

L. L. FALTER
JOHN E. WEEKS

IBLA 81-177

Decided February 10, 1981

Appeal from the decision of the Idaho State Office, Bureau of Land Management, declaring the Lowers placer mining claim 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--Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment

Under 43 U.S.C. § 1744 (1976) and 43 CFR Part 3833, 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 of location and evidence of assessment work with BLM on or before Oct. 22, 1979. This requirement was mandatory and failure to comply conclusively constitutes abandonment of the claim by the owner.

2. Notice: Generally--Regulations: Generally--Statutes

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

APPEARANCES: Leslie Carrington for John E. Weeks; L. L. Falter, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Leslie Carrington ^{1/} and L. L. Falter have appealed the decision of the Idaho State Office, Bureau of Land Management (BLM), dated November 10, 1980, returning the 1980 affidavit of assessment work for the Lowers placer mining claim and declaring the claim abandoned and void for failure to file a copy of the notice of location for the claim and 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 Departmental regulations, 43 CFR Part 3833.

In their statement of reasons, appellants indicate that the present owners acquired the claims in 1958. They contend that the claim is already on file with BLM under the number ML-254 and appears on the master title plats, and since the claim is thus identified and located, the FLPMA requirements are redundant. They indicate that they were unaware that their annual affidavit of assessment work had to be filed with BLM.

[1] Section 314 of FLPMA, supra, requires the owner of an unpatented mining claim located prior to October 21, 1976, to file a copy of the official record of the notice of location for the claim as well as evidence of annual assessment work with BLM within the 3-year period following October 21, 1976. Section 314 also provides that failure to timely file the required documents conclusively constitutes abandonment of the mining claim by the owner. See Departmental regulations 43 CFR 3833.1, 3833.2, and 3833.4.

The purpose of section 314 of FLPMA, supra, is to ensure that there is a record of continuing activity on the claim so that the Federal Government will know which mining claims are being maintained on Federal lands and which have been abandoned. See Topaz Beryllium Co. v. United States, 479 F. Supp. 309, 311-12 (1979); appeal pending. The serial number ML-254 was assigned to the claim following filing of the notice of location of the claim with BLM by the original locators in 1958. The file also contains evidence of assessment work for the years 1959 to 1961 and a mining claim release agreement dated February 1, 1968, releasing all rights in the claim to purchasers Clyde Davis, L. L. Falter, and John E. Weeks. No further record of activity on the claim appears in the file until the decision at issue herein.

[2] The fact that appellants may have been unaware of the recordation requirements, while unfortunate, does not excuse them from compliance. The only exception to the filing requirement occurs when an application for patent of the lands has been filed. 43 CFR 3833.1-3.

^{1/} Leslie Carrington appears to be acting on behalf of John E. Weeks, one of the owners of the Lowers claim.

Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements rested with appellants. This Board has no authority to excuse lack of compliance. 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.

Douglas E. Henriques

Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

