

CHARLES W. MCGOWAN III

IBLA 80-763

Decided April 16, 1981

Appeal from the decision of the California State Office, Bureau of Land Management, returning the notice of location for mining claim CA MC 69721 and the filing fee, and declaring the claim abandoned.

Affirmed.

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

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining 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: Charles W. McGowan III, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Charles W. McGowan III appeals from the decision of the California State Office, Bureau of Land Management (BLM), dated June 27, 1980, returning a copy of the location notice for the Charles McGowan (CWM) mining claim and the filing fee because they were not filed 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 corresponding regulation, 43 CFR 3833.1.

Appellant located his mining claim on August 11, 1972. He submitted the copy of his location notice and filing fee to BLM on June 12, 1980, explaining that he had been unaware of FLPMA until that time. In his statement of reasons for appeal, he reiterates that he was unaware of the filing requirements and urges that it was not "the intention of the Secretary and Dept. of the Interior to make an obscure and vindictive ruling to persecute small mining interests, who conscientiously obey the law when known to them."

[1, 2] Section 314 of FLPMA, 43 U.S.C. § 1744 (1976), requires the owner of an unpatented lode or placer mining claim located prior to October 21, 1976, to file a copy of the official record of the notice of location and related documents for the claim in the BLM office designated by the Secretary of the Interior within the 3-year period following October 21, 1976. Section 314 also provides that failure to timely file such records shall be deemed conclusively to constitute an abandonment of the mining claim by the owner. The pertinent regulations, 43 CFR 3833.1-2(a) and 3833.2-1(a), merely replicate the statutory requirements.

Contrary to appellant's assertions, the filing requirements are statutory in nature. The fact that appellant may have been unaware of the recordation requirements, while unfortunate, does not excuse him from compliance. 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). The responsibility for complying with the recordation requirements rested with appellant. This Board has no authority to excuse lack of compliance with the statute. 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:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

