

SHANNON N. THORNTON

IBLA 81-823

Decided August 3, 1981

Appeal from decision of the California State Office, Bureau of Land Management, declaring unpatented mining claim abandoned and void. CA MC 32809.

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: Shannon N. Thornton, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Shannon N. Thornton 1/ has appealed from a decision of the California State Office, Bureau of Land Management (BLM), dated May 3, 1981, which declared the unpatented Mad Bull #5 placer mining claim, CA MC 32809, abandoned and void for failure to timely file evidence of annual assessment work or a notice of intent to hold for calendar year 1980 with BLM on or before December 30, 1980. This claim had been duly recorded on August 28, 1979, pursuant to the provisions of section 314

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1/ Shannon N. Thornton has appealed in this case as the current owner of the Mad Bull #5 placer mining claim by virtue of a quitclaim deed executed to him by John Southard, Mar. 3, 1981.

of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976).

The essence of appellant's argument is that he presumed that John Southard, the previous owner of the claim, had made a proper filing with BLM of the evidence of the assessment work for the year 1980 inasmuch as such proof had been filed timely in Siskiyou County, California.

[1] Section 314 of FLPMA, 43 U.S.C. § 1744(a) (1976), and its implementing regulations, 43 CFR 3833.1-2, 3833.2-1(a), and 3833.4, require that location notices of claims on Federal lands and evidence of annual assessment work be filed in the proper BLM office within specified time limits, under penalty of a conclusive presumption that the claims have been abandoned if the documents are not timely or properly filed. Evidence of assessment work for each assessment year or notice of intention to hold for unpatented mining claims must be filed by December 30 of each year thereafter. The same requirement applies following any relocation of the claim. 43 U.S.C. § 1744(a) (1976); 43 CFR 3833.2-1(a). The filing of such instruments with the state or county does not satisfy this requirement. Because no proof of labor or notice of intent to hold the claim was filed with BLM in 1980, BLM correctly declared the claim abandoned. Robert E. Eisenman, 50 IBLA 145 (1980).

Appellant has indicated that he has relocated the subject mining claim, and has recorded it with BLM under serial number CA MC 89923.

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.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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James L. Burski  
Administrative Judge

