ROBERT W. VAN WYCK

IBLA 84-553 Decided June 19, 1985

Appeal from a decision of the Nevada State Office, Bureau of Land Management, declaring four mining claims abandoned and void. N MC 304375 through N MC 304378.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Location

Under sec. 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(b) (1982), and 43 CFR 3833.1-2, the owner of an unpatented lode or placer mining claim located after Oct. 21, 1976, must file in the proper BLM office, within 90 days after the location of such claim, a copy of the official record of the notice or certificate of location. Failure to do so is deemed conclusively to constitute an abandonment of the claim by the owner. 43 U.S.C. § 1744(c) (1982).

APPEARANCES: Robert W. Van Wyck, pro se.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Robert W. Van Wyck appeals the March 29, 1984, decision of the Nevada State Office, Bureau of Land Management (BLM), declaring his mining claims abandoned and void. The claims are the Prospect Hill #1 through Prospect Hill #4, N MC 304375 through 304378. The claims were located December 21, 1983. The certificates of location were filed March 22, 1984, 92 days after the date of location.

The claims were declared abandoned and void because the certificates of location were not filed with BLM within 90 days of location as required by section 314(b) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(b), and 43 CFR 3833.1-2. Section 314(c) of FLPMA provides that failure to file the certificate of location within 90 days as required by statute shall be deemed conclusively to constitute an abandonment of the claim by the owner. See United States v. Locke, 105 S. Ct. 1785 (1985).

Van Wyck argues that his certificate of location was late because it had the wrong address and had been returned to him. If the address had been correct, the certificate would have been filed on time, he states.

Appellant must bear the consequences of his failure to timely file the certificate. BLM properly refused to accept the filing. Alfred E. Malech, 72 IBLA 223 (1983). This Board has no authority to excuse noncompliance with the statutory requirements or to extend the time for compliance, or to afford any relief from statutory consequences. Charlene and Robert Schilling, 87 IBLA 52 (1985); Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Appellant may confer with BLM about the possibility of relocating the claims.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Will A. Irwin
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

R. W. Mullen
Administrative Judge