

1 UNITED STATES DEPARTMENT OF THE INTERIOR

2 Office of Hearings and Appeals

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4  
5 MYSTIC EAGLE QUARRY, LLC,

6 Contestant,

7 v.

8 SNOWMASS MINING CO. LLC,

9 Contestee.  
10

Docket No. COC 080159

Notice of Appeal

11  
12 Contestant, Mystic Eagle Quarry, LLC files this notice of appeal of the  
13 decision in this case entitled “Motion to Dismiss Granted; Proceeding Dismissed”  
14 issued on September 29, 2020. A copy of the decision is appended hereto as  
15 Appendix A. Contestant seeks to appeal this decision to the Interior Board of  
16 Land Appeals.

17 RESPECTFULLY SUBMITTED this 29th day of June, 2020.

18 STEPHENS & KLINGE LLP

19 By: /s/ Richard M. Stephens

20 Richard M. Stephens

21 Attorneys for Contestant  
22  
23

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served by email on September 29, 2020 addressed to the following:

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/s/ Richard M. Stephens  
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## Appendix A



**United States Department of the Interior**  
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September 29, 2020

**ORDER**

MYSTIC EAGLE QUARRY, LLC,	)	COC 080159
	)	
Contestant	)	Private Mining Contest involving
	)	the White Banks Unpatented Lode
v.	)	Claims
	)	
SNOWMASS MINING CO., LLC,	)	
	)	
Contestee	)	

**Motion to Dismiss Granted:**  
**Proceeding Dismissed**

**I. Introduction**

Mystic Eagle Quarry, LLC (Mystic Eagle) filed a Contest Complaint against Snowmass Mining Co., LLC (Snowmass) pursuant to 43 C.F.R. § 4.450, contesting the validity of the White Banks mining claims. In response, Snowmass filed a Motion to Dismiss, requesting that the above-captioned private mining contest be dismissed for lack of jurisdiction. The issues have been fully briefed by both parties and are now ripe for adjudication and decision.

For the reasons discussed in detail herein, the motion to dismiss filed by Snowmass is hereby granted. Based upon a review of the pleadings and documents submitted: (1) this Tribunal lacks jurisdiction to resolve the underlying possessory interests at the core of this Contest Complaint, (2) Mystic Eagle is barred from re-litigating the quiet title action and possessory rights already adjudicated by the Colorado state courts; and (3) Mystic Eagle has failed to demonstrate standing.

## II. Factual and Procedural Background

The White Banks Claims are situated in Pitkin County, Colorado. Both Mystic Eagle and Snowmass claimed an ownership interest in the underlying mining claims which they litigated in the Pitkin District Court in the state of Colorado. On June 17, 2017, Judge Lynch issued a decision and judgment, quieting title to the White Banks lode claims to Snowmass. Mtn. to Dismiss, Ex. A at 1-2, 22-23 (Pitkin District Court Decision). That judgment was affirmed by the Colorado Court of Appeals on December 13, 2018. *Id.* at Ex. B (Colorado Court of Appeals Decision). The findings and conclusions of the Colorado state courts form the basis for the subsequent action before the Interior Board of Land Appeals (Board or IBLA) as well as the Contest Complaint pending before this Tribunal.

### A. Summary of the Pitkin District Court's Findings of Fact

As set forth in the Pitkin District Court Decision, Robert Congdon, the majority owner of Mystic Eagle, first found an alabaster deposit on the White Banks Claims in 1978 and subsequently filed a Location Certificate in 1982. Additional location certificates related to the White Banks Claims were filed between 1987 and 1991. A subsequent report found that the White Banks Claims contained calcium, sulfate, quartzite, black marble, alabaster, and gypsum. In 1994, when Robert Congdon and his wife Julie Otis divorced, she released her ownership in the White Banks Claims and agreed that a percentage interest would be given to each of their children. Mtn. to Dismiss, Ex. A at 1-4.

Julie Otis subsequently married Donald Skinner. Julie Otis Skinner and Donald Skinner are co-managers and co-members of Snowmass. Over the years, there has been litigation and additional business agreements between Ms. Skinner and Mr. Congdon as well as monetary investments in the mining claims by Ms. Skinner. *Id.* at 2-5.

In 2004, no maintenance fee was paid on the White Banks Claims and no annual affidavit of assessment of work was filed as required by law. As a consequence, the White Banks Claims were deemed abandoned and forfeited by the Bureau of Land Management (BLM). BLM sent a letter dated May 12, 2005, to Mr. Congdon notifying him of the forfeiture, but Mr. Congdon denied receiving the letter. *Id.* at 5-6 & n. 2.

When the Skinners discovered that the mining claims had been forfeited, Mr. Skinner went to the White Banks Claims in early June 2005 and placed location

monuments. On June 28, 2005, Julie Otis Skinner completed location certificates for all ten of the White Banks Claims on behalf of herself and her two children, which were filed on June 29, 2005. The Skinners then hired a professional mining company to help perfect their claims. On August 24, 2005, amended Certificates of Location were filed for all ten claims on behalf on the Skinners. In August of 2005, the Skinners formed Snowmass, and on August 3, 2005, the Skinners, along with their two children, quitclaimed their interests in the White Banks Claims to Snowmass. *Id.* at 6-8.

Mr. Congdon learned of the forfeiture in late July of 2005. On August 4, 2005, he relocated the White Banks Claims by replacing the missing corner and side line stakes and putting up discovery notices. The next day, August 5, 2005, he filed location certificates for all ten White Banks Claims with the Pitkin County Clerk's Office. In May of 2007, Mr. Congdon quitclaimed his interests and his children's interests in the White Banks Claims to Mystic Eagle. *Id.* at 9-10.

Snowmass filed an action in the Pitkin District Court in 2014, seeking to quiet title to the White Banks Claims. The court conducted a three-day bench trial between March 27 and March 29, 2017, where testimony and evidence was received. *Id.* at 1; *see also* Mtn. to Dismiss, Ex. B at 5.

## **B. Summary of the Pitkin District Court's Conclusions of Law**

On June 8, 2017, the Pitkin District Court judge issued a detailed Order. As part of that Order, the court found that Mr. Congdon failed to make the necessary filings with respect to the White Banks Claims, and consequently, those claims were forfeited:

Under federal law, the holder of an unpatented mining claim must either pay an annual claim maintenance fee to the federal government or obtain a small miner exemption on or before September 1 of each year. The miner must also file an annual affidavit of assessment work with the BLM prior to December 30. 30 U.S.C. § 28F(a)(1) and (d). In 2004, Mr. Congdon did file the small miner exemption required by federal law. (See Exhibit 217). However, he did not file the required affidavit of labor. Neither party disputes that forfeiture of the White Banks Claims was declared by the BLM by letter dated May 12, 2005. As a result of the forfeiture, the White Banks Mining claims were open for relocation by another party. *See United States v. Locke*, 471 U.S. 84 (1984) (holding that full and timely compliance with the statute and

regulations is required for preservation of a mining claim and failure to comply works forfeiture).

Mtn. to Dismiss, Ex. A at 14-15.

As part of that Order, the Pitkin District Court judge also determined that the Skinners (now Snowmass) had location certificates that were valid and senior:

When Mr. Skinner posted the discovery notice on June 1, 2005, this held the ground for 90 days and no other person could come in [and] make a claim or relocate the claim. When Mr. Congdon filed his location certificates on August 5, 2005, the White Banks Claims were not open to location by Mr. Congdon or any other claimant. Plaintiffs had until approximately August 29 of 2005 to complete the acts of location and no one could come in and make a claim during this time period, including Mr. Congdon. Plaintiffs completed the acts of location and filed their location certificates on August 24, 2005 which was within the 90 day window. Therefore, Plaintiff's August 24, 2005 location certificates are valid and are senior to Mr. Congdon's August 5, 2005 location certificates.

*Id.* at 17-18.

The District Court then considered and rejected the contentions of Mystic Eagle and Mr. Congdon regarding good faith, *pedis possessio*, resumption of work, and discovery. *Id.* at 18-22. The court also rejected Mystic Eagle and Mr. Congdon's counterclaims and cross claims alleging intentional interference with contract, intentional interference with prospective business relations, emotional distress, breach of fiduciary duties, and abuse of process. *Id.* at 23-25. After disposing of Mr. Congdon's arguments, the District Court concluded that the location certificates filed by Snowmass on August 24, 2005 were valid and senior to those filed by Mr. Congdon and quieted title to the White Banks Claims to Snowmass. *Id.* at 22, 25-26.

### **C. Decision by the Colorado Court of Appeals**

Mystic Eagle and Robert Congdon appealed the District Court's Judgment to the Colorado Court of Appeals. Mtn. to Dismiss, Ex. B. According to the Appeals Court's Decision, dated December 13, 2018, Mr. Congdon did not challenge any of the lower court's factual findings, but instead argued that the District Court misapplied various principles of mining law in determining ownership of the

claims. The Court of Appeals determined that the District Court properly applied the law and affirmed the judgment. *Id.* at 1. In rendering its Decision, the Court of Appeals undertook a detailed legal analysis and rejected Mr. Congdon's arguments based on good faith, the resumption doctrine, *pedis possessio*, and the sufficiency of the Skinners' discovery. *Id.* at 5-24.

#### **D. Proceedings Before the Interior Board of Land Appeals**

On October 31, 2019, BLM's Colorado State Office issued a Decision to Mystic Eagle declaring the ten unpatented White Banks mining claims null and void. Administrative Record (AR) at BLM0541. In that Decision, the Acting Chief, Branch of Solid Minerals Division of Energy, Lands and Minerals wrote:

On October 23, 2019, this office received a certified copy of the Judgment, Ruling and Decree 2014CV30168 from the District Court of Pitkin County, of the State of Colorado, signed by Denise K. Lynch, District Court Judge on June 8, 2017. The Order quieted the title to the mining claims held by Mystic Eagle Quarry and Robert Congdon, and therefore they are null and void. The court found Snowmass Mining Company LLC holds claims in good faith in the area, and it was not open to the location of mining claims. The judgment was affirmed by Judge Webb and Judge Welling.

Under Federal law, disputes between mining claimants over ownership of mining claims or rights of possession must be resolved in state court. See 30 U.S.C. §30. The BLM has no authority to resolve such disputes. Therefore, a judgment issued by a state court, with jurisdiction over the matter, that a claimant has no ownership interest in a mining claim and that a particular claimant's mining claim is invalid, is a proper legal basis for BLM to issue a decision that the mining claim is null and void as stated in the judgment. Madelaine Durand, et al, 188 IBLA 1 (2016). Therefore, the mining claims listed on Enclosure 1 (CMC 255401-255410) are considered to be null and void and will be closed on our records.

*Id.* BLM's Decision also required Mystic Eagle to reclaim all areas disturbed by its prior mining activities. *Id.*

On November 29, 2019, Mystic Eagle and Robert Congdon filed an appeal and petition for a stay of BLM's Decision claiming that BLM's decision was based on



an “over reading” of the Colorado state court’s conclusions. Mystic Eagle’s Notice of Appeal at 2 (AR BLM0534). The Notice of Appeal alleged that “the Snowmass claims overlap the Mystic Eagle claims and it is only to that extent that Snowmass was determined by the Colorado court to have a superior right to possession.” *Id.* Thus, Mystic Eagle argued that while the Colorado court quieted title to Snowmass in the White Banks Claims, those claims only extended 25 feet onto the Mystic Eagle claims. AR BLM0536 & BLM0579 (Attach. 5).

Snowmass filed a response to Mystic Eagle’s request for a stay. In that filing, Snowmass argued that Mystic Eagle had misread the location certificates and that the Snowmass White Banks Claims have boundaries that are identical and completely overlap the Mystic Eagle claims. Snowmass also asserted that Mystic Eagle was attempting to re-litigate issues that had already been resolved by the Colorado state court and that Mystic Eagle never claimed the two sets of competing claims did not cover identical ground during those proceedings. *See* Snowmass Response to Mtn. for Stay, AR BLM0597-609.

On January 13, 2020, BLM filed a motion with the Board to vacate and remand the October 31, 2019, decision that was the subject of the Mystic Eagle appeal. According to the motion, BLM made this request after determining that additional information in the case file should be considered. AR BLM0694. In an Order dated January 14, 2020, the Board granted the motion for a remand, denied the petition for stay as moot, vacated BLM’s October 31, 2019, Decision, and remanded the matter back to BLM. AR BLM0698.

#### **E. Mystic Eagle’s Contest Complaint**

Mystic Eagle filed a Contest Complaint with BLM’s Colorado State Office on February 27, 2020, pursuant to 43 C.F.R. § 4.450-1. In that Complaint, Mystic Eagle acknowledges the Colorado District Court’s determination quieting title to Snowmass, but argues that the court “never identified the geographic boundaries” of those claims. Contest Complaint at 2, ¶ 6. Mystic Eagle maintains that its claims and the Snowmass claims have a different geographic scope with only a 25 foot overlap. *Id.*

Mystic Eagle’s Contest Complaint takes issue with a number of the findings made by the Colorado District Court in the quiet proceeding, asserting that:

15. The amended location certificates Contestee filed on August 24, 2005 could be read to include additional ground from Constestee’s original

June 1, 2005 certificates, but an amended certificate cannot expand the original claim. 43 CFR § 3833.21(b).

16. The District Court ruled that Contestee's claims were senior to Contestant's claims but never demarcated the geographic boundaries of Contestee's claims or identified the extent to which Contestee's claims were senior to Contestant's claims. Unrebutted testimony at trial confirm that, Contestee's White Banks claims overlap Contestant's White Banks claims by 25 feet at the most.

17. The District Court never found Contestee's claims valid or invalid, nor did it find Contestant's claims to be valid or invalid under the General Mining Law. However, the District Court did find that Contestant had made a discovery as far back as 1990.

18. To the extent of that 25 foot overlap, Contestee has no discovery of a value [sic.] mineral deposit, nor is that area of overlap mineral in character.

*Id.* at 4, ¶¶ 15-18.

According to the Contest Complaint, Mystic Eagle claims that Snowmass failed to make a discovery under the General Mining Law on its claims to the extent of the 25 foot overlap. *Id.* at 5, ¶ 21. It also asserts that this lack of discovery was not revealed in the U.S. Department of the Interior's records and, therefore, is the proper subject for a private contest action. *Id.* at 5, ¶ 22. In terms of relief, Mystic Eagle maintains that it is "entitled to have its timber rights and entire claims which are junior to Contestee's mineral rights free from the overlap of senior claims which have no valid discovery of a valuable mineral deposit." *Id.* at 5, ¶ 23.

BLM initially did not accept Mystic Eagle's contest, explaining that:

... BLM cannot accept a private contest action that is based upon a rival mining claimant. DOI and BLM do not have the authority to consider the relative superiority of the possessory right of two adverse mineral claimants ...

AR BLM0011. On March 16, 2020, Mystic Eagle resubmitted its Complaint, arguing that it was not seeking a determination as to who had superior possessory rights because that had already been determined by the state courts. Instead, the cover

letter explained that Mystic Eagle was alleging that Snowmass has not discovered a valuable mineral deposit. AR BLM0009-0010.

Snowmass responded to Mystic Eagle's Contest Complaint by filing an Answer and Motion to Dismiss dated March 24, 2020. BLM accepted Mystic Eagle's filing fee on March 30, 2020, AR BLM0158, and transmitted the filings and the agency administrative record to this Tribunal.

### III. Discussion

In accordance with the applicable regulation, a private contest action may be initiated under the following circumstances:

Any person who claims title to or an interest in land adverse to any other person claiming title to or an interest in such land or who seeks to acquire a preference right pursuant to the Act of May 14, 1880, as amended (43 U.S.C. 185), or the Act of March 3, 1891 (43 U.S.C. 329) may initiate proceedings to have the claim of title or interest adverse to his claim invalidated for any reason not shown by the records of the Bureau of Land Management. Such a proceeding will constitute a private contest and will be governed by the regulations herein.

43 C.F.R. § 4.450-1. In its motion to dismiss, Snowmass argues for dismissal of Mystic Eagle's private contest complaint, asserting that: (1) this Tribunal lacks jurisdiction to adjudicate the underlying possessory rights; (2) Mystic Eagle is barred from re-litigation of the Colorado state court decision and judgment; and (3) Mystic Eagle lacks standing. For the reasons discussed in detail herein, the motion to dismiss filed by Snowmass is granted.

#### A. This Tribunal Lacks Jurisdiction to Resolve Possessory Rights Between Rival Claimants.

As explained by the Board, "[t]he jurisdiction to adjudicate the validity of a Federal mining claim fundamentally resides in the Department." *Carey Mills v. Kurt Kanem*, 188 IBLA 46, 51 (2016). Until the Government issues a patent,

the validity of a Federal mining claim may be challenged by a Government contest under 43 C.F.R. § 4.451-1 or a private contest under 43 C.F.R. § 4.450-3, so that the Department, acting through the Secretary of the Interior, may ensure that "valid claims may be

recognized, invalid ones eliminated, and the rights of the public preserved.”

*Id.* (quoting *Cameron v. United States*, 252 U.S. 450, 460 (1920)). However, it is equally well-established that “the Department is without authority to determine the question of right of possession to claims as between rival claimants, and that a suit filed in a court of competent jurisdiction is the proper method of resolving such disputes.” *W. W. Allstead*, 58 IBLA 46, 48 (1981) (Reconsideration Denied Aug. 21, 1984); *see also IMCO Services*, 73 IBLA 374, 376 (1983), (Reconsideration Denied July 1, 1983); *Gold Depository and Loan Co., Inc. v. Mary Brock*, 69 IBLA 194, 197 (1982); *Recon Mining Co., Inc.*, 167 IBLA 103, 109 (2005).

Although Mystic Eagle attempts to establish jurisdiction by alleging that Snowmass failed to make a valid mining discovery, the Complaint is predicated on an underlying dispute regarding the boundaries of the White Banks mining claims. In its Complaint, Mystic Eagle argues that the state courts never determined the geographic boundaries of the mining claims and asserts that the Snowmass claims and the Mystic Eagle claims only overlap by about 25 feet. *See* Contest Complaint at ¶¶ 16-21. It also suggests that this Tribunal “may have to determine the geographic boundaries of Snowmass’s claims for purposes of evaluating the presence or absence of a discovery,” but it will not be necessary to determine the right of possession because, to whatever extent the claims overlap, the Colorado District Court has already decided seniority. Mystic Eagle’s Opp’n to Mot. to Dismiss at 8.

These allegations demonstrate a fundamental misunderstanding regarding the jurisdictional limits of this Tribunal. The purpose of a private contest has been described as a

means or method which is designed to assist the Secretary of the Interior in carrying out his duties to protect the interests of the government and the public in public lands, in that by such method there may be called to the attention of the Bureau of Land Management invalid claims to title or interest in public lands, the invalidity of which does not appear on the records of the Bureau of Land Management and of which the Bureau may be without knowledge.

*Duguid v. Best*, 291 F.2d 235, 241-42 (9<sup>th</sup> Cir. 1961), *cert. denied*, 372 U.S. 906 (1963) (applying an earlier iteration of the regulation at issue). When the underlying issue involves a disagreement about mining claim boundaries between two rivals, it is

essentially a dispute about their respective possessory rights within a specific and very limited geographic area. Controversies between rival claimants regarding possessory interests must be determined by the jurisdictional courts. *Id.* at 242.

In *W. W. Allstead*, 58 IBLA 46 (1981), for instance, the Board found that the Department lacked jurisdiction to resolve the possessory rights between rival mining claimants in a dispute involving claim boundaries. In *Allstead*, a rival claimant filed a notice of location and evidence of assessment work for a mining claim whose boundaries apparently overlapped part of another claim. The other mining claimant filed a protest. BLM dismissed the protest, explaining that conflicting claims to the same ground by rival claimants can only be adjudicated by the jurisdictional state courts. On appeal, the protesting claimant asked the Board to “find and fix the boundaries” and determine whether the claim was valid or invalid. *Id.* at 47. The Board ruled that the Department lacked the authority to determine the question of the right of possession between rival claimants and noted that a suit filed in a court of competent jurisdiction was the proper method of resolving such disputes. *Id.* at 48. The Board affirmed BLM’s decision, concluding that BLM could not refuse to accept and record a timely notice of location in the proper form merely because a rival claimant to the same ground protested the filing. *Id.*

In this proceeding, Mystic Eagle has tried to present its Complaint as something other than a dispute regarding possession between rival claimants; however, there is no other proper characterization given the circumstances. Mystic Eagle is essentially asking this Tribunal to reposition or realign the boundaries of the White Banks Claims so that Mystic Eagle has a right of possession over a majority of the disputed geographic area, leaving Snowmass with only a small, 25-foot sliver. This boundary question is not “incidental” to whether or not a valid discovery exists; it is a crucial predicate determination. There would be no basis for examining whether Snowmass has made a valid discovery in the 25-foot strip identified by Mystic Eagle unless Mystic Eagle first obtained a favorable resolution regarding the right of possession.

Because the scope of review in a private mining contest involves the validity of Federal mining claims, this Tribunal lacks the jurisdictional authority under 43 C.F.R. § 4.450-1 to resolve the possessory interests inherent in the boundary dispute at the core of Mystic Eagle’s challenge. Consequently, this proceeding is properly dismissed for lack of jurisdiction.

**B. Mystic Eagle Is Barred from Re-litigating the Colorado State Court Judgment and Issues Decided by the State Court Before this Tribunal.**

In their pleadings, both parties acknowledge that title for the White Banks Claims has already been litigated in the Colorado State District Court. Following a bench trial, the District Court issued a written decision with findings of fact and conclusions of law that quieted title to Snowmass. The Colorado Court of Appeals affirmed the judgment. Snowmass argues that these state court rulings prevent Mystic Eagle from re-litigating the quiet title action before this Tribunal by re-characterizing the dispute as a disagreement over the boundaries of the White Banks mining claims.

Pursuant to the doctrines of res judicata and collateral estoppel, “repeated litigation of an issue is barred when that issue has already been litigated by the same parties and settled by a final judgment on the merits.” *Larue Burch*, 134 IBLA 329, 333 (1996) (Clarification Denied June 5, 1996). These doctrines also apply in administrative proceedings to preclude re-litigation of an issue previously resolved in a judicial proceeding between the same parties. *State of Alaska*, 113 IBLA 86, 90-91 (1990).

Res judicata refers to the preclusive effect of a judgment and prevents parties from challenging matters that they already had a full and fair opportunity to litigate. *See Stull Ranches, LLC*, 194 IBLA 1, 10 (2018) (citing *Taylor v. Sturgell*, 553 U.S. 880, 892 (2008)). The doctrine of res judicata encompasses both issue preclusion and claim preclusion. *Id.* Under claim preclusion, a final judgment bars successive litigation of the same claim, whether or not re-litigation of the claim raises the same issues as the prior action. *Id.* Issue preclusion (referred to as collateral estoppel) bars re-litigation of an issue of fact or law that has been actually litigated and resolved in a valid court determination that was essential to the prior judgment even if the issue arises again in the context of a different claim. *Id.* at 10-11.

Together, issue and claim preclusion serve a crucial function by ensuring the “conclusive resolution of disputes.” *Montana v. U.S.*, 440 U.S. 147, 153 (1979). Precluding parties from contesting matters they have already had a full and fair opportunity to litigate also “protects their adversaries from the expense and vexation of attending multiple lawsuits, conserves judicial resources, and fosters reliance on judicial action by minimizing the possibility of inconsistent decisions.” *Id.* at 153-54.

One of the central claims in the Colorado District Court proceeding involved ownership and title to the ten unpatented White Banks lode mining claims. After making detailed findings of fact, the court concluded that Snowmass and the Skinners

properly relocated the White Banks Claim, their location certificates filed on August 24, 2005 are valid and senior to those filed by Mr. Congdon and title to the White Banks Claims is quieted in Plaintiff, Snowmass Mining Company, LLC.

Mot. to Dismiss, Ex. A at 22. As part of the final decision labeled “Judgement,” the court stated unequivocally that: “Title to the White Banks Lode Claims is quieted in Snowmass Mining Co., LLC.” *Id.* at 24. Because Snowmass and the Skinners were the prevailing parties, the court also found that they were entitled to their reasonable costs incurred in the litigation. *Id.* at 25.

Throughout the written decision of the Colorado District Court, the judge consistently referred to the disputed claims, located at different times by both parties, as the White Banks Claims. Nothing in that decision (subsequently affirmed on appeal) suggests or implies that the court understood the White Banks Claims located by Snowmass and Mystic Eagle to be anything but coterminous. In fact, the court referred to a map, designated as Exhibit 93, to describe the general location of the White Banks Claims as part of the decision quieting title. *See* Mot. to Dismiss, Ex. A at 2 & Ex. I. Mystic Eagle failed to raise the boundary question as either an affirmative defense or counterclaim during the state court proceeding. Based on the District Court’s judgment quieting title to the White Banks Claims in Snowmass and the subsequent affirmation of that judgment by the Colorado Court of Appeals, Mystic Eagle is now barred from re-litigating title to those claims before this Tribunal.

To avoid the preclusive effect of the Colorado District Court’s judgment (affirmed on appeal), Mystic Eagle asserts that it is not disputing the final outcome of the quiet title action – only the legal boundaries. Mystic Eagle argues that the Colorado District Court did not specifically determine the geographic scope of the claims and faults Snowmass for obtaining a judgment that described the White Banks Claims by name rather than by reciting an exact legal description. Snowmass counters that Mystic Eagle has misread the location certificates, and argues that Mystic Eagle had ample opportunity, as well as a legal obligation, to raise any dispute about the boundaries during the three-day bench trial before the Colorado District Court.

Assuming that Mystic Eagle's Contest Complaint represents a different claim, collateral estoppel would still preclude Mystic Eagle from litigating issues previously resolved by the State courts. In order for issue preclusion (collateral estoppel) to apply, it must be demonstrated that: (1) the issue sought to be precluded is the same (identical) to the one involved in the prior state action; (2) the issue was actually litigated to a final judgment; (3) the determination of the issue was essential to the final judgment; and (4) the party against whom estoppel is invoked was a party, or in privity to a party, in the prior action and had a full and fair opportunity to litigate the issue. *Stull Ranches*, 194 IBLA at 14.

The elements for collateral estoppel are satisfied. First, the question of right of possession between Mystic Eagle and Snowmass raised in this proceeding is the same possessory issue resolved in the quiet title action. Even though Mystic Eagle has re-framed its arguments to focus on the legal boundary descriptions, the fact remains that the Colorado District Court specifically addressed and adjudicated the right of possession to the White Banks Claims. As noted by the Board

Collateral estoppel does not turn upon a determination that a prior ruling was *correctly* rendered, or that all possibly relevant arguments were made and authorities cited in the initial proceeding, but rather upon a recognition that an issue tendered for resolution in a later litigation has been finally determined in a prior adjudication after a full and fair opportunity for litigation in which the issue was actually litigated and necessary to the prior decision.

*Stull Ranches*, 194 IBLA at 15 (quoting *Laaman v. United States*, 973 F.2d 107, 112 (2d Cir. 1992)). Second, the issue of the right of possession was litigated to a final judgment in favor of Snowmass and subsequently affirmed. Third, right of possession was essential to the final judgment quieting title. And, finally, Mystic Eagle had a full and fair opportunity to litigate the issue in the state courts. Thus, Mystic Eagle is precluded from re-litigating the right of possession as part of this proceeding. See, e.g., *Larue Burch*, 134 IBLA at 333 (noting that "findings of a state court on the right of possession are binding on the parties to the lawsuit").

Mystic Eagle has not identified any exceptions that would prevent application of issue or claim preclusion. The fact that Mystic Eagle failed to raise some arguments it now seeks to pursue or that the state court may have chosen not to address some of its arguments does not mean Mystic Eagle was denied a meaningful opportunity to litigate the issue of possessory rights. The fact remains



that Mystic Eagle “had the opportunity, presented the arguments it thought were the most persuasive, and lost.” *Stull Ranches*, 194 IBLA at 16. Mystic Eagle is now precluded from re-litigating the prior judgment quieting title and deciding the right of possession before this Tribunal as both the claim of title and the issue of possession have been fully adjudicated by a court of competent jurisdiction.

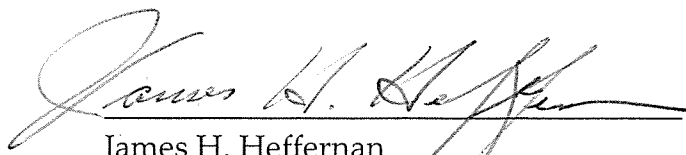
This Tribunal lacks jurisdiction to decide possessory rights between rival mining claimants under the guise of determining whether a valid discovery exists. This Tribunal also recognizes the preclusive effect of the Colorado District Court judgment and decision (as affirmed by the Colorado Court of Appeals) because it represents the final state court determination regarding title and possession. Consequently, there is no reason to consider whether a valid discovery exists along the 25-foot strip identified by Mystic Eagle. Dismissal is, therefore, appropriate.

### **C. Mystic Eagle Has Failed to Demonstrate Standing.**

In order to have standing to bring a private contest complaint, a contestant must demonstrate title or an “interest in land” that is “grounded on a specific statutory grant.” *Mills*, 188 IBLA at 52. Without citing any supporting law, Mystic Eagle asserts standing based upon its status as a “junior” claim holder. However, Mystic Eagle cannot show current standing by asserting the possibility that it may have title or an interest in land if the boundary dispute is ultimately resolved in its favor at some uncertain point in the future. Standing must be determined at the time the legal action is commenced. See *Utah Ass’n of Counties v. Bush*, 455 F.3d 1094, 1099 (10<sup>th</sup> Cir. 2006); *Focus on the Family v. Pinellas Suncoast Transit Auth.*, 344 F.3d 1263, 1275 (11<sup>th</sup> Cir. 2003). Having failed to demonstrate standing at the time of filing the Contest Complaint, Mystic Eagle’s private mining contest action is properly dismissed.

## **IV. Conclusion**

For the foregoing reasons, the Motion to Dismiss filed by Snowmass Mining Co., LLC is **GRANTED**. The above-captioned Contest Complaint filed by Mystic Eagle Quarry, LLC is hereby **DISMISSED**.

  
James H. Heffernan  
Administrative Law Judge

**Appeal Information**

Any party adversely affected by this decision has the right to appeal to the Interior Board of Land Appeals. The appeal must comply strictly with the regulations in 43 C.F.R. part 4, Subparts B and E (see enclosed information pertaining to appeals procedures).

See page 16 for distribution.

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