

FREEMONT ENERGY CORP.

IBLA 81-174

Decided September 29, 1981

Appeal from decision of the Wyoming State Office, Bureau of Land Management, declaring Bozo No. 4, Bozo No. 5, and Little Beaver #5 lode mining claims abandoned and void. W MC 185007, W MC 185008, and W MC 186714.

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: Victor E. Lebsock, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Freemont Energy Corporation appeals from the November 26, 1980, decision of the Wyoming State Office, Bureau of Land Management (BLM), which declared the Bozo No. 4, Bozo No. 5, and Little Beaver lode mining claims W MC 185007, W MC 185008, and W MC 186714 abandoned and void for failure to file evidence of annual assessment work or a notice of intention to hold the claims on or before October 22, 1979, as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976) and the implementing regulations. 43 CFR 3833.2-1(a).

The claims were located in July and August of 1955. On October 19, 1979, appellant timely filed notices of location for these and other claims with BLM but did not submit evidence of assessment work or a notice of intention to hold.

Appellant filed evidence of assessment work for a large group of claims with BLM along with the notices of location for the claims, and states on appeal that due to a typing error, the affidavits of assessment work performed on the claims in question were omitted. Appellant further maintains that assessment work has been performed, that no adverse parties are involved, and requests reversal of the BLM decision on that basis.

[1] Under section 314(a) of FLPMA, 43 U.S.C. § 1744(a), and the implementing regulations, 43 CFR 3833.2-1, appellant was required to file evidence of assessment with BLM on or before October 22, 1979. Joseph V. Dodge, 50 IBLA 394 (1981). This requirement is mandatory and failure to comply is deemed conclusively to constitute abandonment of the claims by the owner, and renders them void. 43 U.S.C. § 1744(c) (1976); 43 CFR 3833.4(a); Margaret E. Peterson, 55 IBLA 136 (1981); Lowell L. Patten, 52 IBLA 299 (1981).

Appellant did not file evidence of assessment work or a notice of intention to hold the claims within the statutory time period, therefore BLM properly declared the claims abandoned and void. Melvin and Bernice Darby, 56 IBLA 41 (1981); Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Unfortunately, actual performance of assessment work provides no basis for affording appellant relief from the statutory consequences. See Lynn Keith, supra.

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.

Gail M. Frazier

Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Bruce R. Harris
Administrative Judge

