

JAMES W. QUAKENBUSH

IBLA 80-724

Decided April 21, 1981

Appeal from decision of Alaska State Office, Bureau of Land Management, declaring mining claims abandoned and void. AA-23124 through AA-23133.

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. Mining Claims--Assessment Work

The filing of evidence of annual assessment work in the county clerk's office is not compliance with the recordation requirements of 43 CFR 3833.2-1.

3. Notice: Generally--Regulations: Generally--Statutes

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

APPEARANCES: J. W. Quakenbush, pro se.

## OPINION BY ADMINISTRATIVE JUDGE FRAZIER

James W. Quakenbush appeals from a decision of the Alaska State Office, Bureau of Land Management (BLM), dated June 6, 1980, declaring mining claims AA-23124 through AA-23133 listed in Appendix A abandoned and void for failure to file evidence of assessment work with BLM on or before December 30, 1979, as required by 43 CFR 3833.2-1.

The notices of location show that the claims were located on November 1, 1978, and recorded with BLM on November 27, 1978. An "Affidavit of Annual Labor" was recorded with the Nenana Recording District on November 16, 1979, and a copy of this document was filed with BLM along with appellant's notice of appeal on June 13, 1980.

In his statement of reasons appellant states that although the annual assessment work was not filed in the proper BLM office, the work was performed and filed, as a copy of the affidavit of annual labor shows. Appellant contends that the recording requirements are confusing because of the multiplicity of forms to be filed in various parts of the State.

[1, 2] Section 314(a)(1) and (2) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a)(1) and (2) (1976), and the pertinent regulation 43 CFR 3833.2-1(c), require that the owner of an unpatented mining claim located after October 21, 1976, shall, prior to December 31 of each year following the calendar year in which the claim was located, file with BLM evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the mining claim. Failure to file the required instrument is conclusively deemed to constitute an abandonment of the mining claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a). Appellant's claims were located after October 21, 1976, on November 1, 1978. Thus, one or the other of the documents had to be filed prior to December 31, 1979, the year following the calendar year in which the claim was located, in order to satisfy the requirements of the law.

When appellant failed to file timely either an affidavit of assessment work or a notice of intention to hold the mining claims, BLM properly held the claims to have been abandoned and declared them void. Michael Jon McFarland, 51 IBLA 173 (1980). Robert R. Eisenman, 50 IBLA 145 (1980); Geomet Exploration, Inc., 47 IBLA 135 (1980); Northwest Mining & Mercantile, Inc., 46 IBLA 360 (1980); Willene Minnier, 45 IBLA 1 (1980); Juan Munoz, 39 IBLA 72 (1979). The procedures established pursuant to section 314 of FLPMA, *supra*, are mandatory and may not be waived. Michael Jon McFarland, *supra*; Lo Lo M. Cosby, 46 IBLA 363 (1980). 43 CFR 3833.2-1(c) requires that the claimant "file in the proper BLM office" evidence of annual assessment work or the notice of intention to hold the mining claim. Recording the document with the Nenana Recording District does not meet the requirements of this regulation. Johannes Soyland, 52 IBLA 233 (1981); See George Stillman, 49 IBLA 150 (1980).

[3] It is unfortunate that appellant was confused as to the recordation requirements of assessment work, but such confusion is not a sufficient basis to prevent the voiding of these claims as required by 43 CFR 3833.4(a). All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. § 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Dale E. Henkins, 52 IBLA 9 (1981); Michael Jon McFarland, supra; Clifford J. Kelch, 50 IBLA 127 (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.

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Gail M. Frazier  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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Bruce R. Harris  
Administrative Judge

## APPENDIX A

<u>Serial Number</u>	<u>Claim Name</u>	<u>Posting Date</u>
AA-23124	#1 Jill Marie	November 1, 1978
AA-23125	#2 Lynell S.	November 1, 1978
AA-23126	#3 Debbie Ann	November 1, 1978
AA-23127	#4 Gay Sharon	November 1, 1978
AA-23128	#5 Violet H.	November 1, 1978
AA-23129	#6 Carrie S.	November 1, 1978
AA-23130	#7 Little Jewel	November 1, 1978
AA-23131	#8 Genelle S.	November 1, 1978
AA-23132	#9 Rhonda S.	November 1, 1978
AA-23133	#10 Patti Ann	November 1, 1978

