

GEORGE L. HARRISON

IBLA 80-451

Decided July 30, 1980

Appeal from decision of New Mexico State Office, Bureau of Land Management, rejecting, unrecorded, late submissions of mining claim location notices, and declaring the claims void. NM 3833.

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(b) (1976) and 43 CFR 3833.1-2 the owner of an unpatented mining claim located on or before Oct. 21, 1976, must have filed a copy of the official record of the notice or certificate of location of the claim with the proper BLM office on or before Oct. 22, 1979, or the claim will be deemed to be conclusively abandoned and void under 43 U.S.C. § 1744(c) (1976) and 43 CFR 3833.4.

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

Pursuant to 43 CFR 3833.2-1(a) the owner of an unpatented mining claim located on or before Oct. 21, 1976, must have filed 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 recording the certificate or notice of location with BLM, 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.

3. Notice: Generally – Regulations: Generally

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

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

Sec. 314 of the Federal Land Policy and Management Act, 43 U.S.C. § 1744 (1976), gives no authority to the Department of the Interior to accept for mining claim recordation documents submitted after the statutory time requirements as if they were timely filed in order to avoid the consequences of the statute.

APPEARANCES: George L. Harrison, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

On October 22, 1979, George L. Harrison submitted to the New Mexico State Office, Bureau of Land Management (BLM), a sketch map purporting to show the location of nine unpatented mining claims in secs. 20 and 21, T. 3 S., R. 3 W., New Mexico principal meridian, Socorro County, New Mexico. By letter dated December 21, 1979, BLM called upon Harrison to file copies of the official record of the notices or certificates of location as soon as possible. Harrison made no response to this letter. By decision dated February 27, 1980, BLM rejected Harrison's attempt to record his nine unpatented mining claims pursuant to section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). The stated reason was that Harrison had not submitted copies of the location notices as requested by the BLM letter of December 21, 1979.

By letter dated March 5, 1980, received by BLM, Santa Fe, March 13, Harrison filed notice of appeal, stating that he thought he had complied with the requirements of FLPMA when he sent his sketch map of the unpatented claims. He stated that he had not responded to the BLM letter of December 21 because of serious illness of both himself and his wife for several weeks in December and January, and until he received the decision of February 27, he was unaware of any deficiency in his recordation. He reported, "I am now in the process of obtaining all of the location notices to be forwarded to your office as soon as possible." Thereafter copies of the official record of the

location notices of the nine claims 1/ were received by BLM under a covering letter dated March 18, 1980. 2/

[1, 2] The pertinent regulations are set out in 43 CFR Subpart 3833, and provide as follows:

§ 3833.1 Recordation of mining claims.

* * * * *

[§] 3833.1-2 Manner of recordation – Federal lands.

(a) The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands, excluding lands within units of the National Park System established before September 28, 1976, but including lands within a national monument administered by the United States and Fish and Wildlife Service [sic] or the United States Forest Service, 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. * * *

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§ 3833.2 Evidence of assessment work – notice of intention to hold a claim or site.

§ 3833.2-1 When filing required.

(a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in

1/ The names of the claims and dates of location are:

El Tigre	December 21, 1936
Morning Glory	May 12, 1938
North Star	May 13, 1938
Black Wolf	May 20, 1938
Plata Grande Extension	June 28, 1938
New Plata Grande	August 13, 1942
Mill Site	August 13, 1942
Plata Grande	August 19, 1948
Boot Jack	January 28, 1951

2/ Inexplicably the copies of the location notices are date stamped as having been received by BLM, Santa Fe, on March 24, 1979. The copies of the location notices each bear an attestation by the Deputy County Clerk of Socorro County, under date of March 10, 1980, that each is a true copy. At no time has Harrison ever intimated that the copies of the location notices were sent to BLM before March 24, 1980.

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, which ever [sic] date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

* * * * *

§ 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.

Appellant herein did not file a copy of the official record of the notices of location for his nine claims within the time period set out in the statute and repeated in regulation 43 CFR 3833.1-2. Nor did he file evidence of performance of annual assessment work as required by 43 CFR 3833.2-1. The sketch map filed with BLM does not meet the requirements of the above-quoted regulations. Because of appellant's failure to file the required documents within the prescribed time, the subject claims are deemed conclusively to have been abandoned and they are void. 43 CFR 3833.4.

[3] Appellant's complaint that he did not understand the requirement must be ignored. All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations, regardless of their actual knowledge of such statutes and regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Floyd Zaiger, 47 IBLA 204 (1980).

[4] There is no authority under FLPMA for this Department to accept late-filed documents for recordation, as if they had been timely submitted, in order to avoid the consequences of the statute. It was error for the New Mexico State Office, BLM, to have offered additional time after October 22, 1979, within which appellant was invited to submit his location documents.

If the lands remain open to mineral location, and subject to intervening rights of third parties, including those of the Government, appellant may relocate his claims and thereafter meet the recordation requirements.

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:

Edward W. Stuebing
Administrative Judge

Frederick Fishman
Administrative Judge

