

Appeal from a decision of the California State Office, Bureau of Land Management, rejecting for purposes of recordation notice of location for lode mining claim CA MC 25791.

Affirmed.

1. 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 of the Federal Land Policy and Management Act of Oct. 21, 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a lode mining claim must file a notice of recordation of the claim with the proper Bureau of Land Management Office within 90 days of location of the claim. Failure to so file is deemed conclusively to constitute an abandonment of the claim by the owner.

APPEARANCES: Faith C. Hartman, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Faith C. Hartman appeals from the decision of the California State Office, Bureau of Land Management (BLM), returning her mining claim location notice for the Faith lode claim, CA MC 25791, because she had not filed the notice with BLM within 90 days after the date of location as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the corresponding regulation, 43 CFR 3833.1-2(b). The notice indicates that appellant located her claim on August 1, 1977. BLM received copies of the notice on April 30, 1979.

Section 314 of FLPMA requires the owner of an unpatented lode or placer mining claim located after October 21, 1976, to file a copy of the official record of the notice of location in the BLM office designated by the Secretary of the Interior within 90 days after the date of the location. It also provides that failure to timely file such record shall be deemed conclusively to constitute an abandonment of the mining claim by the owner.

The pertinent regulation, 43 CFR 3833.1-2(b), provides as follows:

The owner of an unpatented mining claim, mill site, or tunnel site located after October 21, 1976, on Federal land shall file (file shall mean being received and date stamped by the proper BLM office), within 90 days after the date of location of that claim in the proper BLM office a copy of the official record of the notice or certificate of location * * *.

Appellant claims that she had no knowledge of FLPMA, the Department's regulation, or the 90 day filing requirement.

[1] Under FLPMA and the regulations, the requirements for filing are clear. The Board has repeatedly held that when a notice of a mining claim is not filed with BLM within 90 days from the date of location, it has no force and effect and must be returned to the appellant. M. J. Reeves, 41 IBLA 92 (1979); William E. Rhodes, 38 IBLA 127 (1978); R. Wade Holder, 35 IBLA 169 (1978). The claim must be deemed conclusively to have been abandoned under the terms of the statute. 43 U.S.C. § 1744(c) (1976); Phillip M. Gardiner, 41 IBLA 391 (1979).

The fact that appellant may have been unaware of the recordation requirements does not excuse her from compliance with the law. Those who deal with the Government are presumed to have knowledge of the law and duly adopted regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947), Phillip M. Gardiner, *supra* at 393; Donald H. Little, 37 IBLA 1 (1978). The Board has no authority to excuse lack of compliance.

Appellant may, however, relocate her claim and file the notice required by 43 CFR 3833.1, subject to any intervening rights of third parties, and assuming no intervening closure of the land to mineral location.

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.

James L. Burski
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

