



DONALD GRAYDON JOLLY
JANIS MARIE JOLLY

173 IBLA 201

Decided December 21, 2007



United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy St., Suite 300
Arlington, VA 22203

DONALD GRAYDON JOLLY
JANIS MARIE JOLLY

IBLA 2006-218

Decided December 21, 2007

Appeal from decision of the California State Office, Bureau of Land Management, declaring mining claims null and void ab initio. CAMC 13022-026.

Reversed.

1. Applications and Entries: Generally--Mining Claims: Lands Subject to--Mining Claims: Withdrawn Lands--Public Records--Segregation--Withdrawals and Reservations: Effect of--Withdrawals and Reservations: Temporary Withdrawals

The notation of an application on the proper BLM records has a segregative effect only when a statute or Departmental regulation provides that the filing of the application segregates the land.

2. Executive Orders and Proclamations--Mining Claims: Lands Subject to--Mining Claims: Withdrawn Lands--Public Records--Withdrawals and Reservations: Effect of--Withdrawals and Reservations: Temporary Withdrawals

Executive Order 5229 which temporarily withdrew tracts of public land in aid of proposed legislation authorizing the sale of those lands to the City of Los Angeles to protect and augment the City's water supply system was superseded by the Act of March 4, 1931, ch. 517, 46 Stat. 1530, under which the lands remained open to location of mining claims for all locatable minerals until a grant to the City was approved.

3. Applications and Entries: Generally--Mining Claims: Lands Subject to--Mining Claims: Withdrawn Lands--Public Records--Segregation---Withdrawals and Reservations: Effect of--Withdrawals and Reservations: Temporary Withdrawals

The notation rule does not apply when notations for the same public land conflict. Nor does it apply where to do so would thwart the will of Congress. Persons dealing with the Government are presumed to have knowledge of relevant statutes and regulations, and the notice Congress imparts by the enactment of legislation is not negated by a notation on a BLM public record.

APPEARANCES: R. Timothy McCrum, Esq., and Daniel W. Wolff, Esq., Washington, D.C., and James E. Good, Esq., San Bernardino, California, for appellants and intervenor; Rose Miksovsky, Esq., Office of the General Counsel, U.S. Department of Agriculture, San Francisco, California, for the United States Forest Service.

OPINION BY CHIEF ADMINISTRATIVE JUDGE HOLT

Donald Graydon Jolly and Janis Marie Jolly have appealed from and petitioned for a stay of a May 19, 2006, decision of the California State Office, Bureau of Land Management (BLM), declaring the Black Point Pumice Association Nos. 1, 2, 3, the Black Point Pumice Association Claim No-3-A, and the Black Point Cinder Claim No-4 (CAMC 13022-026) null and void ab initio. The claims lie within the Mammoth and Mono Lake Ranger Districts of the Inyo National Forest, and within the Mono Basin National Forest Scenic Area. The claims are mined by the Jollys through their operating company, Black Point Cinders, Inc.,¹ for “cinder materials” used in “road de-icing” in the Sierra Nevada Mountains. (Preliminary Statement of Reasons and Motion for Stay of BLM Decision Voiding Mining Claims (SOR) at 2, 8; Ex. 2 (Declaration of Donald Jolly) at ¶ 4.)

The claims were located between 1950 and 1952 in secs. 20, 21, and 22, T. 2 N., R. 26 E., Mount Diablo Meridian, Mono County, California.² BLM determined

¹ By order dated July 19, 2006, the Board granted the motion to intervene filed by Black Point Cinders, Inc.

² The Black Point Pumice Association Nos. 1 and 3 are located entirely within sec. 21. The Black Point Pumice Association No. 2 is located in secs. 21 and 22. The Black Point Pumice Association Claim No-3-A is located in the S½NE¼NE¼ sec. 20; (continued...)

that the land was not subject to location of mining claims because the City of Los Angeles, California, filed an application on October 20, 1944, to purchase the land pursuant to the Act of June 23, 1936, 49 Stat. 1892 (1936 Act).³ The United States Forest Service has responded to the Jollys' appeal. By order dated August 7, 2006, the Board granted the Jollys' petition for a stay of the BLM decision, finding that they had established a likelihood of success on the merits of this appeal. We now reverse BLM's decision.

Background

The Mining Law of 1872 provides: "Except as otherwise provided, all valuable mineral deposits in lands belonging to the United States . . . shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States . . . under regulations prescribed by law." 30 U.S.C. § 22 (2000). The Act of June 25, 1910, commonly referred to as the Pickett Act, granted the President authority to temporarily withdraw public lands "for water-power sites, irrigation, classification of lands, or other public purposes." Ch. 421, § 1, 36 Stat. 847 (1910). As amended by the Act of August 24, 1912, section 2 of the Pickett Act provided that lands withdrawn under its authority were to remain open under the mining laws for the location of "metalliferous minerals." Ch. 369, § 2, 37 Stat. 497 (1912).⁴ Under authority of the Pickett Act as amended by the Act of August 14, 1912, President Hoover issued Executive Order (E.O.) 5229 on November 25, 1929. This order temporarily withdrew tracts of public land including the land on which appellants' claims were subsequently located "from settlement, location, sale or entry, except as provided in said acts, in aid of proposed legislation authorizing the sale of these lands to the city of Los Angeles to protect and augment said city's water supply system." Under section 2 of the Pickett Act, as amended, the withdrawn lands remained open to the location of mining claims for metalliferous minerals.

In 1931 and 1936, Congress enacted legislation specifically addressing the purpose for which the land subject to appellants' claims was temporarily withdrawn under E.O. 5229. The Act of March 4, 1931, ch. 517, 46 Stat. 1530 (the 1931 Act), withdrew certain public lands including the land subject to appellants' claims from

² (...continued)

the Black Point Cinder Claim No-4 is located in the S¹/₂NW¹/₄NE¹/₄ sec. 20.

³ The 1936 Act was later repealed by the California Wilderness Act of 1984, 98 Stat. 1619, 1636 (Sept. 28, 1984), 16 U.S.C. § 543c(i)(1)(2000).

⁴ The Pickett Act, formerly codified at 43 U.S.C. §§ 141-143 (1970), was repealed by sec. 704(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), Pub. L. No. 94-579, 90 Stat. 2792 (1976).

“settlement, location, filing, entry or disposal under the public land laws for the purpose of protecting the watersheds . . . supplying water to the city of Los Angeles” and other places in California. Again, however, mining was not foreclosed. Section 2 of the 1931 Act provided that all of the withdrawn lands “shall at all times be open to exploration, discovery, occupation, and purchase permit or lease under the mining or mineral leasing laws.” 46 Stat. at 1547-48. Thus, Congress expressly provided that land withdrawn by the 1931 Act was open to location of claims for all locatable minerals, not just metalliferous minerals.⁵

In the Act of June 23, 1936, ch. 733, 49 Stat. 1892 (the 1936 Act), Congress “granted to the city of Los Angeles . . . all lands belonging to the United States situated in Mono County” found to be necessary for certain purposes that included municipal water development projects. The United States reserved from the grant minerals “other than sand, stone, earth, gravel, and other materials of like character: *Provided, however,* That such minerals so excepted and so reserved shall be prospected for, mined, and removed only in accordance with regulations to be prescribed by the Secretary of the Interior.”

However, this grant did not become immediately effective. The 1936 Act provided that the grant would become effective only after three conditions were satisfied by the City of Los Angeles: (1) the filing of a map showing the boundaries, location, and extent of lands needed for the purposes of the Act, (2) the approval of the map by the Secretary of the Interior, and (3) the payment of \$1.25 per acre. No provision of the 1936 Act purported to alter the existing status of land unless and until a grant became effective. Thus, until the three conditions were satisfied, the land remained open to location of mining claims; after the grant became effective, reserved minerals could be appropriated only in accordance with whatever pertinent regulations the Secretary issued. The Act contained no provision for segregating land from mineral entry prior to the effective date of any grant.

On October 20, 1944, the City filed an application with BLM to purchase more than 16,000 acres of land including the land now subject to appellants’ claims.⁶ The application was opposed by local and county officials and various organizations. No action was taken on the application. On November 2, 1988, BLM received notification from the City of its decision to rescind the application. By decision dated January 31, 1989, BLM accepted the rescission, so no grant that included appellants’

⁵ Shortly thereafter, the Department issued regulations setting forth section 2 of the 1931 Act and establishing requirements with respect to grazing and recreation. 53 I.D. 369 (1931).

⁶ This application was originally assigned serial number S 036130 and later serialized as LA 087404.

lands ever became effective. Nevertheless, because the City's application was still pending when appellants' claims were located from 1950 to 1952, BLM concluded that it effectively "closed" the lands "to the location and entry of mining claims" and they remained closed at the time of "attempted location" of the claims. Decision at 2. Accordingly, BLM declared the claims null and void ab initio.

Arguments of the Parties

In attacking BLM's conclusion that the City's pending application closed the land to location of mining claims, appellants note that BLM's decision referred to the provision of the 1936 Act regarding when the grant would become effective but only mentioned subsection 1 that states the grant would become effective on the filing of an application. They point out that BLM failed to mention subsections 2 and 3 that state the grant would become effective only upon the Secretary of the Interior's approval of the submitted map and the payment of the per acre fee. They refer to section 3 of the 1936 Act which provides that the grants are "subject to *the rights of all claimants or persons who shall have filed or made valid claims, locations, or entries on or to said lands, or any part thereof, prior to the effective date of any conflicting grant hereunder.*" SOR at 14-15 (emphasis supplied by appellants). In essence, appellants contend that because the 1936 Act requires recognition of valid existing rights as of the effective date of the grant, BLM cannot invalidate claims initiated before the date of Secretarial approval of the grant solely on the basis of the filing of an application under the 1936 Act. Appellants assert that BLM's decision conflicts with an interpretation of the 1936 Act in a 1945 General Land Office (GLO) Memorandum involving the very application to which BLM now attributes a segregative effect.⁷ SOR at 15. Appellants contrast the 1936 Act with the Federal Power Act,⁸ which specifically provides for the reservation of public lands from the date of filing of an application, noting that no similar provision appears in the 1936 Act. SOR at 16.

In its Answer to the SOR, the Forest Service (FS) asserts that BLM's decision should be upheld for three reasons: (1) the lands were withdrawn by E.O. 5229, BLM's status plat, and the 1931 Act; (2) the claims are null and void under the "Notation Rule" because BLM's status plat shows the land to be withdrawn; and

⁷ Memorandum to Assistant Commissioner, GLO, from Jacob N. Wasserman, Chief Counsel (Nov. 5, 1945) (1945 GLO Memorandum).

⁸ Section 24 of the Federal Power Act, 16 U.S.C. § 818 (2000), provides in pertinent part: "Any lands of the United States included in any proposed project under the provisions of this subchapter shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the [Federal Power] Commission or by Congress."

(3) the deposit of cinders was a common variety and not subject to location. Answer at 2. FS argues that failing to attribute a segregative effect to the City's application "would produce the absurd result of . . . potentially subjecting the lands underlying Los Angeles' application to conflicting claims." *Id.* at 3. FS refers to the provision of the 1936 Act that reserves minerals to the United States except for common variety minerals that Congress expressly intended to be available to the City. *Id.* at 4. To avoid an unreasonable result, FS argues, the language of section 2 of the 1931 Act must be construed as allowing "only holders of valid existing rights to engage in the enumerated activities." *Id.* at 5.

FS further argues that because BLM's status plat shows that the lands subject to the claims are affected by the 1929 withdrawal, the 1931 and 1936 Acts and the City's application, the lands were not available for the location of claims under the "Notation Rule," under which "[n]o rights can be obtained in that part of the public domain which has been segregated by a pre-existing appropriation, even if it is subsequently found invalid." *Id.* at 5-6.

FS contends that cinders are a common variety of mineral, but even prior to the enactment of the Multiple Use Mining Act of July 23, 1955, also known as the Surface Resources Act or the Common Varieties Act, 30 U.S.C. § 611 (2000), which excluded "common varieties" of minerals from location under the mining laws,⁹ minerals used for certain purposes such as fill, grade, ballast, or base were never subject to location under the mining laws, citing *United States v. Bienick*, 14 IBLA 290, 293 (1974), *United States v. Johnson*, 100 IBLA 322, 335 n.5 (1987), and *United States v. Webb*, 132 IBLA 152, 183 (1995). FS asserts that the only evidence shows that the cinders have been used for de-icing roads which the FS likens to road fill. Answer at 7-8.

Replying to the Answer, appellants refer to this Board's statement in its August 7, 2006, order that the only question before us in this appeal is whether BLM properly declared the claims null and void ab initio pursuant to the Act of June 23, 1936. Reply at 1. On that issue, they restate their arguments based on the plain language of the statutes and the land office's construction of those provisions in its 1945 GLO Memorandum.

Appellants have nevertheless addressed the other issues raised by FS. They contend that E.O. 5229 was superseded by the 1931 and 1936 Acts which make it

⁹ Section 3 of the Common Varieties Act, 30 U.S.C. § 611 (2000), provides in pertinent part that "[n]o deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders . . . shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws[.]"

clear that the land is not withdrawn from entry under the mining laws. They assert that the notation of those laws on BLM's records makes no indication to the contrary. Reply at 5. As for the argument that the claims are not valid because the cinders were never locatable, appellants point out that neither BLM nor FS initiated a mining claim contest on that issue. Reply at 6 n.2.

Analysis

FS relies on the notation rule as well as the segregative effect FS attributes to the City's application as a basis for affirming BLM's decision. FS also argues that E.O. 5229 precluded appellants' predecessors from locating their claims. We address these issues separately.¹⁰

The Notation Rule and the City's Application

Under the notation rule, where public land records have been noted to show that a parcel of land is not open to entry under the public land laws, the parcel is not available for entry until such time as the notation is removed and the land is restored to entry, even if the original notation was made in error. *Joe R. Young*, 171 IBLA 142, 144 (2007); *William Dunn*, 157 IBLA 347, 353 (2002), and cases cited. If a notation on the public land records indicates that land is closed to entry, the land is closed to entry even if the notation was erroneously made, or the segregative effect of that entry is void, voidable, or has terminated or expired. *B. J. Toohey*, 88 IBLA 66, 77-81, 92 I.D. 317, 324-26 (1985), *aff'd sub nom. Cavanagh v. Hodel*, No. 86-041 Civil (D. Alaska Mar. 18. 1988); *Shiny Rock Mining Corp. (On Reconsideration)*,

¹⁰ Although the Board stated in its Aug. 7, 2006, order that the the only question before us in this appeal is whether BLM properly declared claims null and void ab initio pursuant to the Act of June 23, 1936, this Board has issued decisions where we found claims invalid for reasons other than those stated in the decision under appeal. *E.g.*, *Richard Borgen*, 117 IBLA 239, 245 (1991) (BLM erred in holding that a claim was invalid because the land was segregated by an application, but the claim was found invalid for another reason). Although we address the effect of E.O. 5229, we cannot address the argument advanced by FS that the cinders on appellants' claims were not locatable minerals at the time the claims were located. A definitive resolution of that issue involves disputed issues of fact on matters that are not before us. As appellants point out, such issues are properly resolved in a contest proceeding, as is illustrated by the *Bienick*, *Johnson*, and *Webb* cases upon which FS relies. *But see Clinton D. Ray*, 59 I.D. 466, 467 (1947) (affirming a BLM decision that rejected an application for the sale of volcanic cinders and held that such a deposit "can be acquired only by location under the mining laws of the United States, made at a time when the lands containing such deposits are not withdrawn from mining location").

77 IBLA 261, 263 (1983), *aff'd*, *Shiny Rock Mining Corp. v. Hodel*, 825 F.2d 216, 219 (9th Cir. 1987).¹¹

[1] Any reliance on the notation rule with respect to the segregative effect of City's application is readily refuted: the City's application never had a segregative effect because no statute or regulation expressly provided for such an effect. In *Scott Burnham (On Reconsideration)*, 102 IBLA 363, 365-66 (1988),¹² this Board stated: "the notation of an *application* on the proper BLM records has a segregative effect only when a statute or Departmental regulation provides that the filing of the application segregates the land." (Emphasis in original.) *Accord*, *Nancy Hollingsworth*, 92 IBLA 358, 360-61 (1986) (no statute or regulation provides for segregative effect of regional selection application); *Leo Rhea Partnership*, 80 IBLA 1, 2 (1984) (State indemnity selection application had no segregative effect if the State's application was filed prior to publication of a regulation providing for a segregative effect).¹³ No such provision appears in the 1936 Act, and neither BLM

¹¹ The segregative effect from filing an application is properly distinguished from the notation rule. Where a statute or regulation attributes a segregative effect to the filing of an application, the segregative effect of filing will operate regardless of the applicability of the notation rule. *William Mrak*, 86 IBLA 16, 19 (1985); *John C. Thomas (On Reconsideration)*, 59 IBLA 364, 367 (1981).

The *Young* case illustrates how the rule operates. At the time Young located his mining claims, the public land records showed that the land was covered by a State Selection application, which would have the effect of segregating the land from mineral entry under 43 C.F.R. § 2627.4(b). However, the land *in fact* was not subject to a state selection application because it was in the Chugach National Forest and BLM apparently rejected the application in 1985. Thus, when Young located his claims and attempted to record them in 2006, there was no outstanding application that segregated the land, but BLM had failed to clear the notation of that application from its public land status records. Despite the fact that there was no existing state selection application when Young located his claims, the notation rule barred their location because the application was still noted on BLM records, *and* there was a regulation that gave such an application a segregative effect.

¹² Appeal dismissed for lack of jurisdiction, matter remanded to BLM for proceedings in conformity with IBLA decision *sub nom. American Colloid Co. v. Hodel*, 701 F.Supp. 1537 (D.Wyo. 1988).

¹³ The FS argument that it would be unreasonable to construe the 1931 and 1936 Acts as subjecting the lands underlying the City's application to conflicting claims carries no greater weight here than such an argument would have carried in the *Hollingsworth* and *Rhea* cases that likewise involved applications for conveyances of land. Although such an argument may carry persuasive force in a case where a

(continued...)

nor FS has identified any other statute or regulation in effect when the City filed its application that would have given it a segregative effect. As appellants point out, the 1931 Act makes it explicitly clear that the subject land was open to location, and no language in the 1936 Act provides otherwise.

E.O. 5229

Nevertheless, FS also contends that the land was withdrawn by E.O. 5229. Answer at 5.¹⁴ Appellants contend that the E.O. was superseded by the 1931 Act. The issue is important because the E.O. was issued under the Pickett Act as explained above. If the E.O. remained in effect, it precluded the location of claims for nonmetalliferous minerals such as pumice or cinders. See *David E. Hoover*, 99 IBLA 291, 295-96 (1987); *Clinton D. Ray*, 59 I.D. at 468 (involving land withdrawn under the Pickett Act in 1933 for the protection of the water supply of the City of Los Angeles in aid of proposed legislation that was never enacted). If the 1931 Act superseded the E.O. as appellants contend, the land was open to claims for all locatable minerals.

Despite the fact the Pickett Act provides for *temporarily* withdrawing lands for various purposes, such withdrawals do not lapse because of the passage of time, even if the proposed legislation contemplated by the withdrawal was never enacted. *Shaw v. Work*, 9 F.2d 1014 (D.C. Cir. 1925); *Clinton D. Ray*, 59 I.D. at 469. Even when Congress has enacted legislation that appears to fulfill the purposes of the withdrawal, the withdrawal remains effective for land not covered by the subsequent legislation. *Edwin L. Doherty*, A-26868 (July 13, 1954); Sol. Op., “Status of Certain Lands Withdrawn for Addition to the Sequoia National Park,” 52 L.D. 675 (1929). In this case, Congress enacted subsequent legislation affecting some of the lands withdrawn by E.O. 5229, including the land subject to appellants’ claims.

The withdrawal in E.O. 5229 was “in aid of proposed legislation authorizing the sale of these lands to the city of Los Angeles to protect and augment said city’s water supply system.” It also stated: “This order shall continue in force and effect

¹³ (...continued)

reservation of land for the government does not either expressly continue or prohibit the operation of the general mining laws, e.g., *Pathfinder Mines Corp. v. Hodel*, 811 F.2d 1288, 1292 (9th Cir. 1987), the intent of Congress in the 1931 and 1936 Acts is not ambiguous. Indeed, section 2 of the 1936 Act makes it unmistakably clear that what FS considers an “absurd result” is exactly what Congress intended.

¹⁴ FS also refers to E.O.s in 1931 and 1936 but does not identify any that withdrew the land. Answer at 5. Notations on BLM records pertaining to the land at issue that involve those years refer to the 1931 and 1936 Acts.

unless and until revoked by the President or by Act of Congress.” Although the 1931 and 1936 Acts clearly acted upon the subject of E.O. 5229, neither expressly revoked it. Thus, we turn to the question whether E.O. 5229 was impliedly repealed or superseded by subsequent legislation.

In *City of Phoenix v. Reeves*, 14 IBLA 315, 324-27, 81 I.D. 65, 69-70 (1974), the Board considered whether a statute authorizing a grant of lands to a city for municipal purposes subject to a reservation of minerals to the United States impliedly repealed an E.O. issued under the Pickett Act that temporarily withdrew land from nonmetalliferous mineral location “for classification and in aid of legislation granting said lands to the city of Phoenix, Arizona.” E.O. 3388 (January 22, 1921). Like E.O. 5229, E.O. 3388 provided that it would remain in full force until revoked by the President or by an Act of Congress.

The Board held that E.O.s have the force and effect of law and rules of statutory construction apply to them. The Board concluded that the statute authorizing the grant to Phoenix did not impliedly repeal the E.O. Noting that the Act made no mention of the E.O., the Board found that granting the land to Phoenix with a mineral reservation to the United States did not mandate the revocation of a temporary withdrawal order and the restoration of the withdrawn land to mineral location “because the Government could have good and sufficient reasons to both grant the patent and retain the withdrawal as to the reserved minerals.” 14 IBLA at 326, 81 I.D. at 70. Finding that the E.O. and the Act were “not absolutely irreconcilable,” the Board concluded “effect must be given to both.” *Id.*¹⁵

Although an implied repeal is not favored, there are occasions involving public lands where later statutes have been found to impliedly repeal or supersede earlier statutes. For example, Congress did not explicitly repeal the Stock-Raising Homestead Act of 1916 until 1976,¹⁶ but the Department has long recognized that it

¹⁵ *Reeves* differs from this case in that the land had been patented to the City of Phoenix subject to a reservation of minerals to the United States, and although the Board in *Reeves* ultimately ruled that the mining laws did not extend to the reserved minerals in the patented land, 14 IBLA at 327-28, 81 I.D. at 70, the Board reached this conclusion only after it rejected the finding of an Administrative Law Judge that the 1921 Act and issuance of a patent “fulfilled the purpose of the temporary withdrawal and thus effectuated a restoration of the minerals to location.” 14 IBLA at 324-25, 81 I.D. at 69.

¹⁶ 43 U.S.C. §§ 291-301 (1970), *repealed in part* by section 702 of the Federal Land Policy and Management Act of 1976 (FLPMA), Pub. L. No. 94-579, Title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

was impliedly repealed by the Taylor Grazing Act of 1934, 43 U.S.C. §§ 315, 315a-315r (2000). *Daniel A. Anderson*, 31 IBLA 162, 164-65 (1977); *George J. Propp*, 56 I.D. 347, 350 (1938). In *Utah Power & Light Co. v. United States*, 243 U.S. 389, 406 (1917), the Supreme Court held that earlier legislation providing for rights-of-way was superseded by later legislation applicable to electric power uses because the later legislation “dealt specifically with that subject, covered it fully, embodied some new provisions and evidently was designed to be complete in itself.”

For the following reasons, *Reeves* does not control the resolution of this case. The E.O. in *Reeves* withdrew land for classification purposes as well as in aid of legislation for the City of Phoenix, so the Board concluded that enactment of legislation alone did not exhaust the stated purposes of the withdrawal. 14 IBLA at 326-27, 81 I.D. at 70; *see W. R. C. Croley*, 32 IBLA 5, 6 (1977). In this case, however, the E.O. was solely in aid of proposed legislation.

[2] More importantly, the *Reeves* case involved no legislation analogous to the 1931 Act in this case. There is nothing in the 1931 Act that impliedly repealed the E.O.’s withdrawal of land covered by the Act. On the contrary, its effect was to make that temporary withdrawal permanent, except that it established that the land was open to location for all locatable minerals, not just nonmetalliferous minerals. The Department has recognized that a temporary withdrawal in aid of legislation is superseded by a permanent withdrawal as to the lands described in the permanent withdrawal. *William H. Ward*, 51 L.D. 158, 161 (1925). In this case, the 1931 Act addresses the same subject matter as the E.O., covers it fully, and is designed to be complete in itself. *See Utah Power & Light Co.*, 243 U.S. at 406. Furthermore, it is well settled that a statute “should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.” 2A Norman J. Singer, Sutherland, Statutes and Statutory Construction, § 46.06, at 119-20 (5th ed. 1992). We would give the 1931 Act no effect at all if we were to hold that it did not supersede the E.O. Accordingly, we conclude that the temporary withdrawal by E.O. 5229 was superseded by the 1931 Act, under which land remained open to location of mining claims for all locatable minerals until a grant to the City was approved.

[3] Finally, the fact that the E.O. appears on BLM’s status records does not invalidate the claims for nonmetalliferous minerals under the notation rule. The 1931 Act is also noted on the master title plat as well as on the Historical Index.¹⁷ To the extent they conflict, the notation rule does not apply. *See Maurice DeBoer*, 91 IBLA 317, 321 (1986); *Basil S. Bolstridge*, 90 IBLA 54, 57 (1985). Nor can the

¹⁷ Although the Historical Index lists the E.O. and the 1931 Act separately in chronological sequence, the 1931 Act is directly referenced in the “remarks” column for the notation of the E.O.

notation rule be applied where doing so would thwart the will of Congress, which in this case has provided that the land remained open to location of mining claims for all locatable minerals until a grant to the City became effective. *See Richard Bargaen*, 117 IBLA 239, 243 (1991); *Phelps Dodge Corp.*, 115 IBLA 214, 217 (1990); *John J. Schnabel*, 90 IBLA 147, 150 (1985); *B. J. Toohey*, 88 IBLA at 96-97, 92 I.D. at 335. As we have often stated, persons dealing with the Government are presumed to have knowledge of relevant statutes and regulations. *Federal Crop Insurance Corp. v. Merrill*, 332 U.S. 380 (1947). The notice Congress imparts by the enactment of legislation is not negated by a notation on a BLM public record. The Supreme Court long ago recognized that unless otherwise specified, a statute becomes effective on the date of its enactment, regardless of what actions may or may not occur at a Federal land office. *See Mathews v. Zane*, 20 U.S. (7 Wheat.) 164, 209-10 (1822).

Conclusion

Accordingly, we conclude that BLM erred in finding that the land on which the Jollys' claims are situated was not open to location of mining claims between 1950 and 1952 when those claims were located. That land was open to location under the 1931 Act which superseded the prior Pickett Act withdrawal, and the filing of an application by the City of Los Angeles did not segregate the land from mineral appropriation.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the decision appealed from is reversed.

/s/
H. Barry Holt
Chief Administrative Judge

I concur:

/s/
Bruce R. Harris
Deputy Chief Administrative Judge