

BETTY L. HENRY

IBLA 81-195

Decided May 29, 1981

Appeal from decision of the Wyoming State Office, Bureau of Land Management, declaring mining claim abandoned and void. W MC 124676.

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: Betty L. Henry, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Betty L. Henry appeals from the decision of November 17, 1980, wherein the Wyoming State Office, Bureau of Land Management (BLM), declared the Betty #1 unpatented mining claim W MC 124676 abandoned and void because she failed to file either evidence of annual assessment work performed or a notice of intention to hold her mining claim within the period required.

The Betty #1 mining claim, W MC 124676, was located on September 10, 1954, and a notice of location was filed with BLM on August 27, 1979.

On appeal, appellant, in essence, contends that she was not aware of the filing requirements here involved.

[1] Section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of assessment work for the claim with BLM within the 3-year period following that date and prior to December 31 of each year thereafter. Failure to so file is statutorily considered conclusively to constitute abandonment of a claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4. See Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

When appellant failed to file timely either an affidavit of assessment work or notice of intention to hold the claim, BLM properly held the claim to have been abandoned and void. Robert R. Eisenman, 50 IBLA 145 (1980).

[2] The fact that appellant may have been unaware of the recordation requirements, while unfortunate, does not excuse her 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 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 appellant. This Board has no authority to excuse lack of compliance. A. J. Grady, 48 IBLA 218 (1980); 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.

Anne Poindexter Lewis
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

James L. Burski
Administrative Judge

