

KING OF THE HILLS MINING CO.

IBLA 81-718

Decided July 16, 1981

Appeal from decision of the California State Office, Bureau of Land Management, declaring unpatented mining claim abandoned and void. CA MC 31386.

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: H. Roger McPike, owner of appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

King of the Hills Mining Company has appealed from the May 8, 1981, decision of the California State Office, Bureau of Land Management (BLM), which declared the Brush Creek South Quartz mining claim abandoned and void for failure to file evidence of assessment work or a notice of intention to hold the mining claim for the period September 1, 1979, to September 1, 1980, on or before December 30, 1980, as required by section 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and the implementing regulations in 43 CFR 3833.2-1.

In its statement of reasons appellant states that the assessment work was done and recorded in Sierra County, but that through inadvertence a copy of the recorded document was not transmitted to BLM.

Appellant states that if it is not possible to reinstate the claim, it will relocate the claim. A copy of the proof of labor recorded September 15, 1980, accompanied the appeal.

[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 appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Gail M. Frazier
Administrative Judge