

GEORGE D. MORRILL
H. GRANT NOBLE

IBLA 81-290

Decided September 29, 1981

Appeal from decision of Oregon State Office, Bureau of Land Management, declaring placer mining claims abandoned and void. OR MC 20982 and OR MC 20983.

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: George D. Morrill and H. Grant Noble, pro sese.

OPINION BY ADMINISTRATIVE JUDGE GRANT

George D. Morrill and H. Grant Noble have appealed from a decision of the Oregon State Office, Bureau of Land Management (BLM), dated December 24, 1980, declaring the Hilltop and Lucky Triangle placer mining claims, OR MC 20982 and OR MC 20983, abandoned and void for failure to file on or before October 22, 1979, either evidence of annual assessment work or notices of intention to hold the claims, pursuant to section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and its implementing regulations, 43 CFR Subpart 3833.

Appellants' mining claims were located January 10, 1949, and June 10, 1953, and filed for recordation with BLM on September 20, 1979. The record indicates that a "Proof of Labor" for the subject mining claims "for the year ending September 1, 1980," was filed with BLM in August 1980. 1/

1/ The copy of the proof of labor, indicating work performed "1-1-80 thru 8-20-80," bears a faint BLM time stamp made in August 1980. Moreover, the copy is notarized as of Aug. 25, 1980.

In the statement of reasons for appeal, appellants contend that a copy of the proof of labor was filed with BLM and that they have "tried to comply with all the rules and regulations."

[1] Section 314(a) of FLPMA, 43 U.S.C. § 1744(a) (1976), requires that the owner of an unpatented mining claim located prior to October 21, 1976, "shall, within the three-year period following October 21, 1976, and prior to December 31 of each year thereafter," file evidence of annual assessment work or a notice of intention to hold the claim (emphasis added). See 43 CFR 3833.2-1(a). Failure to so file is statutorily considered conclusively to constitute abandonment of the claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976). See 43 CFR 3833.4(a).

The first due date for the filing of evidence of annual assessment work with respect to appellants' mining claims was October 22, 1979. However, appellants' proof of labor was not filed until August 1980. BLM properly held the claims to have been abandoned. Edith Gion, 56 IBLA 375 (1981); L. D. Lamoureux, 56 IBLA 298 (1981).

The fact that appellants may have been unaware of the recordation requirements of FLPMA, while unfortunate, does not excuse them from compliance. Those who deal with the Government are presumed to have knowledge of the law and the regulations duly promulgated pursuant thereto. 44 U.S.C. §§ 1507, 1510 (1976); Donald H. Little, 37 IBLA 1 (1978); see Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947). The responsibility for complying with the recordation requirements of FLPMA rested with appellants. This Board has no authority to excuse lack of compliance. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981); A. J. Grady, 48 IBLA 218 (1980); Glen J. McCrorey, 46 IBLA 355 (1980).

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.

C. Randall Grant, Jr.

Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Edward W. Stuebing
Administrative Judge

