

PETER AND RINDA HASSON

IBLA 80-745

Decided October 28, 1980

Appeal from the decision of the Alaska State Office, Bureau of Land Management, declaring mining claims, AA 31406 through AA 31409, abandoned and void.

Affirmed.

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

Under sec. 314(a) of the Federal Land Policy and Management Act of 1976, and 43 CFR 3833.2-1, the owner of an unpatented mining claim located on or before Oct. 21, 1976, was required to file with BLM evidence of assessment work or notice of intention to hold the claim on or before Oct. 22, 1979. Failure to so file constitutes conclusive abandonment of the claim and renders it void.

APPEARANCES: Peter and Rinda Hasson, pro sese.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Peter and Rinda Hasson have appealed from the decision of the Alaska State Office, Bureau of Land Management (BLM), dated June 6, 1980, declaring their four placer mining claims, AA 31406 through AA 31409, abandoned and void for failure to file evidence of assessment work on or before October 22, 1979, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the corresponding Departmental regulations 43 CFR 3833.2-1 and 3833.4.

In their statement of reasons, appellants explain that they filed notices of location for each of their claims with BLM on

October 10, 1979, as required, but did not understand that they were also required by the regulation to file evidence of assessment work.

[1] Section 314 of FLPMA requires the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of assessment work for the claim or a notice of intention to hold the claim, as well as a copy of the location notice, with BLM within the 3-year period following that date. The corresponding Departmental regulation 43 CFR 3833.2-1(a) reads in pertinent part:

(a) 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, * * * evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

Failure to so file is considered conclusively to constitute abandonment of a claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4.

The fact that appellants may have been unaware of the filing requirements, while unfortunate, does not excuse them from compliance. The regulation, 43 CFR 3833.2-1(a), does not establish requirements more stringent than the statute. Rather, it merely recites the clear statutory mandate. Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). This Board has no authority to excuse lack of compliance with the statute as adopted by Congress. Glen J. McCrorey, 46 IBLA 355 (1980).

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.

James L. Burski
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Joan B. Thompson
Administrative Judge

