

SONNY CHAMPNEYS

IBLA 81-438

Decided September 16, 1981

Appeal from a decision of the Nevada State Office, Bureau of Land Management, returning unfiled notices of location for the Nevada Crown Nos. 1 through 4 lode mining claims.

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. Mining Claims: Recordation

Reliance upon information allegedly provided by a county official contrary to the terms of sec. 314(b), Federal Land Policy and Management Act, 43 U.S.C. § 1744(b) (1976), cannot create any rights not authorized by law.

3. Federal Land Policy and Management Act of 1976: Generally-- Federal Land Policy and Management Act of 1976: Recordation

of Mining Claims and Abandonment--Mining Claims: Recordation

The Federal Land Policy and Management Act of 1976 does not provide the Bureau of Land Management or the Interior Board of Land Appeals with discretion to waive the effects of failure to comply with the recordation requirements.

APPEARANCES: Sonny Champneys, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Sonny Champneys appeals from a decision of the Nevada State Office, Bureau of Land Management (BLM), dated March 5, 1981, returning unfiled notices of location for the Nevada Crown Nos. 1 through 4 lode mining claims. Appellant's claims were located on December 1, 1980, in secs. 19 and 20, T. 15 N., R. 33 E., Mt. Diablo meridian. Notices of location were filed with the Nevada State Office on March 3, 1981, some 92 days after the date of location. 1/

[1] Under section 314(b) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), the owner of an unpatented lode mining claim located after October 21, 1976, must file with BLM a copy of the official record of the notice of location within 90 days after the date of location of such claim. The failure to file such document shall be deemed conclusively to constitute an abandonment of the mining claim. 43 U.S.C. § 1744(c) (1976). See also 43 CFR 3833.1-2(b) and 43 CFR 3833.4.

[2] Appellant attributes his delay in filing to information given him by the Churchill County Recorder. Appellant alleges that the Recorder told him that the 90-day period provided by section 314(b) began with his filing of a notice of location with the county. A careful reading of that section shows that this is clearly incorrect as section 314(b) provides that the 90-day period shall begin with the date of location. This Board has frequently held that reliance on erroneous or incomplete information provided by Federal employees cannot create any rights not authorized by law. ASARCO, Inc., 47 IBLA 14 (1980). A similar holding is applicable where misinformation is alleged to have been provided by State employees.

[3] The Federal Land Policy and Management Act does not provide BLM or this Board with discretion to waive the effects of a failure to comply with the recordation requirements. No grace period, therefore, may be extended to appellant to allow BLM to file the subject notices. Sylvan S. Hewitt, 47 IBLA 393 (1980).

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1/ The notices reveal that the locators of these claims are appellant, Carole Gardner, Shirly Mayfield, Eddie Mayfield, and Duane Hudson.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the State Office is affirmed.

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Edward W. Stuebing  
Administrative Judge

We concur:

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Gail M. Frazier  
Administrative Judge

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Bruce R. Harris  
Administrative Judge.

