

GARY M. GREENLAW
RONALD D. SHARP

IBLA 81-716

Decided July 16, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring a mining claim abandoned and void. CA MC 9470.

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.

3. Mining Claims: Assessment Work

The filing of evidence of annual assessment work in a county recording office does not constitute compliance with the recordation requirements of 43 CFR 3833.2-1.

APPEARANCES: Gary M. Greenlaw, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Gary M. Greenlaw has appealed from a decision of the California State Office, Bureau of Land Management (BLM), dated May 4, 1981, declaring the Rose lode mining claim, CA MC 9470, abandoned and void for failure to file evidence of annual assessment work on or before December 30, 1980, pursuant to section 314, Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and its implementing regulations, 43 CFR 3833.2-1(a) and 3833.4(a).

The claim in this case was located in June 1972. A copy of the notice of location was filed with BLM on October 22, 1979, together with proof of 1979 assessment work. No evidence of assessment work for 1980 was filed with BLM.

Appellant Greenlaw states he received a reminder from BLM in November 1980 that notice of assessment work had to be filed with BLM on or before December 30, 1980, but as he had filed his proof of labor in the "Yreka Office" several months before, he ignored the BLM reminder.

[1] Section 314(a), 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 appellants 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 appellants may have been unaware of the recordation requirements, while unfortunate, does not excuse them 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 appellants. This Board has no authority to excuse lack of compliance. Lynn Keith, *supra*; A. J. Grady, 48 IBLA 218 (1980); Glen J. McCrorey, 46 IBLA 355 (1980).

[3] We assume that the filing of proof of labor in a "Yreka Office" was for record purposes in Siskiyou County, the situs of the claim. Accomplishment of a proper state or county recording does not relieve appellants from filing with BLM under the requirements of FLPMA or the implementing regulations. What 43 CFR 3833.4(b) says is that a defective or untimely state or county filing does not, of itself, constitute a failure to file under FLPMA. Neither does a valid or

timely filing with a state or county constitute a FLPMA filing. These are two separate filing requirements and compliance with the one does not constitute compliance with the other.

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