

ED WARDROBE

IBLA 80-944

Decided October 30, 1980

Appeal from a decision of the California State Office, Bureau of Land Management, holding the Myrtle Ann mining claim abandoned and void. CA MC 71433.

Affirmed.

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

Under sec. 314 of the Federal Land Policy and Management Act of 1976, Oct. 21, 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a mining claim located before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location with the proper Bureau of Land Management office on or before Oct. 22, 1979. These requirements are mandatory and failure to comply is deemed conclusively to constitute an abandonment of the claim by the owner.

APPEARANCES: Ed Wardrobe, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Ed Wardrobe appeals from a decision of the Chief, Branch of Records and Data Management, California State Office, Bureau of Land Management (BLM), dated July 30, 1980, holding the Myrtle Ann mining claim to be abandoned and void. The claim at issue was recorded in Amador County on July 25, 1938, and appellant last recorded proof of labor with Amador County on September 23, 1976.

[1] BLM's decision was based on the provisions of section 314(b), Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976). These provisions are embodied in Departmental regulations at 43 CFR 3833.1-2(a):

(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.

After a diligent search of its records, BLM reported that no filing had been made within the period set forth above which would satisfy the requirements of the applicable regulation or statute. On appeal, no allegations to the contrary have been voiced.

Since the expiration of the October 22, 1979, deadline, the Board has repeatedly held that the filing requirements of 43 CFR 3833.1-2(a) are mandatory and that failure to comply is deemed conclusively to constitute an abandonment of the claim by the owner. By the terms of 43 CFR 3833.4, failure to timely file renders the claim void. Anna M. Vance, 47 IBLA 357 (1980). We find no error in BLM's action herein.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the State Office is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Joseph W. Goss
Administrative Judge

