

**Editor's note: appealed, sub nom., T.A. Ryan v. Clark -- stipulated dismissal, Civ.No. 84-0772 (E.D.Cal. Nov. 27, 1985)**

ESTATE OF MARY B. RITCHIE

IBLA 81-778

Decided August 3, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring mining claims abandoned and void. CA MC 33793 through CA MC 33829.

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.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

3. Mining Claims: Assessment Work

The filing of evidence of annual assessment work in the county recording office does not constitute compliance with the recordation requirements of 43 CFR 3833.2-1.

APPEARANCES: William T. Coleman, Esq., Fresno, California, for appellant.

## OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

T. A. Ryan, personal representative of the Estate of Mary B. Ritchie, deceased, has appealed from a decision of the California State Office, Bureau of Land Management (BLM), dated May 2, 1981, which declared the unpatented Dinkey Lobo #1 through #14, Bear #1 through #19, and Sulphur #1 through #4 lode mining claims, CA MC 33793 through CA MC 33829, abandoned and void for failure to file with BLM evidence of annual assessment work or notice of intent to hold on or before December 30, 1980, as required by section 314, Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and its implementing regulations, 43 CFR 3833.2-1(a) and 3833.4.

The claims involved in this appeal were located between 1955 and 1963. Copies of the recorded location notices had been timely filed with BLM, together with proof of assessment work through 1979. No evidence of assessment work or notice of intent to hold the unpatented claims was filed with BLM in 1980.

Appellant states that Mary B. Ritchie died November 30, 1980, but that proof of annual assessment work had been filed in the records of Fresno County, California, September 3, 1980. A copy of the recorded proof of annual labor was submitted with the notice of appeal.

[1] Section 314(a), FLPMA, 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim to file evidence of assessment work for the claim or a notice of intent to hold the claim with BLM on or before December 30 of each calendar year after date of recordation of the claim with BLM. Failure to so file within the prescribed time limit is statutorily 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. See Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

When appellant failed to file timely either an affidavit of assessment work or a notice of intent to hold the unpatented mining claims, BLM properly held the claims abandoned and void. Robert R. Eisenman, 50 IBLA 145 (1980).

[2] The fact that appellant may have been unaware of the recordation requirements of FLPMA, while unfortunate, does not excuse the estate from compliance. Those who deal with the Government are presumed to have knowledge of the law and regulations duly adopted pursuant thereto. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements rested with appellant. This Board has no authority to excuse lack of compliance. Lynn Keith, *supra*; A. J. Grady, 48 IBLA 218 (1980); Glen J. McCrorey, 46 IBLA 355 (1980).

[3] Accomplishment of a proper recording in the appropriate county does not relieve claimant from recording with BLM under the filing requirements of FLPMA or the implementing regulations. 43 CFR 3833.4(b) says that a defective or untimely recording under state law does not, of itself, constitute a failure to file under FLPMA. Neither does a valid or timely filing with a county constitute a FLPMA filing. There are two separate filing requirements and compliance with the one does not constitute compliance with the other.

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.

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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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Bruce R. Harris  
Administrative Judge

