

VIOLA PECK WHITNEY

IBLA 82-917

Decided July 20, 1982

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. I MC 17932 and I MC 17933.

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 in the proper office of the Bureau of Land Management. 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.

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: Viola Peck Whitney, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Viola Peck Whitney appeals the Idaho State Office, Bureau of Land Management (BLM), decision of May 28, 1982, which declared the unpatented Pittsburg Ledge and Pittsburg No. 1 lode mining claims, I MC 17932 and I MC 17933, abandoned and void because no proof of labor or notice of intention to hold the claims for 1980 was filed with BLM 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 43 CFR 3833.2.

The claims were located in 1939. Copies of the location notices and evidence of assessment work were filed with BLM August 23, 1979.

Appellant states that when she filed the copies of the location notices she was advised by BLM that in the future the evidence of assessment work should be filed in Fairfield, Idaho, the county seat of Camas County. So, in 1981, she did the required assessment work and recorded evidence of it in the records of Camas County on July 21, 1981. Appellant does not state that any assessment work was performed in 1980, or that any proof of labor was recorded in Camas County or sent to BLM.

[1] Section 314 of FLPMA requires the owner of unpatented mining claims located prior to October 21, 1976, in addition to filing with BLM a copy of the official record of the notice of location, to file with BLM a copy of evidence of assessment work performed on the claim or a notice of intention to hold the claim within 3 years after the date of the Act, and before December 31 of each calendar year thereafter. The statute also provides that failure to file such instruments within the time periods prescribed shall be deemed conclusively to constitute an abandonment of the mining claim by the owner. 43 U.S.C. § 1744 (1976); 43 CFR 3833.4(a).

[2] The fact that appellant may have been misinformed of, or misunderstood, the recordation requirements of FLPMA, while unfortunate, does not excuse her from compliance. Reliance upon misinformation by an employee of BLM cannot operate to vest any interest not authorized by law. 43 CFR 1810(c). Those who deal with the Government are presumed to have knowledge of the law and regulations duly adopted thereunder. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements rested with appellant. This Board has no authority to excuse lack of compliance with the requirements of FLPMA or to afford any relief from the consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981); A. J. Grady, 48 IBLA 218 (1980).

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

James L. Burski
Administrative Judge

