

JOE RAPIC

IBLA 80-400

Decided June 26, 1980

Appeal from decision of the California State Office, Bureau of Land Management, declaring lode mining claims abandoned and void. CA MC 62301
CA MC 62302.

Affirmed.

1. Notice: Generally -- Regulations: Generally

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

2. 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 mining claim located before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location for such 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: Joe Ropic, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Joe Raptic appeals from the decision of February 4, 1980, wherein the California State Office, Bureau of Land Management, declared the Arrastra and the Annie Laurie lode mining claims, CA MC 62301, CA MC 62302, located June 18, 1959, abandoned and void because copies of the location notices and map for these claims were not filed with BLM on or before October 22, 1979, as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the regulations set forth at 43 CFR 3833.1-2(a). Raptic had submitted copies of the location notices and proof of annual labor for the year ending September 1, 1979, on January 17, 1980.

On appeal, Raptic states that he had inherited the claims and failed to record them timely with BLM because of his lack of knowledge of the regulatory requirements.

[1] All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Edwin Forsberg, 47 IBLA 235 (1980); 44 U.S.C. §§ 1507, 1510 (1976).

[2] The owner of an unpatented mining claim located prior to October 21, 1976, had until October 22, 1979, to record the location with BLM and to provide certain ancillary information. Section 314, FLPMA, 43 U.S.C. § 1744 (1976). The pertinent regulations are 43 CFR 3833.1-2 and 3833.2-1. Recordation is effected only by filing a copy of the official record of the location or certificate filed under state law with the proper BLM office, 43 CFR 3833.1-2(a), and by paying the appropriate service charge of \$5 per claim, 43 CFR 3833.1-2(d). Failure to comply with the regulations governing recordation of information relating to unpatented mining claims must result in a conclusive finding that the claim has been abandoned and that it is void. Edwin Forsberg, supra; Joe B. Cashman, 43 IBLA 239 (1979); Walter T. Paul, 43 IBLA 119 (1979); Section 314(c), FLPMA, 43 U.S.C. § 1744(c) (1976).

This Board has no authority to waive the statutory and regulatory requirements. Appellant may, however, relocate his claims and file the notices required by 43 CFR 3833.1, subject to any intervening rights of third parties, and assuming the land is still open to mineral location.

Accordingly, 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:

Frederick Fishman
Administrative Judge

Joan B. Thompson
Administrative Judge

