

GALEN B. BRAZINGTON

IBLA 81-1102

Decided October 29, 1981

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring unpatented mining claims to be abandoned and void. I MC 19543 through I MC 19546.

Appeal dismissed.

1. Appeals -- Rules of Practice: Appeals: Dismissal -- Rules of Practice: Appeals: Timely Filing

Notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. The timely filing of a notice of appeal is jurisdictional and failure to file the appeal within the time allowed requires the dismissal of the appeal.

APPEARANCES: Galen B. Brazington, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

By decision of June 17, 1981, the Idaho State Office, Bureau of Land Management (BLM), declared the unpatented Elijah, Elisha, Isaiah, and Isaiah #2 placer mining claims to be abandoned and void because no evidence of assessment work or a notice of intention to hold the claims had been filed with BLM in 1980 as required by 43 CFR 3833.2. The decision was served upon an authorized agent of Galen B. Brazington, owner of the claims, on June 24, 1981.

Notice of appeal from the decision was submitted to BLM September 21, 1981. It was stated that Mr. Brazington had been very ill and was unable to respond to the June 17, 1981, decision sooner.

[1] The regulations require that a notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. 43 CFR 4.411(a). This

Board has held that the timely filing of a notice of appeal is required to establish the jurisdiction of the Board to review the decision below, and that the failure to file the appeal within the time allowed mandated dismissal of the appeal. Ilean Landis, 49 IBLA 59 (1980); Lavonne E. Grewell, 23 IBLA 190 (1976); see Browder v. Director, Illinois Department of Corrections, 434 U.S. 257, 264 (1978); Pressentin v. Seaton, 284 F.2d 195, 199 (D.C. Cir. 1960). As the subject appeal was not filed within the time period prescribed, it must be dismissed.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

