

COPPER CAMP CONSOLIDATED MINES, INC.

IBLA 82-582

Decided April 8, 1982

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring mining claims abandoned and void. I MC 34383 through I MC 34416.

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: Abandonment

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 an abandonment of the claim by the owner and renders the claim void.

The recordation requirement of sec. 314(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(a) (1976), that evidence of assessment work or notice of intention to hold mining claims be filed both in the office where the notice of location of the claim is recorded and in the proper office of the Bureau of Land Management is mandatory, not discretionary. Filing of evidence of assessment work

only in the county recording office does not constitute compliance either with the recordation requirements of the Federal Land Policy and Management Act of 1976 or those in 43 CFR 3833.2-1.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

3. Mining Claims: Assessment Work

The filing of evidence of annual assessment work only in the county recording office does not constitute compliance with the recordation requirements of 43 CFR 3833.2-1.

APPEARANCES: Loren Calkins, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Copper Camp Consolidated Mines, Inc., appeals the February 22, 1982, decision of the Idaho State Office, Bureau of Land Management (BLM), which declared the unpatented Brownlee Nos. 1 through 6 mining claims, Nos. 1 through 13 mining claims, Nos. 1 and 2 fraction mining claims, Nos. 1 through 5 placer mining claims, H-S Nos. 1 and 2 mining claims, Iris fraction mining claim, Elizabeth fraction mining claim, Nadine mining claim, Nadine fraction mining claim, Helen fraction mining claim, and Ruth mining claim, I MC 34383 through I MC 34416, abandoned and void for failure to file timely evidence of assessment work or a notice of intention to hold the claims on or before December 30, 1980, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the implementing regulation in 43 CFR 3833.2-1. The decision also returned the proof of labor filed October 29, 1981.

Appellant states the assessment work has been performed annually since location of the claims in 1952, and that each year the proof was duly recorded in the records of Valley County, Idaho. Appellant states it was unaware that evidence of assessment work had to be filed with BLM after 1979.

[1] Section 314(a) of FLPMA, 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of assessment work for the claim with BLM within the 3-year period following that date, and prior to December 31 of each calendar year thereafter. Failure to file is statutorily deemed conclusively to constitute

abandonment of the claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4. See Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

When appellant failed to file timely either an affidavit of assessment work or a notice of intention to hold the claims, BLM properly held the claims to have been abandoned. William Cooper, 60 IBLA 50 (1981); Elizabeth Francis, 60 IBLA 6 (1981); Judy W. Genger, 59 IBLA 199 (1981); Robert R. Eisenman, 50 IBLA 145 (1980).

[2] The fact that appellant may have been unaware of the recordation requirements of FLPMA, while unfortunate, does not excuse it from compliance. Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald Little, 37 IBLA 1 (1978); 44 U.S.C. §§ 1507, 1510 (1976). The responsibility for complying with the recordation requirements of FLPMA rested with appellant. This Board has no authority to excuse lack of compliance or to afford any relief from the statutory consequences. Lynn Keith, *supra*; A. J. Grady, 48 IBLA 218 (1980); Glen J. McCrorey, 46 IBLA 355 (1980).

[3] Accomplishment of a proper state or county recording does not relieve appellant from filing with BLM under the requirements of FLPMA or the implementing regulations. A valid or timely filing with a state or county does not constitute a FLPMA filing, nor does recordation with BLM constitute a state or county filing. These are two separate and distinct filing requirements, and compliance with the one does not constitute compliance with the other.

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

Edward W. Stuebing
Administrative Judge

