

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring mining claims abandoned and void. I MC 20411 through I MC 20414.

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.

APPEARANCES: W. E. Matheson, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

W. E. Matheson appeals from a decision of the Idaho State Office, Bureau of Land Management (BLM), dated April 8, 1981, declaring the Mother Lode Gold mining claims Nos. 1 through 4 abandoned and void for failure to file by December 30, 1980, evidence of assessment work or a notice of intention to hold the claims, pursuant to 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 Subpart 3833.

Appellant's mining claims were located between 1956 and 1967 and filed for recordation with BLM on September 17, 1979. Although proof of labor for the claims was filed with BLM with the copies of the location notices on September 17, 1979, no evidence of assessment work or notice of intention to hold the claims was filed with BLM during calendar year 1980. Subsequent to

the decision appealed from, appellant filed with BLM on April 14, 1981, a copy of the proof of labor for the 1980 assessment year which had been filed with the county recorder's office on August 29, 1980.

The appeal states that appellant believed that the president of Mother Gold Lode, Inc., J. C. Peters, had filed affidavits of assessment work for the claims for the assessment year ending in September 1980; however, Mr. Peters' death in January 1981 prevented the verification of that supposition.

[1] The owner of an unpatented mining claim, located prior to October 21, 1976, must file with the proper BLM office by October 22, 1979, and on or before December 30 of each calendar year thereafter, either evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the claim. 43 U.S.C. § 1744(a) (1976); 43 CFR 3833.2-1(a). Failure to file timely the required instrument is deemed conclusively to constitute an abandonment of the mining claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a). Joe L. Watts, 59 IBLA 127 (1981); Ben Hester, 58 IBLA 163 (1981). Filing evidence of assessment work in the county recorder's office does not relieve claimant of the necessity of filing with the proper BLM office. Caroline E. Brown, 56 IBLA 334 (1981).

Although the circumstances of this appeal are unfortunate, in enacting the filing requirements of section 314 of FLPMA, 43 U.S.C. § 1744 (1976), Congress did not invest the Secretary of the Interior with authority to excuse compliance with the statute, or to afford any relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981); see Western Mining Council v. Watt, 643 F.2d 618, 628 (9th Cir. 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 appealed from is affirmed.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

James L. Burski
Administrative Judge

