

KENNETH G. WALKER

IBLA 80-683

Decided JANuary 30, 1981

Appeal from decision of the Oregon State Office, Bureau of Land Management, declaring a lode mining claim abandoned and void. OR MC 32901.

Affirmed.

1. Notice: Generally--Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

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

Under 43 U.S.C. § 1744 (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 with the proper Bureau of Land Management Office on or before Oct. 22, 1979. This requirement is mandatory and failure to comply conclusively constitutes abandonment of the claim by the owner.

APPEARANCES: Kenneth G. Walker, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Kenneth G. Walker appeals from the decision of April 30, 1980, wherein the Oregon State Office, Bureau of Land Management (BLM), declared the Deer Hunter #1 lode mining claim, OR MC 32901, abandoned and void because no evidence was found that a filing for the Deer Hunter #1 lode mining claim, located November 1, 1975, had been received in that office on or before October 22, 1979, as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the regulations set forth at 43 CFR 3833.1-2(a). The filing received by BLM on March 26, 1980, for the Deer Hunter #1 lode mining claim located on March 15, 1980, was accepted for recordation.

In his statement of reasons Walker states he had the claim, discovered in 1975, recorded and the "letters [were] sent to the BLM office per the instructions of the local office."

The case file contains no documents showing that Walker on or before October 22, 1979, made the filing required by FLPMA. Nor in his statement of reasons on appeal did he submit evidence showing such filing.

[1] 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); Edwin Forsberg, 47 IBLA 235 (1980); 44 U.S.C. §§ 1507, 1510 (1976).

[2] The owner of an unpatented mining claim located prior to October 21, 1976, had until October 22, 1979, to record the location with BLM and to provide certain ancillary information. Section 314, FLPMA, 43 U.S.C. § 1744 (1976). The pertinent regulations are 43 CFR 3833.1-2 and 3833.2-1. Recordation is effected only by filing in the proper BLM office a copy of the official record of the notice or certificate of location filed under state law, 43 CFR 3833.1-2(a), and by paying the appropriate service charge of \$5 per claim, 43 CFR 3833.1-2(d). Failure to comply with the regulations governing recordation of information relating to unpatented mining claims must result in a conclusive finding that the claim has been abandoned and that it is void. Edwin Forsberg, supra; Joe B. Cashman, 43 IBLA 239 (1979); Walter T. Paul, 43 IBLA 119 (1979); section 314(c), FLPMA, 43 U.S.C. § 1744(c) (1976).

This Board has no authority to waive the statutory and regulatory requirements.

Accordingly, 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.

Anne Poindexter Lewis

Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Bruce R. Harris
Acting Administrative Judge

