

KEN ALEXANDER

IBLA 81-758

Decided July 16, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring mining claim abandoned and void. CA MC 42371.

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: Ken Alexander, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Ken Alexander appeals from the California State Office, Bureau of Land Management (BLM), decision dated May 14, 1981, which declared the unpatented Kejamalco placer mining claim (CA MC 42371) abandoned and void for failure to file on or before December 30, 1980, evidence of assessment work or notice of intent to hold the unpatented mining claim, 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(a).

In his statement of reasons, appellant stated he simply forgot to mail the proof of labor to BLM, and enclosed a copy of the proof of annual labor recorded December 11, 1980, in the official records of San Bernardino County, California.

[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 is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Bruce R. Harris
Administrative Judge