

G. ANTOLINI & SON

IBLA 78-12      Decided September 8, 1978

Appeal from decision of the California State Office, Bureau of Land Management, refusing to accept notices of location for mining claims. CA MC 6208.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment–Mining Claims: Determination of Validity–Mining Claims: Recordation

Under sec. 314(b) of the Federal Land Policy and Management Act of 1976, unless the required copy of the official record of location is filed in the proper BLM office within 90 days from the date of location, a mining claim located after Oct. 21, 1976, is void, and any later filing of the notice is invalid.

APPEARANCES: Henry S. Antolini for G. Antolini & Son.

OPINION BY ADMINISTRATIVE JUDGE GOSS

G. Antolini & Son has appealed from the September 7, 1977, decision of the California State Office, Bureau of Land Management (BLM), refusing to accept location notices for four placer mining claims because the notices were not filed within 90 days of location as required by section 314(b) of the Federal Land Policy and Management Act of October 21, 1976 (FLPMA), 43 U.S.C.A. § 1744(b) (West Supp. 1977).

On September 6, 1977, appellant filed with BLM copies of notices of location for four building stone placer claims designated G. Antolini & Son Nos. 1-4. The notices stated that the claims were located June 2, 1977; they were filed with the State clerk in Santa Barbara on June 8, 1977.

In the statement of reasons, Henry Antolini admitted that the BLM filings were late. He noted that the claims had been delayed during review by the Forest Service. He noted also that the appellant company had produced an unusual building stone from this area under permit since the 1950s.

[1] For mining claims located after October 21, 1976, section 314(b) of FLPMA requires that a copy of the official record of location must be filed "within 90 days after the date of location." 43 U.S.C. § 1744(b), 43 CFR 3833.1-2. If a copy is not so filed, the claim is deemed abandoned and void, 43 CFR 3833.4, and any later filing is invalid. Southwestern Exploration Associates, 33 IBLA 240 (1977); Solicitor's Opinion, M-36889, 84 I.D. 188 (May 17, 1977).

In accordance with the statute and regulations, this Board has consistently affirmed BLM's refusal to record copies of the official record of location not filed within the statutory time limit. E.g., Robert Thompson, 34 IBLA 319 (1978); Southwestern Exploration Associates, *supra*.

Since the copies here were not filed with BLM within 90 days from the date of location as required by statute, they cannot be given force and effect and they were properly returned to appellant.

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.

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Joseph W. Goss  
Administrative Judge

We concur.

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Newton Frishberg  
Chief Administrative Judge

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James L. Burski  
Administrative Judge

