

KEITH E. FERRELL

IBLA 82-1071

Decided September 21, 1982

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. IMC 23293 and IMC 23294.

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 an unpatented mining claim located before Oct. 21, 1976, must file a notice of intent to hold the mining claim or evidence of performance of annual assessment work on the claim prior to Dec. 31 of each year following the calendar year in which the claim was located. There is no provision for waiver of this mandatory requirement, and where evidence of assessment work is not filed, for whatever reason, the claim is conclusively presumed to be abandoned.

2. Estoppel: Generally

Reliance on erroneous information provided by a BLM employee cannot relieve the owner of an unpatented mining claim of an obligation imposed by statute, or create rights not authorized by law, or relieve the claimants of the consequences imposed by statute for failure to comply with its requirements.

3. Notice: Generally -- Regulations: Generally -- Statutes

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

APPEARANCES: Keith E. Ferrell, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Keith E. Ferrell has appealed from a decision of the Idaho State Office, Bureau of Land Management (BLM), dated June 15, 1982, which declared the unpatented placer mining claims, Big Loon Nos. 1 and 2, IMC 23293 and IMC 23294, abandoned and void because no evidence of assessment work or notice of intention to hold the claims was filed with BLM prior to December 31, 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 3833.2-1. The proof of labor was received by BLM July 14, 1982.

Appellant's claims were located in Custer County, Idaho, on July 17, 1965, by Agnes W. And John C. Steele. They were recorded in the county on February 22, 1972, and transferred to appellant and Chuck R. Charlton by quitclaim deed on May 22, 1972. The copies of notices of location and 1979 proof of labor were filed with BLM on September 26, 1979.

Appellant states that an individual at BLM told him that the filing in 1979 (which included a proof of labor) was a one time requirement. Appellant also states that he has filed a proof of labor annually in Custer County, Idaho.

[1] Section 314 of FLPMA and the implementing regulations, 43 CFR 3833.2-1(a), and 3833.4(a), require that evidence of assessment work or a notice of intention to hold for each mining claim located on public land be filed both with the county recorder's office where the notice of location is of record, and in the proper BLM office prior to December 31 of each calendar year, under penalty of a conclusive presumption that the claims have been abandoned if the documents are not timely and properly filed in both places. Failure to submit any of the instruments required by FLPMA within the prescribed time periods is conclusively deemed to constitute an abandonment of the claim. Geoffrey L. Warren, 66 IBLA 165 (1982); James T. Hackworth, 66 IBLA 132 (1982); David G. Still, 66 IBLA 35 (1982). Since no proof of labor for appellant's claims was filed with BLM prior to December 31, 1980, BLM properly declared the claims abandoned and void.

[2] The fact that appellant alleges a BLM employee told him the 1979 filing was a one-time requirement does not excuse his failure to comply with the requirements of the regulation. Reliance on erroneous information provided by a BLM employee cannot relieve the owner of an unpatented mining claim of an obligation imposed by statute, or create any rights not authorized by law, or relieve the claimant of the consequences imposed by statute for

failure to comply with its requirements. *West Fork Mining Co.*, 60 IBLA 370 (1981); *Ronald M. Guntert*, 60 IBLA 200 (1981). The Board has no authority to excuse noncompliance with the statute or to afford any relief from the statutory consequences. *Lynn Keith*, 53 IBLA 192, 88 I.D. 369 (1981).

[3] It is axiomatic that all persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations pertinent thereto. 44 U.S.C. §§ 1507, 1510 (1976); *Federal Crop Insurance Corp.*, 332 U.S. 380 (1947); *Joe Karren, Sr.*, 65 IBLA 387 (1982); *Viola Peck Whitney*, 65 IBLA 361 (1982).

Appellant may wish to consult with BLM about the possibility of relocating these claims.

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:

Will A. Irwin
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

