

CFC Rules That Res Judicata Defeats Government Argument That No Property Interest Exists for Purposes of Takings Law

In *Simonson v. United States* (April 4, 2013), the U.S. Court of Federal Claims considered whether the Government's argument that the plaintiffs did not have a compensable property interest for purposes of a takings claim should be disposed of by summary judgment after an administrative challenge to the plaintiffs' unpatented mining claims was dismissed. As the CFC noted:

For an unpatented mining claim to be valid against the United States, there must be a discovery of valuable mineral deposit within the limits of the claim, and all statutory requirements must be met.

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Prior to validity proceedings, unpatented claims are more accurately characterized as potential property interests, since it is the discovery of a valuable mineral deposit which bestows the full rights described by the Supreme Court upon them.

The settlement agreement that ended the administrative challenge granted the plaintiffs the right to mine the property. The key legal issue for the CFC in deciding *Simonson* was whether the principle of res judicata applied. Res judicata prevents a party from re-litigating an issue that was or could have been raised in a prior proceeding and "serves the public interest by relieving the parties of the cost and vexation of multiple lawsuits, conserving judicial resources, and, by preventing inconsistent decisions."

The trial court determined that res judicata applied because "the parties have already had a fair opportunity to litigate the validity question, have jointly moved to dismiss the contest, and plaintiffs have emerged with rights to mine under a valid settlement agreement." Even though the settlement agreement "is silent with respect to the existence of a property interest," the CFC held that "the entire purpose of a mining contest is to challenge the 'legality or validity of claims' and these issues are necessarily included in the resolution."

As a result, plaintiffs' partial motion for summary judgment was granted. But it remains unclear if valuable mineral deposits will be found on the land, a requirement for unpatented mining claims to become valid against the United States.

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