

RICHARD W. THOM

IBLA 81-1079

Decided October 13, 1981

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring mining claims abandoned and void. I MC 30221, I MC 37368 through I MC 37388.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim--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 3833.2 in the proper BLM 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.

APPEARANCES: Richard W. Thom, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

In a decision dated August 11, 1981, the Idaho State Office, Bureau of Land Management (BLM), notified W. Phillip Blessing, Fred T. Blessing, and Richard W. Thom that the unpatented Goose Creek #1 through #7, Goosling Creek #1 through #6, #8 through #13, and Valley #1 and #2

lode mining claims, I MC 37368 through I MC 37388, and Independence #1 lode mining claim I MC 30221, were deemed abandoned and void because no evidence of assessment work or notice of intention to hold the claims had been filed with BLM on or before December 30, 1980, as required by 43 CFR 3833.2. Richard W. Thom has appealed the decision only as it applies to Valley #1 and #2, and Independence #1 claims, I MC 37387, I MC 37388, and I MC 30221. The BLM decision has become final as to all other unpatented claims named therein.

Appellant states that considerable drilling was done on the Valley #1 and #2 and the Independence #1 claims during 1980, and that he has been actively working the claims since they were located.

[1] Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), requires the owner of an unpatented mining claim on Federal lands prior to October 21, 1976, to file in the proper BLM office a copy of the official record of the location notice and evidence of assessment work or a notice of intention to hold the claim on or before October 22, 1979, and evidence of assessment work or a notice of intention to hold each calendar year thereafter in the local recording office, with a copy of the recorded instrument to be filed in the proper BLM office on or before December 30 each year. See 43 CFR 3833.2-1, 2-2, 2-3.

Failure to file an instrument required by FLPMA within the prescribed time period conclusively constitutes an abandonment of the mining claim. 43 CFR 3833.4(a). The Congress imposed that consequence in enacting the statute.

Although appellant may have filed his proof of labor in the county recorder's office in 1980, that would not excuse him from compliance with the requirements of FLPMA. Joseph Ojurovich, 54 IBLA 100 (1981). Evidence of annual assessment work must be filed timely with BLM as well as in the proper county. This Board has no authority to excuse lack of compliance or to afford any relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

[2] Those who deal with the Government are presumed to have knowledge of the relevant statutes and the regulations duly promulgated pursuant thereto. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978); 44 U.S.C. §§ 1507, 1510 (1976). Under FLPMA, supra, the responsibility for complying with the recordation requirements rests with appellant.

When appellant failed to file timely either evidence of assessment work or a notice of intention to hold the claims, BLM properly held the claims to have been abandoned and to be void. Stephen G. Rudisill, 56 IBLA 158 (181).

Appellant may wish to consult with BLM as to the possibility of relocating these claims.

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.

Douglas E. Henriques

Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Anne Poindexter Lewis
Administrative Judge

