

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring mining claims abandoned and void. I MC 24851 through I MC 24857, I MC 52264.

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. Mining Claims: Assessment Work

Evidence of annual assessment work must be delivered to and received by the proper Bureau of Land Management office by the due date in order to be filed timely. Depositing a document in the mails does not constitute filing.

APPEARANCES: Lyle I. Thompson, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Lyle I. Thompson has appealed from a decision of the Idaho State Office, Bureau of Land Management (BLM), dated January 22, 1981, declaring the Tincup Nos. 1 through 3 and Tincup Nos. 5 through 9 mining claims, I MC 24851 through I MC 24857 and I MC 52264, abandoned and void for failure to file timely evidence of annual assessment work or notices of intention to hold the claims for the 1980 assessment year pursuant to

section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and its implementing regulations, 43 CFR Subpart 3833.

Appellant's mining claims were located between 1968 and 1974 and filed for recordation with BLM on October 1, 1979. ^{1/} An "Affidavit of Assessment Work" for all of the claims for the 1980 assessment year was filed on January 2, 1981, after the December 30 deadline.

In his statement of reasons for appeal, appellant contends that he has filed an affidavit of assessment work with the county recorder every year since 1968; that at one time he was confused concerning where to file his affidavit of assessment work; and that the affidavit for the 1980 assessment year was sent in an envelope postmarked December 29, 1980. Appellant argues that the postmark date should satisfy the filing requirement deadline.

[1, 2] Section 314(a) of 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 annual assessment work for the claim with BLM within the 3-year period following that date and prior to December 31 of each year thereafter. The corresponding Departmental regulation, 43 CFR 3833.2-1(a), reads:

The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

Failure to so file is considered conclusively to constitute abandonment of the claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a).

BLM regulations clearly state that depositing a document in the mails does not constitute filing. 43 CFR 1821.2-2(f). See also 43 CFR 3833.1-2. The fact that other Federal agencies have different procedures

^{1/} The record indicates that the copy of the notice of location for the Tincup No. 9 mining claim was not included in the Oct. 1979 submission by appellant and was not received until Aug. 14, 1980, in response to a request by BLM dated July 14, 1980. As such, the filing was not timely and, therefore, would itself result in a conclusive presumption of abandonment. See 43 U.S.C. § 1744(b) and (c) (1976); 43 CFR 3833.1-2(a), 3833.4(a); e.g., Sidney Hodges, 55 IBLA 7 (1981).

or that appellant may not have understood the filing requirements does not excuse him from compliance. Mascot Silver-Lead Mines, Inc., 54 IBLA 121 (1981). 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).

Filing in the county recording office does not constitute compliance with the filing requirements of FLPMA and its implementing regulations. OMCO, Inc., 55 IBLA 77 (1981). In the absence of evidence that BLM did timely receive evidence of annual assessment work, BLM properly declared appellant's claims abandoned and void. Glenn D. Graham, 55 IBLA 39 (1981); Earl Kremiller, 55 IBLA 28 (1981). This 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); 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.

Bruce R. Harris
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge