

DARYL E. BARTHOLOMEW

IBLA 82-570

Decided April 8, 1982

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring unpatented mining claim abandoned and void. 3833(952) (ID).

Affirmed.

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

Under sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a mining claim located on or before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location for such claim with the proper office of the Bureau of Land Management on or before Oct. 22, 1979. This requirement is mandatory and failure to comply is deemed conclusively to constitute an abandonment of the claim by the owner and renders the claim void.

APPEARANCES: Daryl E. Bartholomew, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

By decision of January 28, 1982, the Idaho State Office, Bureau of Land Management (BLM), declared the unpatented 4-B's lode mining claim abandoned and void because of the owners' failure to record the claim with BLM as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). The claim was located June 10, 1962, as shown by the records of Boundary County, Idaho. Daryl E. Bartholomew appeals on behalf of himself and his colocator, Edward G. Bond.

Appellant asserts that the assessment work has been performed currently and that he was unaware of the recording requirements of FLPMA. He concedes the claim is void under FLPMA. 1/

[1] The owner of an unpatented mining claim located prior to October 21, 1976, had until October 22, 1979, to record the location notice with BLM and to provide certain ancillary information, including evidence of assessment work. Section 314, FLPMA, supra. Additionally, evidence of assessment work or a notice of intention to hold the claim had to be recorded in the county office where the location notice is of record and in the proper office of BLM on or before December 30 of each calendar year thereafter. The statute provides that failure to file the instruments required within the time prescribed shall be deemed conclusively to constitute an abandonment of the claim. 43 U.S.C. § 1744(c) (1976).

Where, as in this case, there was no recordation of the mining claim with BLM during the prescribed time period, BLM properly declared the claim to be abandoned.

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

1/ The claim has been relocated by appellant and is now recorded under I MC 72099, the notice of location having been received by BLM on Feb. 10, 1982.

