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ARIZONA DEPARTMENT OF MINES AND MINERAL RESOURCES AZMILS DATA

PRIMARY NAME: NRG MINING CO. CLAIMS

ALTERNATE NAMES:

CHOLLA UNPAT. CLAIMS

RUTH UNPAT. CLAIMS

GRAHAM COUNTY MILS NUMBER: 271

LOCATION: TOWNSHIP 11 S RANGE 29 E SECTION 34 QUARTER ALL
LATITUDE: N 32DEG 26MIN 00SEC LONGITUDE: W 109DEG 22MIN 20SEC
TOPO MAP NAME: BOWIE - 15 MIN

CURRENT STATUS: EXP PROSPECT

COMMODITY:

ZEOLITES

BIBLIOGRAPHY:

BLM AMC FILE

ADMMR NRG INC. FILE

UNPAT. CLAIMS EXTEND INTO SEC. 27 & 35

July 12, 1971 - Alfred Litcher (California) recorded Cholla claims 1 thru 17
T11S -R29E Sec. 27 & 34

July 1972 - Joseph A Connell, for Systems Capital Tech. Corp. 1607 Babcock,
Newport Beach, California recorded Cholla 18 thru 34, T11S, R29E,
1 in Sec. 27, 1 in Sec 35, and balance in Sec. 34.

See: EZ Mine (file) Graham

Mr. James W. Hager, District Mining Supervisor for the U.S.G.S. was in the office and reported that Systems Capital Corp. is shipping zeolite materials. The U.S.G.S. is core drilling the area (40 holes) to determine the extent of the zeolite deposits in the area. KAP 12/15/72

Mine visit to Systems Capital Corp.'s new plant at Bowie at the junction of the S.P. main line and Globe branch line. GWI WR 12/21/72

Vernon Dale called and said that N.R.G. Company had replaced Systems Capital Corp., as the owner of the chabazite property north of Bowie. So far as he knew, they were probably closely related. He said that 300 tons had been shipped for testing and that they may soon be considered an active mine for tax purposes. GWI WR 9/25/73

In the SE part of Graham County interest in Chabazite remained high. The USGS and USBLM were at odds over whether it was stakable or leasable. The three companies presently involved are Narton, Systems Capitol Corp. and Union Carbide. GWI AR 73-74

NRG Industries is involved in the Bowie area; have large storage facilities, Howard Hughes, was supposed to have controlling interest in this company. GWI WR 10/15/76

NJN WR 4/24/87: Ted Eyde (card) reports that Cholla Claims (NRG Mining Co Claims - file) Graham County ship zeolites (chabazite) intermittently. The owners are MRG Mining Co, 3443 N. Central Avenue, Phoenix, Arizona 85012 (602) 248-8585.



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF LAND APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22203

*Challa #1-36*NRG MINING, INC.

IBLA 79-532, 79-540

Decided November 27, 1979

Appeal from decision of the Arizona State Office, Bureau of Land Management, declaring mining claims abandoned and void. AMC 13512-AMC 13581.

Reversed and remanded.

1. Mining Claims: FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976--Affidavit of Assessment Work--Location Prior to October 21, 1976--Notice of Intention to Hold a Mining Claim--Recordation of Mining Claims; REGULATIONS--Generally--Interpretation.

43 CFR 3833.1-2(d) states that a location notice for each mining claim, millsite, or tunnel site filed for recordation shall be accompanied by a service fee. As this is a mandatory requirement, there is no recordation unless the documents are accompanied by the stated fee, or until it is paid. Therefore, where a notice of location of a mining claim is submitted to BLM for recordation on Sept. 30, 1977, and the filing fee therefore is not paid to BLM until July 18, 1978, the recordation date of the notice of location is July 18, 1978. In the circumstances, the evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim must be filed in the proper BLM office on or before Oct. 22, 1979, pursuant to 43 CFR 3833.2-1(a). Duly promulgated regulations have the force and effect of law and are binding on the Department.

INDEX CODE:

43 CFR 3833.1-2(d)
43 CFR 3833.2-1(a)

APPEARANCES: Jerry L. Haggard, Esq., Evans, Kitchel & Jenckes, P. C., Phoenix, Arizona, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

This appeal is from a decision dated July 19, 1979, of the Arizona State Office, Bureau of Land Management (BLM), declaring the Cholla Nos. 1 through 36 mining claims (AMC 13512 through AMC 13547) and the Ruth Nos. 1 through 34 mining claims (AMC 13548 through AMC 13581) abandoned and void for failure to timely file an affidavit of labor performed (annual assessment statement), as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the regulation, 43 CFR 3833.2-1.

The facts are as follows: All of the above claims were located prior to October 21, 1976. The location notice for each of the above claims was received for recording by BLM on September 30, 1977. However, the location notices were not accompanied by the service fee, \$350 (\$5 per claim) as required by 43 CFR 3833.1-2(d). On December 4, 1978, BLM wrote to appellant advising that the service fee should have accompanied its filing and suggesting that appellant remit the required amount. No affidavits of assessment work or notices of intention to hold were submitted in the above mining claims on or before December 30, 1978. By letter dated June 18, 1979, BLM advised appellant that the service fee had to be remitted to BLM within 30 days of appellant's receipt of the letter or appellant's filings would be rejected. 1/ On July 18, 1979, appellant filed the required payment. On the following day, BLM issued the above decision holding appellant's claims abandoned and void for failure to comply with 43 CFR 3833.2-1(a). 2/

In his statement of reasons appellant points out that the relevant regulation is 43 CFR 3833.1-2(d) which provides: "(d) Each claim or site filed shall be accompanied by a one time \$5 service fee which is not returnable. A notice or certificate of location shall

1/ The letter also requested appellant to furnish maps or sketches showing the location of each claim as required by 43 CFR 3833.1-2(c)(7).

2/ 43 CFR 3833.2-1(a) (May 1979) states:

"The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, which ever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim."

not be accepted if it is not accompanied by the service fee and shall be returned to the owner." Appellant notes that the language "shall be accompanied by" in the regulation is mandatory. Appellant interprets the regulation as requiring the rejection of all filings not accompanied by the service fee, and asserts that his filings should accordingly have been rejected.

Appellant asks the Board to remand the case with instructions to find either that the initial filings of the location notices was ineffective, or, in the alternative, that recordation was effective on July 18, 1979, when the service fee was filed.

[1] The regulation dispositive of this appeal is 43 CFR 3833.1-2(d), supra. Both sentences of that regulation refer to the requirement that the service fee must accompany the claim or site filed, and the second sentence mandates rejection and return to its owner, of a filing not accompanied by the fee.

In a recent decision, Joe B. Cashman, 43 IBLA 239 (1979),^a we construed that regulation in a manner which controls the disposition of the case at bar. We stated at 43 IBLA 240:

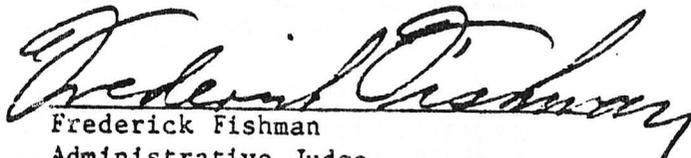
43 CFR 3833.1-2 requires that, for mining claims, millsites, or tunnel sites located prior to October 21, 1976, a copy of the location notice must be recorded with the proper office of BLM within 3 years, or before October 22, 1979. For such claims or sites located after October 21, 1976, the location notice must be recorded in the proper BLM office within 90 days following date of location. 43 CFR 3833.1-2(d) states that each claim or site filed with BLM shall be accompanied by a \$5 service fee. This is a mandatory requirement. Without payment of the filing fee, there is no recordation. Thus, as the filing fee for the notices of Apex No. 1 and Apex No. 2 millsites was not paid until February 10, 1978, it must be held that the date of recordation of these claims with BLM cannot be considered to have occurred earlier than that date. [Emphasis in original.]

It necessarily follows that the recordation date in the case at bar is July 18, 1978, the date the filing fees were paid. In the circumstances, under 43 CFR 3833.2-1(a) evidence of assessment work performed during the preceding assessment year or a notice of intention to hold the claims was not required to be filed in the proper BLM office until October 22, 1979.

Therefore, the decision of July 19, 1979 holding the mining claims void for failure to file such instruments prior to December 31, 1978, was in error.

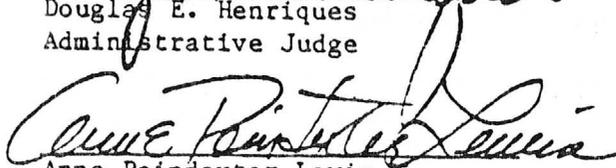
a) GFS(MIN) 93(1979)

Accordingly, 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 reversed and the case remanded to the Arizona State Office for further action in conformance with the views expressed herein.


Frederick Fishman
Administrative Judge

We concur:


Douglas E. Henriques
Administrative Judge


Anne Poindexter Lewis
Administrative Judge

DEPARTMENT OF MINERAL RESOURCES

STATE OF ARIZONA
FIELD ENGINEERS REPORT

Mine San Simon Zeolite Deposits Date Dec. 11, 1973
District San Simon Creek Engineer R.E. Lehner
Subject: Engineer's Report - Field Visit

Location: T 12 S, R 29 E, Sec. 2 northwest to T 11 S, R 28 E, Sec. 12 along San Simon Creek, Cochise & Graham Counties (15 miles northeast of Bowie, Ariz.)

- Owners:
- (1) Union Carbide Corporation
P.O. Box 1049
Grand Junction, Colorado
Land Mgr. - Mr. Geo. A. Carlyle
Field Contact - M. Grusendorf
Bowie Lumber Yard - Bowie, Ariz.
Property: E-Z claims (#225 EZ claim in contest with U.S.G.S., stockpile: in tomatoe shed and coal shute at Bowie.
 - (2) N.R.G. Inc. (name change 4/73) (Formerly Systems Capital Corp. - subsidiary of Hgghes?)
3443 N. Central Ave.
Suite 1200
Phoenix, Arizona 85012
Phone: 264-9521
Controller - Thomas J. Orloski
Public Relations - Allen Clift
Legal Counsel - Sam Weir
(Home Office: 1607 Babcock St., Newport Beach, Calif.)
Property consists of 54 claims.
Stockpile: In large metal warehouse bldg, W side of Bowie
 - (3) W.R. Grace Co. - reported to have land holdings, but nothing known.
Not worked for 3 yrs.

Commodity: ZEOLITES (hydrous feldspar)

Use: Molecular sieve for hydro carbons purification and drying of liquids and gases; decontamination of radioactive wastes; soil conditioner.

On Sept. 27th 1973 I travelled to Bowie to learn of zeolite operations in San Simon valley northeast of town. Upon questioning around I learned that I should contact "Dutch" Grusendorf, proprietor of the Bowie Lumber Yard. Mr. Grusendorf was not in (he works at Morenci and is only home in the evenings) but I was able to talk to his partner Mr. Gates. I learned that Mr. Grusendorf is the general caretaker of the properties northeast of town. He does the assessment work, quarrying and hauling, etc. for the property owner. If they need a gondola load of material they call down and inform Grusendorf, who loads the train car and also keeps the warehouse stockpiled.

The zeolites in this locality consist primarily of the minerals, chabazite, erionite, and clinoptilolite. These occur in bedded altered silicic tuff deposits of Miocene age. The

zeolite originally was deposited as an air borne tuff that settled in an ancient lake bed. The zeolite formed after deposition of the rock mainly by reaction of the ash with interstitial water. The bedded deposits are a potential resource because they can be extensive and high in purity. The beds are flat layers 0" to 15" thick and consist of more than 90% zeolite. Sometimes as much as 20 feet of overburden is present.

The operations at the property consist of drilling (auger) to test for thickness of deposit and amount of overburden. The overburden is then stripped away. The surface of the deposit is broomed off. A blade is used with teeth on it to slide under the bed of zeolite, lift, shake, and break it up. The material is then hand-cobbed, loaded on trucks, hauled to the warehouse at the railroad siding in Bowie. Here, plastic-lined gondolas are loaded (plastic keeps water absorption and impurities down) and shipped to Gallop, New Mexico. The material is then run through a ball mill and pelletized. The material is mixed with synthetics.

The zeolites in this area are worth about \$1,000,000/acre at the present price of \$1.65/lb. The mining costs are about \$50/ton of ore.

A telephone call (Dec. 11th) from Mr. Pete Aguilar, U.S.G.S. geologist from Roswell, New Mexico called in reference to a geologic map of the area that I had made a written request for. He told me that he couldn't give me a copy of the map until it was open-filed. He said that perhaps Bob McColly, U.S. Bureau of Land Management in Phoenix could show me his copy. Mr. Aguilar discussed the zeolite properties and the general operation as he knew them. Most of the information from the conversation is contained in here. I asked him if there was much of a future for zeolites and he was very enthusiastic about their demand and new uses that have been made of them. He thought it would be an excellent commodity study for us to pursue, when I asked him. He said that he would be back in this sometime in January and that if I were willing, he would get in touch with me and he would take me on a field trip with him through the area. He said he had been over every foot of the ground; so I could gain a lot of first hand knowledge very quickly from his experience.

Industry now uses synthetic zeolites almost exclusively but as economic methods are developed to convert material into a commercial product, large natural deposits may become important.

This locality has only been commercially exploited since 1968. The bedded zeolites of Arizona are potentially exploitable but studies to determine their size and value await further industrial development and the establishment of suitable markets.