

FELMONT OIL CORP.

IBLA 81-814

Decided July 29, 1981

Appeal from decision of Wyoming State Office, Bureau of Land Management, declaring certain unpatented mining claims abandoned and void. W MC 118475 through W MC 118483.

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: David A. Rhoades, Minerals Coordinator, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Felmont Oil Corporation appeals from the May 26, 1981, decision of the Wyoming State Office, Bureau of Land Management (BLM), which declared the unpatented Roy #41 through #49 lode mining claims, W MC 118475 through W MC 118483, abandoned and void because evidence of assessment work or notice of intent to hold the mining claims had not been filed with BLM prior to December 31, 1980, as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and regulation 43 CFR 3833.2-1.

Appellant states that because of an inadvertent error, reference to the nine claims, Roy #41 through #49, was omitted from the annual assessment work statement filed for the group of 99 claims held by appellant in a contiguous block. Appellant asserts that the necessary work had been accomplished on or for the benefit of the nine claims.

[1] The above-cited statute and regulation 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. 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). Appellant should confer with BLM about the possibility of relocating the claims.

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.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

