

DONALD L. HOFFMAN

IBLA 81-866

Decided October 16, 1981

Appeal from a decision of the Alaska State Office, Bureau of Land Management, declaring mining claims abandoned and void for noncompliance with the rules of recordation. AA-24682 and AA-24684.

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: Donald L. Hoffman, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Donald L. Hoffman appeals the June 22, 1981, decision of the Alaska State Office of the Bureau of Land Management (BLM), that declared the unpatented Delusion Creek 43 and Delusion Creek 45 placer mining claims, respectively AA-24682 and AA-24684, abandoned and void. BLM states that this action was taken because of the appellant's failure to file timely evidence of assessment work or a notice of intention to hold his mining claims as required by section 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and regulations at 43 CFR 3833.2-1 and 43 CFR 3833.4.

It appears that appellant had duly filed mining claim location notices for his mining claims, stating that the claims had been located on November 18, 1978. However, no affidavit of assessment work or a notice of intention to hold was timely filed for 1979. Appellant's combined notice of appeal and statement of reasons states simply: "I am filing this notice of appeal because the decision of abandonment is erroneous, incorrect, and totally adverse to my honest efforts of annual assessment work done on my mining claims."

[1] The above-cited statute and regulations impose a conclusive presumption of mining claim abandonment upon any failure to file the required instruments in the proper BLM office by the date on which they are due. This Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). BLM has properly declared the claim abandoned and void. Howard F. Houser, 57 IBLA 27 (1981).

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.

Douglas E. Henriques

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Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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C. Randall Grant, Jr.  
Administrative Judge.

