

CANYON VIEW MINING COMPANY

IBLA 80-429, 80-437

Decided July 31, 1980

Appeal from a decision of the Idaho State Office, Bureau of Land Management, declaring abandoned and void appellant's six mining claims, IMC-47835 and IMC-47859, the Canyon View Group.

Affirmed.

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

Under 43 U.S.C. § 1744 (1976) and 43 CFR 3833.1-2(a), 3833.2-1(a), 3833.4, for a mining claim located on or before Oct. 21, 1976, a copy of the notice or certificate of location and evidence of assessment work or notice of intention to hold must be filed with the Bureau of Land Management by Oct. 22, 1979, or the claim shall be deemed abandoned and void.

2. Notice: Generally – Regulations: Generally – Statutes  
All persons dealing with the Government are presumed to have knowledge of statutes and duly promulgated regulations.

APPEARANCES: Philip H. Gordon, Esq., Council, Idaho, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Canyon View Mining Co. appeals from a February 7, 1980, decision of the Idaho State Office, Bureau of Land Management (BLM), returning,

without filing, a notice of location and service fee for appellant's six lode mining claims. The claims are designated Pine Hill 1 and 2, Canyon View 1 and 2, and Victory 1 and 2.

The notice of location states the claims were located on March 5, 1974. A single copy of the notice of location was submitted to BLM for recordation on January 21, 1980. The BLM decision which rejected appellant's attempted filing cited 43 U.S.C. § 1744 (1976), 43 CFR 3833.1-2(a), and 43 CFR 3833.4(a).

Appellant alleges that (1) the Federal Land Policy and Management Act of 1976 violates the United States Constitution, Fourteenth Amendment, (2) appellant had no notice of the statute and the Department had the duty to provide such notice, and (3) appellant's actions have negated any suggestion of abandonment.

[1] Section 314, Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976) states in part: "(a) The owner of an unpatented lode or placer mining claim located prior to October 21, 1976, shall, within the three-year period following October 21, 1976 and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection."

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

[§] 3833.1-2 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.

43 U.S.C. § 1744 (1976) and 43 CFR 3833.2-1 further require that for claims located prior to October 22, 1976, an affidavit of assessment work or notice of intention to hold must be filed by October 22, 1979.

43 CFR 3833.4(a), "Failure to file," provides: "(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."

[2] The mining claim recordation provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976) and the

regulations adopted pursuant thereto, were upheld in Topaz Beryllium Company v. United States, 479 F. Supp. 309 (D. Utah 1979), appeal docketed, No. 79-2255 (10th Cir. Nov. 21, 1979). Since 1976 the Department and various mining publications have given extensive publicity to the new provisions. Personal notification is not required; one of the purposes of the Act was to identify the claim owners.

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); Willene Minnier, 45 IBLA 1 (1980); Donald H. Little, 37 IBLA 1 (1978); 44 U.S.C. §§ 1507, 1510 (1976).

The mandate of the statute is clear. The owner of an unpatented mining claim located prior to October 21, 1976, had to make the required filings on or before October 22, 1979. Failure to comply with the statute and regulations must result in a conclusive finding that the claim has been abandoned and is void. Willene Minnier, *supra*; Joe B. Cashman, 43 IBLA 239 (1979); Walter T. Paul, 43 IBLA 119 (1979); 43 CFR 3833.4(a). Despite the intent of appellant, neither FLPMA nor the regulations permit any leeway to the administering Department.

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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Joseph W. Goss  
Administrative Judge

We concur.

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Joan B. Thompson  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge

