



STATE OF OREGON

INTEROFFICE MEMO

TO: Don H.

FROM: Jerry Gray

SUBJECT: Frank I. Bevier's Tillicum Mining Claim

DATE: November 30, 1984

Frank I. Bevier and Tillie D. Bevier owned and operated the Tillicum and West Tillicum (Cumtillie) unpatented mining claims. During 1952 Tillie sold all her interest in the two claims to Frank. On July 8, 1952 Frank signed a will leaving almost all of his estate to Tillie. On December 1, 1954 Frank deeded the two claims to the Department. Frank died December 2, 1954. The United States Government gave Frank a patent to the Tillicum claim on November 18, 1955. Tillie filed the will in probate court on November 29, 1956. Part of the estate to be probated was the Tillicum patented claim and the West Tillicum unpatented claim. On November 5, 1957 the final accounting was approved for probate. Tillie was the owner of the two claims. The two claims have gone through a couple of owners and West Tillicum became patented.

The present owner of Tillicum is:

Elmer R. Klopfenstein
13459 Finlay Road N.E.
Silverton, Oregon 97381

The owner of West Tillicum is:

Mike Prodan
84851 Proden Lane
Pleasant Hill, Oregon 97410

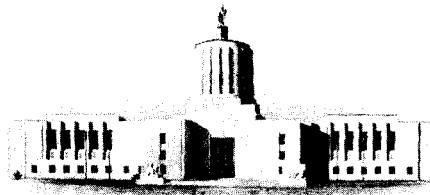
In summary, if the Department had filed the deed for record before Frank's estate was probated and the will contested, we may have ended up with two mining claims. After 30 years, as it now stands, I think we should forget our rights to these two claims. The attached materials are in chronological order.

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JJG:bj



ROBERT Y. THORNTON
ATTORNEY GENERAL



STATE OF OREGON
DEPARTMENT OF JUSTICE
SALEM

E. G. FOXLEY
DEPUTY ATTORNEY GENERAL

CATHARINE C. BARSCH
CATHERINE ZORN
LLOYD G. HAMMEL
WOLF D. VON OTTERSTEDT
ASSISTANTS

January 11, 1955

The Governing Board
Department of Geology and Mineral Industries
1400 S. W. Fifth Avenue
Portland 1, Oregon

Gentlemen:

In response to your inquiry regarding the deed of Frank I. Bevier, intended to convey mining claims to the State of Oregon, we are obliged to advise you that the legal effect of the deed is extremely dubious and would be troublesome to prove. For the reason that the grantor was dead when your letter of December 8 was written, and you therein merely requested our comment when time would permit, this matter was necessarily required to await attention in regular order, especially as it involved a great deal of study.

Following are particulars in which the instrument is defective:

1. The deed is neither acknowledged in accordance with ORS 93.410 nor signed in the presence of a subscribing witness whose proof of execution could be substituted for the grantor's acknowledgment, as authorized by ORS 93.440. Although it might be possible to prove execution of the deed in court, by the testimony of Mr. Mason, if he was present when the grantor signed the deed, the instrument is not now entitled to record. This situation demonstrates the wisdom of having a deed witnessed, and subscribed by the witness or witnesses, even though the law does not require it and the form used did not provide for signatures of witnesses.

2. The word "be", inserted in the statement of consideration, implies an executory contract rather than a completed transfer of title. Apparently the word "him" should be substituted for "be", inasmuch as the granting clause speaks in the third person; and for that reason also the word "do" should have been made to read "does", although this error is not one of substance. In addition, the word "its" should have been inserted in the blank spaces provided, preceding the recurrent phrase "heirs and assigns".

3. The description of the property conveyed is insufficient for legal identification and location. Mining claims are declared by Oregon law to be "real property", and their transfer is subject to the rules generally governing transfer of real property. The description of the claim should contain a reference to the quarter or quarters of the quarter or quarters of the specific section in which each claim is located, with designation of township and range added. It might be possible to prove the location of the claims mentioned in this instrument, by reference to the United States patents thereof, if the patents have been recorded in the county deed records. But if a substitute deed is obtained from the present owner of the claims, it should contain an adequate description and otherwise should be properly drawn and executed, so that there will be no question as to the propriety of recording it. In this connection, attention is directed also to the easement exception. It is probable that the exception refers to an existing easement in favor of the mining company named, but the deed should limit the easement specifically to that in being, both as to extent and location.

Although it would perhaps be possible to prove execution of the deed signed by Mr. Bevier, that would be a time-consuming undertaking, perhaps not justified by the probable value of the claims. We therefore suggest that it would be advisable to request the widow or heir of the grantor to whom the claims descended as real property of the decedent, to execute a recordable (legally sufficient) deed transferring the mining claims to the

Department of Geology and Mineral Industries
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State of Oregon. The most that can be said for the present instrument is that it would possibly serve to impress the named mining claims with a trust in favor of the State.

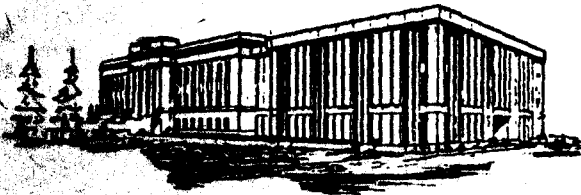
Sincerely yours,

ROBERT Y. THORNTON
Attorney General

By *Caroline Carson Baisch*

Assistant

CCB vw



L-65-82

OFFICE OF
LINN COUNTY ASSESSOR

P.O. BOX 100
ALBANY, OREGON 97321
PHONE 867-3808

June 3, 1982
Ref.: W. Tillicum
Fraction Lode
L-65-82, Map 11-4E

Mike Prodan
84851 Proden Lane
Pleasant Hill, Ore. 97410

Dear Mr. Prodan:

The Assessor's Office has made a search of the public records and cannot find any recorded document giving you title to the West Tillicum Fraction Lode. Before your name can be put on this property for taxation purposes, our office requires that you bring in a copy of a warranty or bargain and sale deed which gives you title to this parcel. Our office can only accept a quitclaim deed if a complete chain-of-title beginning with Frank I. Bevier can be provided.

If you have any questions, please feel free to call.

Sincerely,

Robert Mayer
Cartographer

NOTE

1/11/84

- Frank I Bevier rec. patent on West Tillicum Fraction
 - Sherman Shine acquired Bevier's int. from widow according to Mike Prodan (nothing on record)
 - Sherman Shine q/c his interest to Prodan by MF310-986 (See JVD 13144)
- 1/13/84 - now T.L. 101, Map 11-4E

County Clerk

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Walter Miller (Buntz 9)

Benton, died in 1972, I and two others, Harry R. Blue of Ridgefield Wa. and Angelina Seymour of Walnut Creek, Ore. were each left a one third interest in a small acreage she owned near Quartzville, Id. Linn Co. I have been unable to find the size, location, or the taxes due.

Could you, or would you, furnish this information? Any charges will be paid

Thank you

Harry S Jones
21660 271st A. SE
Maple Valley
48038 Wa.

0568

May 13, 1974

Mr. Harry S. Jones
21660 271 Pl. S.E.
Maple Valley, WA 98038

Dear Sir:

There is no record in Linn County of an estate for Tillie Bevier. The estate of Frank I. Bevier was probated in Linn County, our Case No. 3950. Frank willed his estate to his wife Tillie, and the estate was closed on February 6, 1958.

According to the records in the Assessor's office, Tillie later married a man by the name of Tucker. In 1971, the Tuckers deeded property in the Quartzburg Mining District to Fred D. Klopfenstein, whose address is Rt. 3, Box 107, Silverton, Oregon 97331.

It would be necessary for us to have a description of the property which you believe Mrs. Bevier left to you to enable us to definitely determine the present ownership.

Very truly yours,

DEL W. RILEY,
County Clerk

By Ella M. Boffa
Deputy

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