

ANNA M. VANCE

IBLA 80-219

Decided May 21, 1980

Appeal from decision of the Idaho State Office, Bureau of Land Management, refusing to accept documents for recordation of mining claims. IMC 45633.

Affirmed.

1. 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 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a mining claim located before Oct. 21, 1976, must file a copy of the official record of the location of the mining claim with the proper Bureau of Land Management office on or before Oct. 22, 1979.

These requirements are mandatory and failure to comply is deemed conclusively to constitute an abandonment of the claim by the owner and renders the claim void.

APPEARANCES: Fred J. Hahn, Esq., Idaho Falls, Idaho, for appellants.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

This appeal is from a decision dated November 15, 1979, by the Idaho State Office, Bureau of Land Management (BLM), declining to accept for recordation appellants' 1/ filings received October 24,

1/ The owners of the Gold Leed Nos. 1 to 6 mining claims are listed as Anna M. Vance, Darwin E. Vance, Josephine Vance, Janeice Vance Boge, Charles R. Boge, Bob Hansen, Lila Hansen, Kirk Hansen, and Cheryl Hansen, all of whom joined in the appeal.

1979, with respect to the Gold Leed Nos. 1 to 6 mining claims, IMC 45633, because appellants had failed to submit timely the instruments required by 43 CFR 3833.1 and 3833.2. Appellants had filed a list of the owners of the Gold Leed Nos. 1 to 6 mining claims, located circa 1921, a sketch map showing the location of the claims, an affidavit of assessment work performed during the assessment year ending September 1, 1979, and the service fee of \$30 for the six claims. BLM did not rule upon the adequacy of the documents under the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and the implementing regulations, 43 CFR 3833.1 and 3833.2, but declined to record the mining claims solely because the submission was received after October 22, 1979.

Regulation 43 CFR 3833.1-2(a) provides in relevant part:

The owner of an unpatented mining claim * * * located on or before October 21, 1976, * * * shall file (file shall mean being received and date stamped by the proper BLM office) on or before October 22, 1979, in the proper BLM office, a copy of the official record of the notice or certificate of location of the claim * * * filed under state law.

Regulation 43 CFR 3833.4 provides that failure to file any instrument required by section 3833.1-2 or section 3833.2-1, within the time period prescribed therein, shall be deemed conclusively to constitute an abandonment of the mining claim, and it shall be void.

[1] Appellants, who stress their alleged inability to obtain from BLM field offices the necessary forms to facilitate the recordation of their mining claims, misapprehend the mandatory requirements of the recording provisions. The information required had to be submitted in the form of a copy of the official record of the mining claim location from the appropriate county records. The failure to comply timely with those provisions must result in a finding that the claims have been abandoned. Glen J. McCrorey, 46 IBLA 355 (1980); Walter T. Paul, 43 IBLA 119 (1979); Dale C. DeLor, 40 IBLA 88 (1979); Roy M. Byram, 39 IBLA 32 (1979); R. Wade Holder, 35 IBLA 169 (1978). Inasmuch as appellants' claims were located prior to October 21, 1976, they were obliged to file a copy of the official record of the locations of the claims with the proper office of BLM on or before October 22, 1979.

Appellants may, however, relocate their claims, if for locatable minerals, and make the filings 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.

Douglas E. Henriques
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Joan B. Thompson
Administrative Judge

