

H. MASON COGGIN

IBLA 80-842

Decided April 27, 1981

Appeal from decision of the Arizona State Office, Bureau of Land Management (BLM), declaring mining claims abandoned and void. AMC 94431 and AMC 94432.

Affirmed.

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

The owner of mining claims located after Oct. 21, 1976, must file copies of the notices of location of the claims with BLM within 90 days of the dates of location of the claims, failing which the claims are properly declared abandoned and void.

2. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Location--Mining Claims: Recordation--Words and Phrases

"Date of Location." The date of location of a mining claim is determined in accordance with the law of the state where the claim is situated. Under Arizona law, it is the date specified on the notice of location filed with the local recorder's office.

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

The dates of location of mining claims as shown on the notices of location recorded in compliance with state law will be treated as controlling where, after rejection by BLM of the location notices as untimely filed, claimant alleges that the notices are untrue as the dates shown are scrivener's errors.

APPEARANCES: H. Mason Coggin, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

This appeal is taken from a decision dated July 31, 1980, by the Arizona State Office, Bureau of Land Management (BLM), declaring the Bummer #19 and #20 mining claims abandoned and void for failure to file timely location notices, as required by section 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2(b).

[1] Under 43 CFR 3833.1-2(b), the owner of an unpatented mining claim located after October 21, 1976, must file with BLM a copy of the official record of the notice of location within 90 days after the date of location, failing which the claim shall be declared abandoned and void under 43 CFR 3833.4(a). Topaz Beryllium Co. v. United States, 497 F. Supp. 309 (D. Utah 1979) (appeal pending); Carl Dowler; 44 IBLA 192 (1979); M. J. Reeves, 41 IBLA 92 (1979); William E. Rhodes, 38 IBLA 127 (1978); R. Wade Holder, 35 IBLA 169 (1978); and Northwest Citizens for Wilderness Mining Co., Inc., 33 IBLA 317 (1978), aff'd, Northwest Citizens for Wilderness Mining Inc. v. Bureau of Land Management, Civ. No. 78-46-M (D. Mont. June 19, 1979).

Appellant filed its notices of location with BLM on January 22, 1980, and states on appeal that its location notices were inadvertently dated January 2, 1979, that the true date of location was January 2, 1980. Both notices were recorded in Maricopa County, Arizona, on January 9, 1980.

[2, 3] The date of location is determined in accordance with the law of the state where the claim is situated. 43 CFR 3833.0-5(h); P & S Mining Co., 45 IBLA 115 (1980). Under the law of the State of Arizona, where these claims are situated, the date of location is that

specified by the locator on the notice of location filed with the record office. Ariz. Rev. Stat. Ann. § 27-202 (1976). In this context we note that the location notice prepared by appellant and recorded in the official record of Maricopa County shows that appellant entered as the date of location January 2, 1979. Thus, this is the date of location which determines whether appellant timely filed copies of the notices with BLM. John C. and Theresa K. Buchanan, 52 IBLA 387 (1981). As appellant did not file copies of the notices with BLM until more than a year after the aforementioned date, he clearly did not comply with 43 CFR 3833.1-2(b), and BLM properly declared the claims abandoned and void. 1/

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.

Gail M. Frazier
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

1/ On August 14, 1980, appellant filed with BLM amended notices of location for these claims which were recorded in the County Office on August 4, 1980, showing a location date of August 1, 1980. These filings, however, do not relate back to the defective filings considered in this appeal, but must be considered relocation notices as of August 1, 1980, subject to intervening rights of third parties or the United States.

