

JEAN C. LEPPER ET AL.

IBLA 80-246

Decided May 29, 1980

Appeal from decision of the California State Office, Bureau of Land Management, declaring the Magalia X, Red Hill Extension, and Black Gold placer mining claims, and the Red Hill No. 11 North and Red Hill No. 12 South lode mining claims, CA MC 60282-6, abandoned and void.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Assessment Work -- Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claims -- Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Assessment Work -- Mining Claims: Recordation

Where the owners of unpatented mining claims located before Oct. 21, 1976, fail to file copies of the original notices of location with the proper BLM office on or before Oct. 22, 1979, their claims are properly held to be abandoned and void.

APPEARANCES: Kay H. Billings, pro se, and for Jean C. Lepper.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Jean C. Lepper and Kay H. Billings (appellants) 1/ appeal the December 19, 1979, decision of the California State Office, Bureau of Land Management (BLM), declaring the Magalia X, Red Hill Extension,

1/ Kay H. Billing, who is apparently an interest holder in these claims, has appealed on her own behalf and on behalf of Jean C. Lepper.

and Black Gold placer mining claims, and the Red Hill No. 11 North and Red Hill No. 12 South Lode mining claims, CA MC 60282-6, abandoned and void because they did not file copies of the official records of their notices of location thereof on or before October 21, 1979, as required by section 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), as implemented by 43 CFR 3833.1-2(a). 2/

All of these claims were located prior to October 21, 1976. Accordingly, under 43 CFR 3833.1-2(a), appellants, as owners of these claims, were required to file copies of the official records of the notices of location in the proper BLM office (the California State Office) on or before October 22, 1979.

Appellants did not mail this information to BLM until October 24, 1979, and it did not arrive there for filing until October 25, 3 days after the October 22 deadline. Under 43 CFR 3833.4(a), 3/ claims located before October 21, 1976, are properly held to be abandoned and void where their owner fails to file copies of the original notices of location on or before October 22, 1979, as required by 43 CFR 3833.1-2(a). Wayne Van Dyke, 46 IBLA 358 (1980); Glen J. McCrorey, 46 IBLA 355 (1980); Carl Oberg, 46 IBLA 319 (1980); John Walter Chaney, 46 IBLA 229 (1980).

Appellants stress BLM's failure to give advance notice to claims owners of these requirements. The purpose of these requirements is to give BLM information as to where mining claims lie on Federal lands, as, prior to FLPMA, there was no practical means for BLM to know of the existence of these claims or the identities of their owners without conducting a complete search of each county's records. Thus, in the absence of such information, it is unclear how appellants would expect BLM to have been able to notify the owners directly.

2/ 43 CFR 3833.1-2(a) provides as follows:

"Manner of recordation--Federal lands.

"(a) The owner of an unpatented mining claim, * * * located on or before October 21, 1976, on Federal lands, * * * 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 or site filed under state law."

3/ 43 CFR 3833.4(a) provides as follows:

"§ 3833.4 Failure to file.

"(a) The failure to file an instrument required by §§ 3833.1-2 (a), (b), and 3833.2-1 of this title within the time periods prescribed therein, shall be deemed conclusively to constitute an abandonment of the mining claim, mill or tunnel site and it shall be void."

In any event, it is established that all persons dealing with the Government, including owners of mining claims on Federal lands, are presumed to have knowledge of statutes and duly promulgated regulations affecting them, and that they are responsible for familiarizing themselves with their contents and complying therewith. Phyllis Wood, 46 IBLA 309, 310 (1980); Bernard B. Gencorelli, 43 IBLA 7 (1979); Fred S. Ghedarucci, 41 IBLA 277 (1979).

The October 22, 1979, deadline for recording has been a matter of public record since the enactment of the Federal Land Policy and Management Act of 1976, 43 CFR 1701, on October 21, 1976. Thus, appellants have had ample time to become aware of this deadline and to meet it.

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.

Edward W. Stuebing
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Joan B. Thompson
Administrative Judge