

LAWRENCE S. McLEAN

IBLA 81-450

Decided November 19, 1981

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. I MC 42347 through I MC 42350.

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. Mining Claims: Assessment Work

The filing of evidence of annual assessment work in the county recording office does not constitute compliance with the recordation requirement of 43 CFR 3833.2-1.

APPEARANCES: Lawrence S. McLean, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Lawrence S. McLean appeals from the March 5, 1981, decision of the Idaho State Office, Bureau of Land Management (BLM), which declared mining claims I MC 42347 through I MC 42350 abandoned and void because evidence of assessment work or notice of intent to hold the mining claim had not been filed with BLM by December 30, 1980, as required by 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 3833.2-1 and 43 CFR 3833.4. The claims, designated the "87," Pony, Grunter, and Keystone were located on various dates in 1882,

1887, and 1930 in unsurveyed secs. 25 and 36, T. 24 N., R. 18 E., Boise meridian, Lemhi County, Idaho.

Appellant states that on August 25, 1980, he did file an affidavit of assessment work for the 1979-80 assessment year with the county recorder of Lemhi County, Idaho, "as it has always been done since the 1930s." He enclosed a copy of the document with his appeal. He states that he had understood that the county would forward the information to the BLM. Appellant requests reinstatement of the claims.

[1] The owner of an unpatented mining claim located on public land before October 21, 1976, must file with the proper BLM office by October 22, 1979, and on or before December 30 of each subsequent year, a notice of intent to hold or proof of the assessment work performed on the claim. 43 U.S.C. § 1744(a) (1976). Appellant timely filed with BLM copies of the location notices and the initial proofs of labor on October 22, 1979. The next evidence of assessment work was due to be filed with BLM on or before December 30, 1980. Congress has declared that the failure to file the required document is "deemed conclusively to constitute an abandonment of the mining claim." 43 U.S.C. § 1744(c).

[2] Accomplishment of a proper recording in the appropriate county does not relieve the claimant from annually filing with BLM under FLPMA or the implementing regulations. All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements of FLPMA rested with appellant. Unfortunately, this Board has no authority to excuse lack of compliance. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Inasmuch as appellant failed to file either proof of assessment work or a notice of intention to hold with BLM for calendar year 1980, the mining claims must be held abandoned and void.

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.

James L. Burski
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

