their arguments on appeal are therefore unavailing. The Act, its legislative history, and the language of PLO 1613 all make clear that BLM may only sell lands restored by PLO 1613 that adjoined lands in private ownership or in pending unperfected applications on April 7, 1958.

Therefore, in accordance with the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Will A. Irwin

We concur: Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

Franklin D. Arness
Administrative Judge.

2/ S. Rep. No. 2641, 84th Cong. 2d Sess., reprinted in, 1956 U.S. Code Cong. & Ad. News 4052. The Senate Report continues:

"[T]he Department of the Interior has embarked on a program of revoking such withdrawals and replacing them with easements of an appropriate width. To take this action in the absence of legislation such as H.R. 4096 would, however, mean opening the land within the present withdrawals to entry by newcomers, oftentimes to the detriment of persons who have acquired title to and improved tracts of lands abutting the existing withdrawals. To protect the equities of such persons, H.R. 4096 would authorize the Secretary of the Interior to give adjoining landowners or claimants a preferred right in the lands made available through restoration of the withdrawals."

Id. 1956 U.S. Code Cong. & Ad. News 4053.

3/ See 23 FR 2377 (Apr. 11, 1958). In paragraph 8 of PLO 1613, similar provision was made for claimants of lands adjoining the withdrawn lands whose claim had not proceeded to patent at the time of restoration.

