

MICHAEL MOONEY

IBLA 81-573

Decided January 26, 1982

Appeal from decision of the California State Office, Bureau of Land Management, declaring mining claims abandoned and void. CA MC 54478 through CA MC 54481.

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.

APPEARANCES: Michael Mooney, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Michael Mooney appeals from the March 12, 1981, decision of the California State Office, Bureau of Land Management (BLM), which declared his placer mining claims abandoned and void for failure to file timely

evidence of assessment work for the period September 1, 1979, through September 1, 1980, as required by 43 CFR 3833.2-1. The BLM decision also noted that no location notices had been received for recordation of these claims, designated Gold Bug, Gold Bug Extension, Liberty, and Last Chance (CA MC 54478 through CA MC 54481).

On appeal, appellant states that he has paid his Plumas County, California, taxes and that BLM did not acknowledge either the claims or the money order he sent to register them.

[1] Section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a) (1976), and the pertinent regulation, 43 CFR 3833.2-1(c), require that the owner of an unpatented mining claim located after October 21, 1976, shall, prior to December 31 of each year following the calendar year in which the claim was located, file with BLM evidence of annual assessment work or a notice of intention to hold the claim.

Section 314(a) of FLPMA, *supra*, and the pertinent regulation, 43 CFR 3833.2-1(a), require that the owner of an unpatented mining claim located prior to October 21, 1976, shall, within the 3-year period following October 21, 1976, and prior to December 31 of each year thereafter, file with BLM evidence of annual assessment work or a notice of intention to hold the claim.

These mandatory statutory requirements are distinct from any local filing or tax requirements. See Anton J. Meyer, 59 IBLA 311 (1981); Robert P. Wilson, 57 IBLA 40 (1981). Failure to file the required documents is deemed conclusively to constitute abandonment of a claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a).

The file contains no indication that appellant ever filed either notices of location or evidence of annual assessment work for these claims. The file does contain a notice of intent to hold these claims which was stamped as received by BLM on January 3, 1979, and again on October 20, 1979. The file also contains a letter, dated January 12, 1979, from the Chief, Branch of Records and Data Management, to appellant acknowledging and returning appellant's letter of intent, stating that the claims were never recorded with BLM, and enclosing a copy of the applicable regulations. This letter and the notice of intent were apparently resubmitted to BLM, along with a money order for \$20 to cover filing costs for the four claims. Appellant filed no documents with BLM for the 1980 assessment year. Therefore, BLM properly declared the claims abandoned and void.

[2] Those who deal with the Government are presumed to have knowledge of the law and duly promulgated regulations. The file in this

case indicates that appellant actually received a copy of the applicable regulations. The responsibility for compliance with the recordation requirements of FLPMA rested with the appellant. This Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the California State Office is affirmed.

James L. Burski
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Anne Poindexter Lewis
Administrative Judge

