

RICHARD E. DUMAS ET AL.

IBLA 81-645

Decided June 29, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring mining claim CA MC 10153 abandoned and void.

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.

APPEARANCES: Richard E. Dumas, pro se.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

Richard W. Dumas has appealed from a May 4, 1981, decision of the California State Office, Bureau of Land Management (BLM), declaring the Red Barney lode mining claim, CA MC 10153, recorded in the names of R. E. Dumas, Jeff Dumas, and Jean Dumas, abandoned and void for failure to file timely evidence of assessment work, or a notice of intent to hold, for the assessment year ending September 1, 1980, as required by section 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(a) (1976), and its implementing regulations, 43 CFR 3833.2-1(a) and 3833.4(a). The filing was due on or before December 30, 1980, but was never received.

In his statement of reasons appellant says that he did the assessment work but forgot to file it; it was lost in the paper work. He indicates that he wishes to keep the claim or to refile another claim over the same area.

[1] The above-cited statute and regulations impose a conclusive presumption of mining claim abandonment for any failure to file the required instruments in the proper BLM office by the date on which they are due. The Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Appellant should confer with BLM about the possibility of relocating his claim.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the California State Office is affirmed.

Bernard V. Parrette
Chief Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Douglas E. Henriques
Administrative Judge

