

LOREN NELSON

IBLA 81-836

Decided August 3, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring unpatented mining claim abandoned and void. CA MC 38576.

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: Loren Nelson, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Loren Nelson appeals from the California State Office, Bureau of Land Management (BLM), decision dated April 6, 1981, which declared the unpatented Leaning Tree placer mining claim, CA MC 38576, 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 (FLPMA), 43 U.S.C. § 1744 (1976), and the implementing regulations in 43 CFR 3833.2-1(a).

In his statement of reasons, appellant states he had recorded the assessment work in the records of Siskiyou County, California, and had

sent a notice of intent to operate the mining claim to the local district ranger of the Klamath National Forest, Department of Agriculture.

[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. Filing with offices of the Department of Agriculture does not fulfill this requirement of FLPMA. 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).

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

James L. Burski
Administrative Judge

