

GLENN COX

IBLA 82-176

Decided January 4, 1982

Appeal from decision of Arizona State Office, Bureau of Land Management, returning location notices without recordation. 3833 AZ.

Affirmed.

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

Under the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2(b), the owner of an unpatented mining claim located after Oct. 21, 1976, on Federal land shall file within 90 days after the date of location of that claim in the proper BLM office a copy of the official record of the notice of location of the 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.

APPEARANCES: Glenn Cox, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Glen Cox appeals the Arizona State Office, Bureau of Land Management (BLM), decision of November 19, 1981, which returned unrecorded the location notices for the Sheba #1 through Sheba #4 lode mining claims because they were not filed with BLM within 90 days after the date of location 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 he was aware of the 90-day requirement imposed by FLPMA for the recordation of newly located mining claims. He asserts he filed his notices with BLM on the 87th day after he had recorded the notices with the County Recorder of Yavapai County, Arizona.

Arizona Revised Statutes Annotated (ARSA) § 27-202, revised, effective September 3, 1978 (1978 Ariz. Sess. Laws, ch. 177, § 2), provides that the notice of location shall contain, inter alia, the name of the claim, the name and address of the locator, and the date of location. Each of the location notices submitted for the Sheba group of claims relates that the date of location was January 13, 1981. The 90th day after January 13, 1981, was April 13, 1981. The date of recording a mining claim location notice in the county records bears no relation to the time limits imposed by FLPMA. 1/

[1] As the notices of location were not filed with BLM within the 90-day period following location of the claims, BLM properly refused to accept the notices of location for recordation. For mining claims located after October 21, 1976, copies of the notice of location must be recorded with the proper office of 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. Art Fields, 57 IBLA 142 (1981).

Appellant may wish to consult with BLM about the possibility of relocating these claims.

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.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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Anne Poindexter Lewis  
Administrative Judge

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1/ We note that ARS 27-203 requires the recordation of mining claims in the proper county recorder's office within 90 days after the time of location. It would appear that the recording of the Sheba claims in Yavapai County was also not timely under Arizona law.

