

**Editor's note: Reconsideration denied by order dated Aug. 12, 1980;  
Denial of reconsideration affirmed by order dated Nov. 28, 1980**

DOLLIE L. GLAAB

IBLA 80-537

Decided July 11, 1980

Appeal from decision of the California State Office, Bureau of Land Management, holding placer mining claims abandoned and void. CA MC 57376 through 57379.

Affirmed.

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

The owner of an unpatented mining claim on Federal land located prior to Oct. 21, 1976, had to file in the proper BLM office on or before Oct. 22, 1979, or on or before Dec. 30 of each calendar year following the calendar year of such recordation, whichever date is earlier, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

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

Failure to comply with the regulations governing recordation of notices of location or the filing of evidence of assessment work or a notice of intention to hold mining claim must result in a conclusive finding that the mining claim has been abandoned and is void.

3. Administrative Authority: Estoppel -- Estoppel --  
Federal Land Policy and Management Act of 1976:  
Recordation of Mining Claims and Abandonment -- Mining  
Claims: Abandonment

Reliance upon erroneous advice or incomplete information provided by BLM employees cannot relieve the owner of a mining claim of an obligation imposed on him by statute or relieve him of the consequences imposed by statute for his failure to comply with its requirements.

APPEARANCES: Robert H. Ziprick, Esq., Bloomington, California, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Dollie L. Glaab appeals from the March 17, 1980, decision, amended March 27, 1980, wherein the California State Office, Bureau of Land Management (BLM), declared the Gold Beach Nos. 1 through 4 placer mining claims, CA MC 57376 through 57379, abandoned and void for failure to submit evidence of assessment work for the period September 1, 1978, through September 1, 1979, on or before October 22, 1979, as required by 43 CFR 3833.2-1.

The Gold Beach Nos. 1 through 4 placer mining claims were located by Dollie L. Glaab on June 15, 1958, in sec. 29, T. 9 N., R. 23 E., San Bernardino meridian, San Bernardino County, California. On October 22, 1979, copies of the official record of the location notices, a map of the claim site, and proof of labor for the assessment year ending September 1, 1977, were filed with BLM.

The claims were declared abandoned and void pursuant to 43 CFR 3833.4(a) because no evidence of assessment work for the assessment year ending September 1, 1979, was filed with BLM on or before October 22, 1979.

Appellant makes no assertion that any evidence of proof of labor for the year ending September 1, 1979, was ever submitted to BLM prior to March 28, 1980.

The pertinent regulation, 43 CFR 3833.2-1(a), provides as follows:

The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

The subject mining claims were located before October 21, 1976, and copies of the official record of the notices of location were filed with BLM on October 22, 1979. It thus was incumbent upon the claimant to submit evidence of the annual assessment work performed during the assessment year ending September 1, 1979, on or before October 22, 1979. As the claimant did not submit such proof, the penalty set out in 43 CFR 3833.4(a) attached. 1/

Counsel for appellant alleges that BLM personnel had given him assurance that the submissions on behalf of Ms. Glabb were both timely and adequate. Reliance upon information or opinion of any officer, agency, or employee of BLM or on records maintained by BLM cannot operate to vest a right not authorized by law. 43 CFR 1810.3(c); Alva F. Rockwell, 47 IBLA 272 (1980); Dorothy Smith, 44 IBLA 25 (1979).

Appellant has requested a hearing to inquire into factual disputes over the submission of her proof of labor for the assessment year ending September 1, 1978. As the adverse decision arose because of failure of the claimant to submit timely her proof of labor for the assessment year ending September 1, 1979, a charge which appellant has not denied, a hearing would serve no useful purpose. The request for a hearing is therefore denied.

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.

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Douglas E. Henriques  
Administrative Judge

We concur:

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James L. Burski  
Administrative Judge

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Anne Poindexter Lewis  
Administrative Judge

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1/ That section reads in part:

"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."

