

File No. 28311

"ADP"

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON 25, D. C.

Mar 28 1950

I HEREBY CERTIFY that the annexed photostatic copy of letter dated March 22, 1950, filed under miscellaneous Letter No. 46479, is a true and literal exemplification of the record on file in this office in my custody.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

(Official Seal)

Jas. F. Homer

Chief, Patents Section.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, 25, D. C.

IN REPLY REFER TO:
56479 ADL:HSA

Mar 22 1950

Hon. Pat McCarran,
United States Senate
Washington 25, D. C.

My dear Senator McCarran:

Reference is made to your inquiry dated March 15, 1950, relating to patent No. 218 issued to the Central Pacific Railway Company on February 11, 1904, for 65,381.21 acres of land in Nevada, and patent No. 244 issued to the same Company on December 14, 1905, for 56,046.66 acres of land in Nevada under the grant made by the acts of July 1, 1862 (12 Stat. 489), and July 2, 1864 (13 Stat. 356), for the purpose of aiding in railroad construction.

Section 3 of the act of July 1, 1862, provides that "all mineral lands" shall be excepted from the operation of the act. Section 4 of the act of July 2, 1864, supra, provides that whenever the term "mineral land" occurs in either the act of July 1, 1862, or July 2, 1864, it shall not be construed to include coal and iron land and provides also that any lands granted by either act shall not include "mineral lands" or lands returned or denominated as mineral lands.

The preambles of both patents after making reference to the acts of July 1, 1862 and July 2, 1864, recite certain exceptions made by the acts including the exclusion of "mineral land".

The United States Supreme Court in the case of Barden v. Northern Pacific Railroad Company, 154 U.S. 288 (1893) involving the act of July 2, 1864 (13 Stat. 365), making mineral land exceptions and including directions for issuance of patents under that grant similar to the exceptions and directions in the acts of July 1, 1862 and July 2, 1864 (13 Stat. 356), held that where a patent has been issued under that grant without a valied reservation of minerals, it carries complete title to the land including all minerals in the absence of fraud seasonably discovered.

Neither of the Nevada patents above mentioned contain any reservation of minerals. The United States, therefore, makes no claim to the coal and iron or other minerals in the lands covered by these two patents. In view of the fact that your constituent appears interested especially in a possible reservation to the Government of coal and iron, it should be noted that as explained above, the granting acts, supra, authorize the transfer thereunder of the title to lands valuable for coal or iron.

If your constituent should desire a certified copy of the office record hereof, for recording, he may obtain such copy by forwarding here a request for the copy accompanied by a remittance of the estimated price of 75 cents.

Your enclosure is returned herewith,

Sincerely yours,

Marion Elewer*signature not legible

Director

Enclosure

Copy to: Sen. McCarran

HSAdkins:hdb
3-18-50

Recorded at the Request of Milton J. Reinhart May 6 A.D. 1950 At 30 minutes past 10 A.M.

Peter Merialdo--Recorder.