

DELL WARREN

IBLA 80-889

Decided April 21, 1981

Appeal from decision of the California State Office, Bureau of Land Management, returning the notice of location for mining claim CA MC 71132.

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: Dell Warren, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Dell Warren appeals from the decision of the California State Office, Bureau of Land Management (BLM), dated August 7, 1980, returning a copy of the notice of location and related documents for the Warren and Sons placer mining claim 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 corresponding regulations, 43 CFR 3833.1 and 3833.2.

BLM received a copy of appellant's notice of location and proof of labor on July 31, 1980. The location notice indicates that appellant located the claim on June 12, 1975. In his statement of reasons, appellant explains that he was unaware of the recordation requirements of FLPMA, that BLM should have notified him of them, and that his family has held the claim for almost all of the last 40 years. ^{1/}

[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.

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. Glen J. McCrorey, 46 IBLA 355 (1980).

^{1/} We would assume from appellant's statement that the claim was either relocated or amended in 1975. If the claim had been relocated in 1975, and was thus a new claim, section 314 of FLPMA required that it be filed for recordation on or before Oct. 22, 1979. Even if it were an amended location, claiming through a previous location, such prior location, itself, should have been recorded by Oct. 22, 1979. Thus, regardless of the nature of the 1975 location, it was necessary to record the claim with BLM on or before Oct. 22, 1979. See generally R. Gail Tibbetts, 43 IBLA 210 (1979).

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:

Anne Poindexter Lewis
Administrative Judge

Edward W. Stuebing
Administrative Judge

