

ANTON J. MEYER

IBLA 82-23

Decided November 4, 1981

Appeal from decision of Alaska State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. AA 34431 and AA 34432.

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.

2. Notice: Generally -- Regulations: Generally -- Statutes  
All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

3. Mining Claims: Assessment Work

The filing of evidence of annual assessment work in the local recording office established under State law does not constitute compliance with the recordation requirements of 43 CFR 3833.2-1.

APPEARANCES: Anton J. Meyer, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Anton J. Meyer has appealed from the decision of the Alaska State Office, Bureau of Land Management (BLM), dated September 1, 1981, which declared the unpatented #2 Above on Fishhook Creek and #3 Above on Fishhook Creek placer mining claims, AA 34431 and AA 34432, abandoned and void because no intent to hold the claims or proof of annual labor was filed with BLM during calendar year 1980, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1.

Appellant states that the annual assessment work for the two claims had been done each year and duly recorded in the Palmer Recording District Office in accordance with the law. The claims were located in 1971.

[1] Section 314(a), FLPMA, 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of assessment work or a notice of intent to hold the claim with BLM within 3 years after October 21, 1976, and prior to December 31 of each calendar year thereafter. Failure to so file within the prescribed time limit is statutorily considered conclusively to constitute an abandonment of the claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a). See Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

When appellant failed to file timely either an affidavit of assessment work or a notice of intent to hold the unpatented mining claims, BLM properly held the claims abandoned and void. Robert R. Eisenman, 50 IBLA 145 (1980).

[2] The fact that appellant may have been unaware of the recordation requirements of FLPMA, while unfortunate, does not excuse him from compliance. Those who deal with the Government are presumed to have knowledge of the law and regulations duly adopted 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). The responsibility for complying with the recordation requirements of FLPMA rested with appellant. This Board has no authority to excuse lack of compliance with the statutory requirements or to afford relief from the statutory consequences. Lynn Keith, *supra*; A. J. Grady, 48 IBLA 218 (1980); Glenn J. McCrorey, 46 IBLA 355 (1980).

[3] The accomplishment of a proper recording of proof of assessment work in the appropriate state recording district office does not relieve the claimant from recording with BLM under the filing requirements of FLPMA or the implementing regulations. What 43 CFR 3833.4(b) says is that a defective or untimely recording under state law does not, of itself, constitute a failure to file under FLPMA. Neither does a valid or timely filing with a state recording district office constitute

a FLPMA filing with BLM. These are two separate and distinct filing requirements, and compliance with the one does not constitute compliance with the other.

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  
Administrative Judge

We concur:

Bernard V. Parrette  
Chief Administrative Judge

Gail M. Frazier  
Administrative Judge

