

BESSIE L. RAYNE
FREDDIE R. RAYNE

IBLA 82-182

Decided December 31, 1981

Appeal from decision of the Idaho State Office, Bureau of Land Management, returning, unrecorded, notice of location of a mining claim. 3833 (952).

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

For mining claims located after Oct. 21, 1976, copies of notices or certificates of location must be recorded with BLM within 90 days after the date of location. 43 CFR 3833.1-2(b). This requirement is mandatory and where a mining claimant fails to comply, the claims are properly declared abandoned and void.

APPEARANCES: Bessie L. Rayne, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Bessie L. Rayne, for herself and for Freddie R. Rayne, appeals the Idaho State Office, Bureau of Land Management (BLM), decision of November 13, 1981, which returned unrecorded the notice of location for the Delano placer mining claim because it had not been filed with BLM within 90 days after the date of location of the claim 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 3833.1-2(b).

Appellant states she was not aware that the Federal statute required recordation with BLM 90 days from the date of location; she thought it required filing within 90 days from the date of recordation of the claim in the county records.

[1] Under FLPMA, the owner of an unpatented mining claim located after October 21, 1976, on Federal land shall file in the proper BLM office within 90 days after the date of location of that claim a copy of the official record of the notice of location of the mining claim. This requirement is mandatory, and failure to comply within the time period prescribed must be deemed conclusively to constitute an abandonment of the mining claim. D. L. Nielsen, 57 IBLA 114 (1981).

As the Delano placer mining claim was located July 22, 1981, the time within which it had to be recorded expired October 19, 1981. BLM properly returned the location notice without recordation under FLPMA.

Appellant may wish to consult with BLM about the possibility of relocating this claim.

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

