DEE WRIGHT

IBLA 82-116 Decided February 16, 1982

Appeal from the decision of the Arizona State Office, Bureau of Land Management, declaring various placer mining claims abandoned and void. A MC 70667 through A MC 70674.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim--Mining Claims: Recordation

   Under sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), the owner of a mining claim located on or before Oct. 21, 1976, must file a notice of intention to hold or evidence of performance of annual assessment work on the claim on or before Oct. 22, 1979, and prior to Dec. 31 of each year thereafter. This requirement is mandatory and failure to comply is deemed conclusively to constitute abandonment of the mining claim by the owner and renders the claim void.

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: Dee Wright, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Dee Wright has appealed the decision of the Arizona State Office, Bureau of Land Management (BLM), dated October 7, 1981, declaring the Aries #1 through Aries #8 placer mining claims, A MC 70667 through

A MC 70674, abandoned and void for failure to file evidence of assessment work or notices of intention to hold the claims on or before October 22, 1979.

Appellant, one of eight colocators, 1/ timely filed notices of location for the claims on October 9, 1979. Her transmittal letter indicated that she desired to record her placer claims "as required by the Federal Land Policy and Management Act," and that she was "enclosing copies of my placer claims." The enclosures were copies of notices of location for Aries #1 through Aries #8 indicating that the date of location for each claim was June 12, 1973. The case file also contains notices of intention to hold the claims timely filed by appellant for calendar years 1980 and 1981.

On appeal, appellant states that when she recorded these claims she was not notified that anything else had to be done. She indicates that she thought that Merle I. Zweifel, one of the colocators, or his lawyers had taken care of this matter.

[1] Section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a) (1976), requires the owner of unpatented mining claims located prior to October 21, 1976, to file with BLM evidence of assessment work performed on the claims or notices of intention to hold the claims within 3 years of the date of the Act, i.e., on or before October 22, 1979, and prior to December 31 of each year thereafter. This requirement is in addition to the requirement to file copies of the official record of the notices of location for the claims. 43 U.S.C. § 1744(b) (1976). The statute also provides that the failure to file timely any of the required documents conclusively constitutes abandonment of a claim by the owner. 43 U.S.C. § 1744(c) (1976). Departmental regulations replicate the statutory requirements and consequences. See 43 CFR 3833.1-2, 3833.2-1, and 3833.4.

[2] All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Vivian Sullivan Karlson, 60 IBLA 10 (1981). Therefore, appellant is presumed to have knowledge of the filing requirements and BLM had no obligation to notify appellant of them. At the time just before the October 22, 1979, deadline that appellant filed her notices of location, BLM state offices were receiving thousands of such filings. In many cases, BLM was unable to review those filings before the deadline. We note, for example, that appellant was not notified of the assigned serial numbers for her claims until December 18, 1979. Furthermore, some claimants sent their evidence of assessment work or notice of intention to hold

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1/ The other colocators were Merle I. Zweifel, Maude H. Zweifel, Freda Hoisington, Janice Patten, Bessie Wright, Alfred Wright, and Sue Wright.

separately from their notices of location. BLM thus could not have assumed that appellant had not filed all necessary documents when the notices of location were recorded. The responsibility for meeting the filing requirements rested with appellant. This Board has no authority to waive the requirements or excuse noncompliance. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Therefore, 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 Arizona State Office is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Gail M. Frazier
Administrative Judge