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Congressional Record S. 973 - Zweifel Mining Claims Custer National Forest

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his extensive operations. Claims have been generally limited to Federal lands, and in recent months field personnel of the Bureau of Land Management and the U.S. Forest Service have been keeping a close eye on his activities.

I have just received a detailed report from the forest supervisor of Custer National Forest, in Montana, giving me a report on his contacts with Mr. Zweifel. Also, Yellowstone County officials have taken action to halt this activity.

Mr. President, I ask unanimous consent that news articles and correspondence I have received from the U.S. Forest Service be printed RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
CUSTER NATIONAL FOREST,
Billings, Mont., January 15, 1973.

Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: This replies to your December 7, 1972, letter to Chief McGuire about Mr. Merle Zweifel's mining claims on the Custer National Forest in Eastern Montana.

Mr. Zweifel, to date, has recorded the location of nine hundred seventy-two 160-acre association placer claims on the Ashland Division of the Custer National Forest. However, he has made no surface disturbance and no attempt to contact the Custer to request permission to drive bulldozers on his mining claims to perfect a location.

Attached is Mining Engineer Burleson's most recent reply to Mr. Zweifel. The Custer National Forest does not recognize Mr. Zweifel's claims, and will not allow him to do work on the National Forest except by special use permit with bonding to insure.

On January 3, Yellowstone County Attorney Harold Hanser secured a temporary injunction to prevent further filing of placer mining claims by Mr. Zweifel (Billings Gazette article attached). It is planned that the County Attorneys of Custer, Fallon, Musselshell, Powder River, and Rosebud counties will also seek similar injunctions.

Here again it would appear that this situation demonstrates the need to revise or replace the General Mining Laws of 1872. You are probably aware of the position taken by the Regional Forester of the Northern Region, Forest Service, through Senate Subcommittee testimony here in Billings and other statements, some of which the Majority Leader of the Senate has read into the Congressional Record. We honestly believe new Legislation is needed in the field of minerals to better provide for environmental protection in connection with proper mining activities.

We share with you in your concern of destruction caused by dozer activity on the Custer National Forest, and we do not intend to idly permit such to happen here.

Sincerely,
D. C. MacINTYRE,
Forest Supervisor.

CUSTER NATIONAL FOREST,
Billings, Mont., December 14, 1972.

Mr. MERLE I. ZWEIFEL,
Shawnee, Okla.

DEAR MR. ZWEIFEL: The Custer National Forest recognizes the rights and privileges of all qualified persons to enter the Ashland Division for all proper and lawful purposes, including that of prospecting, locating, and developing the mineral resources thereof. I should further like to quote from 43 Code of Federal Regulations dated January 1972,

ZWEIFEL MINING CLAIMS, CUSTER NATIONAL FOREST

Mr. MANSFIELD. Mr. President, in the past year Montanans have observed with considerable alarm the extensive mining claim activities of Mr. Merle Zweifel, an operator originating in the State of Oklahoma. There has never been any clear explanation of the intent of

Part 3830—Location of Mining Claims, Subpart 3831—Rights to Mineral Lands, 3831.1 Manner of initiating rights under locations: "Rights to mineral lands, owned by the United States, are initiated by prospecting for minerals thereon, and, upon the discovery of mineral, by locating the lands upon which such discovery has been made. A location is made by staking the corners of the claim, posting notice of location thereon and complying with the State laws, regarding the recording of the location in the county recorder's office, discovery work, etc. As supplemental to the United States mining laws there are State statutes relative to location, manner of recording of mining claims, etc., in the State, which should also be observed in the location of mining claims. Information as to State laws can be obtained locally or from State officials."

In my opinion, you have not complied with the requirements of the General Mining Law of 1872 as amended, nor have you complied with the Montana State Mining Law as enumerated above in 3831.1.

From the statements in your letter of November 8, (paragraph 2, page 1 and paragraph 3, page 2) it appears that you have not made a valid discovery. If this is so, then you have acquired no rights to the mining claims that you have recorded in the Powder River County Courthouse.

Concerning the exploration work, which you mention several times in your letter, if you will refer to your copy of the Minerals Resource Management Guidelines of the Northern Region of the Forest Service, on page 4 you will note that a special use permit with the posting of a suitable performance bond to insure compliance with the terms of the permit is required for all work, other than handtools, on a mining claim where the discovery of a valuable mineral deposit cannot be demonstrated.

With this preponderance of evidence, that you have not complied with the State laws nor made a discovery of a valuable mineral deposit as required by Federal law, we cannot recognize your claim as encumbrances to Forest lands.

Should you decide to do exploration work, I would suggest that you submit suitable plans for this work to meet Federal and State mining laws and the Northern Region of the Forest Service guidelines.

Sincerely,

JOHN B. BURLISON,
East Zone Mining Engineer.

COURT HALTS SPECULATING BY ZWEIFEL—YELLOWSTONE COUNTY ACTS; OTHERS LIKELY
(By Richard H. Geissler)

Merle I. Zweifel, high-flying prospector and jet-age mineral speculator, was grounded Tuesday in Yellowstone County.

The Shawnee, Okla., operator was halted in Billings by District Court Judge Robert H. Wilson's issuing a temporary injunction preventing further filing of placer mining claims.

And by Wednesday five more southeastern Montana counties hope to halt Zweifel in their respective jurisdictions by filing identical court actions.

Zweifel and company, operating under the motto, "We fly further and stake faster," emblazoned with a soaring jet, has laid claim to thousands of acres of land in Montana, Wyoming and Nevada.

While state and federal authorities in Wyoming and Nevada moved against Zweifel early last year, Tuesday's action was the first move to halt Zweifel in Montana.

Yellowstone County Atty. Harold F. Hanser has been the moving force in Montana to take action against Zweifel. Meeting with county attorneys from Powder River, Custer, Rosebud, Musselshell and Fallon counties in December, Hanser was selected to compile the case and file the action.

With the acceptance of Hanser's complaint and injunction request by the court in Billings, copies of the action were mailed Tuesday night to the five other counties for their own filings.

Federal authorities in Montana—especially the U.S. attorney's office in Billings—had been asked to join or take independent action against Zweifel.

Even though the U.S. attorney's office for the District of Wyoming filed actions last fall against Zweifel, his wife and almost 200 of the "co-locators" (persons who subscribed to Zweifel's prospecting service), the Montana office did not take immediate action.

U.S. Atty. Otis L. Packwood was not available to comment late Tuesday when the county's action was taken.

A spokesman from his office said "... we have asked some federal agencies to look into his (Zweifel's) activities, though. But, I cannot say what future actions this office will take... you will have to ask Mr. Packwood."

The basic complaint included in all of the actions filed against Zweifel and his company is the validity of legitimate claims.

Under 19th Century mining and exploration laws, a person can file placer claims when certain recoverable minerals are discovered. This does not include coal and oil.

All of the allegations claim Zweifel had failed to actually discover applicable minerals, have assays completed, physically stake boundaries, build monuments and make improvements.

The charges claim he thereby made false and fraudulent claims.

Zweifel lost by default in Wyoming in October when he failed to defend himself against the state's first court action seeking to bar him from filing claims and voiding claims he had already filed.

A permanent injunction was issued against Zweifel in Wyoming because of that action unless "he filed in complete compliance with the law (staking, etc.)..."

Wyoming's Atty. Gen. Clarence A. Brimmer said his office was forced to file a second action Dec. 22 to further block Zweifel's filing of claims by enjoining all of the state's clerk and recorders from accepting any of Zweifel's filings.

"He (Zweifel) has continued to inundate clerk and recorders with claims that he purports to have staked out... particularly in the Powder River area, Sheridan and Campbell counties," said Brimmer.

Hanser said Tuesday he hoped to avoid having to go through two separate actions like Wyoming by getting a two-way injunction—both against Zweifel and against the Yellowstone clerk and recorder.

As a result, Hanser said, Merrill Klundt, clerk and recorder in Billings, was served with an order Tuesday evening barring him from further accepting any of Zweifel's claims.

Hanser said Zweifel has already filed two claims in Yellowstone County and, "I think he has already claimed almost 20,000 acres in Montana."

Hanser said he took the action against Zweifel in the public interest and to save every individual land owner as well as the state and federal governments the expense of fighting individual "clouded title" cases prompted by Zweifel's claims.

Zweifel has lost a double battle in Nevada where civil action has blocked his operations there and officials then proceeded to file criminal charges.

In Nevada, as in Montana, it is a felony to file false documents with the clerk and recorder. Since Zweifel's claims were ruled false there, he was open to criminal prosecution.

He lost his battle and was convicted and sentenced to six years in prison. According to a Nevada law official, Zweifel flew "into town with his private jet, posted a \$50,000 bond in

cash and took off... it is now pending appeal."

Hanser conceded that a similar law in Montana could cause criminal charges to be filed against Zweifel if his claims were determined to be false.

"I think it would only be speculation now to discuss whether this office would press for criminal charges against Mr. Zweifel," said Hanser.

Zweifel has blamed his defeat in Nevada—and forecast trouble in Montana—on the power of the Peabody Coal Co. and Kennecott Copper.

Several hundred acres on which Zweifel has laid claim also are part of the large coal fields now being opened.

While Zweifel claims his only interest is in recoverable minerals other than coal and oil, he wants the right to "separate minerals intermingled with the coal deposits."

Yet Zweifel's literature aimed at soliciting prospective clients for his locator service talks at lengths of the future of coal in the West and how valuable those lands will become.

Included in the court filing by Hanser were statements from numerous federal and private authorities who claim they could find no physical evidence that Zweifel had complied with requirements to file a claim and some questioned even the existence of economically minable minerals.