

JUAN MUNOZ

IBLA 78-467

Decided January 24, 1979

Appeal from a decision of Arizona State Office, Bureau of Land Management, holding the Solo group of lode mining claims to be abandoned. A MC 1188, etc.

Affirmed.

1. Notice: Generally—Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

2. Federal Employees and Officers: Authority to Bind Government

Reliance upon erroneous or incomplete information provided by employees of the Bureau of Land Management cannot create any rights not authorized by law.

3. Federal Land Policy and Management Act of 1976: Generally—Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment—Mining Claims: Recordation

Under sec. 314(a) of the Federal Land Policy and Management Act of 1976, the owner of an unpatented mining claim must file a notice of intention to hold his claim prior to Dec. 31 of the calendar year following the date of location of such claim, or the claim shall be deemed conclusively to have been abandoned.

APPEARANCES: Juan Munoz, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Juan Munoz appeals from an Arizona State Office, Bureau of Land Management (BLM), decision dated May 17, 1978, which declared his Solo Nos. 1-11 lode mining claims to be abandoned and void pursuant to 43 CFR 3833.4 because no notice of intention to hold the mining claims or evidence of annual assessment work was filed for calendar year 1977, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1(b)(1).

The Solo group of claims was located November 28, 1976, with official copies of the location notices being filed for record with BLM on February 9, 1977. Subsequently, affidavits of performance of drilling as location work were filed with BLM on or about March 10, 1977. These latter documents were returned to Munoz as not being required by FLPMA or the regulations, and with advice that a copy of the annual affidavit of labor performed for each claim must be filed with BLM. The record does not show that BLM ever advised Munoz that a notice of intention to hold the mining claims must be filed with BLM, pursuant to FLPMA, during the first calendar year following the date of location, a period for which assessment work is not required to be done under the general mining laws.

As no further filings were made relative to the Solo group of claims during calendar year 1977, BLM issued its decision of May 17, 1978, holding the claims to have been abandoned.

Sec. 314 of FLPMA provides that the owners of an unpatented mining claim located after October 21, 1976, shall file prior to December 31 of each year following the calendar year in which the claim was located a notice of intention to hold the mining claim or an affidavit of assessment work performed thereon, and that failure to file such instrument shall be deemed conclusively to constitute abandonment of the mining claim. The pertinent regulations are 43 CFR 3833.2 and 3833.4.

[1, 2] It is unfortunate that BLM did not give full information to Munoz as to the filing requirements of FLPMA in its letter of March 15, 1977, returning the affidavits of performance of drilling incidental to location. However, all persons dealing with the Government are presumed to have knowledge of the relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1970); Federal Crop Insurance Corporation v. Merrill, 332 U.S. 380 (1947). The regulations herein cited were promulgated in the Federal Register at 42 FR 4300 et seq. (January 27, 1977). Furthermore, the Government is not bound by the failure of its employees to give full information as no interest may be obtained in the public lands unless it is wholly sanctioned by law. Reliance upon erroneous or incomplete information or advice by BLM employees cannot estop the United

States or confer upon a mining claimant any rights not authorized by law. 43 CFR 1810.3(c); Public Service Co. of Oklahoma, 38 IBLA 193 (1978); Mark W. Boone, 33 IBLA 32 (1977); W. R. C. Croley, 32 IBLA 5 (1977); United States v. Tibbetts, 29 IBLA 348 (1977).

[3] As this Board has repeatedly held, under section 314(a) of FLPMA, failure of the owner of an unpatented mining claim to file a notice of his intention to hold the claim prior to December 31 of the calendar year following the date of location of the claim shall be deemed conclusively an abandonment of the claim. John R. Carruthers, 38 IBLA 77 (1978); W. A. Starr, 38 IBLA 74 (1978); Donald B. Little, 37 IBLA 1 (1978). So in the cases before us, as no notice of intention to hold the Solo group of claims, or any of them, was filed with BLM during calendar year 1977, each of them is determined conclusively to be abandoned and void.

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.

Douglas E. Henriques
Administrative Judge

We concur.

Edward W. Stuebing
Administrative Judge

Frederick Fishman
Administrative Judge

