

**Editor's note: Reconsideration and request for hearing denied by order dated Sept. 16, 1980; Petition for hearing denied by order dated Nov. 22, 1982; Petition for hearing denied by order dated Feb. 2, 1983**

GEORGE STILLMAN

IBLA 80-607

Decided July 30, 1980

Appeal from decision of Alaska State Office, Bureau of Land Management, declaring a mining claim abandoned and void. AA 33958.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment – Mining Claims: Recordation

Under 43 U.S.C. § 1744 (1976) and 43 CFR 3833.2-1, the owner of an unpatented mining claim located before Oct. 21, 1976, had to file in the proper office of the Bureau of Land Management a copy of the official record of the notice or certificate of location and an affidavit of assessment work performed on the claim on or before Oct. 22, 1979. Where the owner of an unpatented mining claim failed to file either instrument within the prescribed time, the claim is deemed conclusively to be abandoned and void.

2. Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated rules and regulations, regardless of their actual knowledge of what is contained in such regulations.

APPEARANCES: George Stillman, pro se.

#### OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

George Stillman appeals the April 1, 1980, decision of the Alaska State Office, Bureau of Land Management (BLM), which declared the Gold

Leaf Mine placer mining claim abandoned and void because the owner of the unpatented claim did not file on or before October 22, 1979, evidence of assessment work for the year ending August 31, 1979, or a notice of intention to hold the unpatented mining claim, as required by section 314 of the Federal Land Policy and Management Act of 1976 (Act), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1.

The Gold Leaf Mine placer mining claim was located September 23, 1946. A copy of the official record of the location notice was filed with BLM on October 18, 1979.

[1] The statute provides that the owner of an unpatented placer mining claim located prior to the date of the Act (Oct. 21, 1976) shall, within the 3-year period following the date of the Act, file for record in the office of the BLM designated by the Secretary either a notice of intention to hold the mining claim or an affidavit of assessment work performed thereon, and a copy of the official record of the notice or certificate of location. The statute also provides that the failure to file such instruments as required shall be deemed conclusively to constitute an abandonment of the mining claim by the owner.

As the Gold Leaf Mine placer mining claim was located before October 21, 1976, it was incumbent upon the owner of the claim to file with the Alaska State Office, BLM, at Anchorage, on or before October 22, 1979, a copy of the official record of the notice or certificate of location of the claim, and an affidavit of the assessment work done on the claim for the year ending August 31, 1979, or a notice of intention to hold the claim. Although the copy of the certificate of location was timely filed with BLM on October 18, 1979, nothing relative to the performance of assessment work on the Gold Leaf Mine placer mining claim was submitted within the time period allowed by statute.

Failure to file timely the evidence of assessment work or notice of intent to hold the claim is deemed conclusively to constitute abandonment of the mining claim, 43 U.S.C. § 1744(c) (1976), and the claim shall be void, 43 CFR 3833.4(a).

Appellant contends he was confused by information from BLM relative to the time for filing evidence of the assessment work. He alleges that he did record timely in the Seward Recording District an affidavit of the assessment work performed in 1979. He argues that the requirement for filing assessment work information is regulatory, not statutory. He contends his filing was adjudicated out of order at the request of the Forest Service.

[2] Concerning the alleged confusion of appellant as to time for filing notice of his assessment work, we point out that all who deal with the Government are presumed to have knowledge of the pertinent

statutes and duly promulgated regulations, regardless of their actual knowledge of what is therein contained. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Robert W. Hansen, 46 IBLA 93 (1980); 44 U.S.C. §§ 1507, 1510 (1976). In any event, the requirement that evidence of annual assessment work for claims located prior to October 21, 1976, be filed with BLM on or before October 22, 1979, is a statutory requirement. See 43 U.S.C. § 1744(a)(2) (1976). Furthermore, reliance upon any information of any employee of BLM cannot operate to vest any right not authorized by law. 43 CFR 1810.3(c).

The Gold Leaf Mine placer mining claim must be deemed conclusively to have been abandoned and to be void because the requirements of the statute and regulations were not met. However, assuming the land is open to mining location, appellant may relocate the claim, subject to intervening rights of third parties, and the filing of all required notices of such relocation as required by the Act, supra, and 43 CFR 3833.1.

As to the complaint by appellant that his claim was adjudicated by BLM out of normal order, at the request of the Forest Service, there is nothing in the record before us to indicate any rights of appellant were prejudiced by any expedited adjudication.

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.

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Douglas E. Henriques  
Administrative Judge

We concur.

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James L. Burski  
Administrative Judge

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Frederick Fishman  
Administrative Judge

