**United States Supreme Court**

**UNITED STATES v. LOCKE, (1985)**

**No. 83-1394**

**Argued: November 6, 1984    Decided: April 1, 1985**

Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA) establishes a federal recording system that is designed to rid federal lands of stale mining claims and to provide federal land managers with up-to-date information that allows them to make informed land management decisions. Section 314(b) requires that mining claims located prior to FLPMA's enactment be initially recorded with the Bureau of Land Management (BLM) within three years of the enactment, and 314(a) requires that the claimant, in the year of initial recording and "prior to December 31" of every year after that, file with state officials and the BLM a notice of intention to hold a claim, an affidavit of assessment work performed on the claim, or a detailed reporting form. Section 314(c) provides that failure to comply with either of these requirements "shall be deemed conclusively to constitute an abandonment" of the claim. Appellees, who had purchased mining claims before 1976, complied with the initial recording requirement but failed to meet on time their first annual filing requirement, not filing with the BLM until December 31. Subsequently, the BLM notified appellees that their claims had been declared abandoned and void due to their tardy filing. After an unsuccessful administrative appeal, appellees filed an action in Federal District Court, alleging that 314(c) effected an unconstitutional taking of their property without just compensation and denied them due process. The District Court issued summary judgment in appellees' favor, holding that 314(c) created an impermissible irrebuttable presumption that claimants who fail to make a timely filing intended to abandon their claims. Alternatively, the court held that the 1-day late filing "substantially complied" with 314(a) and the implementing regulations.

*Held:*

1. Section 314(a)'s plain language - "prior to December 31" - read in conjunction with BLM regulations makes clear that the annual filings must be made on or before December 30. Thus, the BLM did not act ultra vires in concluding that appellees' filing was untimely. Pp. 93-96.

2. Congress intended in 314(c) to extinguish those claims for which timely filings were not made. Specific evidence of intent to abandon is made irrelevant by 314(c); the failure to file on time, in and of itself, causes a claim to be lost. Pp. 97-100. [471 U.S. 84, 85]

3. The annual filing deadline cannot be complied with, substantially or otherwise, by filing late - even by one day. Pp. 100-102.

4. Section 314(c) is not unconstitutional. Pp. 103-110.

(a) Congress was well within its affirmative powers in enacting the filing requirement, in imposing the penalty of extinguishment in 314(c), and in applying the requirement and sanction to claims located before FLPMA was enacted. Pp. 104-107.

(b) Appellees' property loss was one they could have avoided with minimal burden; it was their failure to file on time, not Congress' action, that caused their property rights to be extinguished. Regulation of property rights does not "take" private property when an individual's reasonable, investment-backed expectations can continue to be realized as long as he complies with reasonable regulations. Pp. 107-108.

(c) FLPMA provides appellees with all the process that is their constitutional due. The Act's recording provisions clearly afford those within the Act's reach a reasonable opportunity both to familiarize themselves with the general requirements imposed and to comply with those requirements. As the Act constitutes purely economic regulation, Congress was entitled to conclude that it was preferable to place a substantial portion of the burden on claimants to make the national recording system work. Pp. 108-110.

573 F. Supp. 472, reversed and remanded.

MARSHALL, J., delivered the opinion of the Court, in which BURGER, C. J., and WHITE, BLACKMUN, REHNQUIST, and O'CONNOR, JJ., joined. O'CONNOR, J., filed a concurring opinion, post, p. 110. POWELL, J., filed a dissenting opinion, post, p. 112. STEVENS, J., filed a dissenting opinion, in which BRENNAN, J., joined, post, p. 117.

Carolyn F. Corwin argued the cause for appellants. With her on the briefs were Solicitor General Lee, Assistant Attorney General Habicht, Deputy Solicitor General Claiborne, David C. Shilton, and Arthur E. Gowran.

Harold A. Swafford argued the cause for appellees. With him on the brief was John W. Hoffman. [\*](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f%2A)

[ [Footnote \*](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22t%2A) ] Laurens H. Silver and John Leshy filed a brief for the Sierra Club as amicus curiae urging reversal.

Briefs of amici curiae urging affirmance were filed for the State of Nevada by Brian McKay, Attorney General, and James C. Smith, Deputy Attorney General; for the Alaska Miners Association et al. by Ronald A. Zumbrun and Robin L. Rivett; for the Colorado Mining Association by [471 U.S. 84, 86]   Randy L. Parcel; for Mobil Oil Corp. by Stephen D. Alfers and William A. Hillhouse II; and for the Mountain States Legal Foundation by K. Preston Oade, Jr. [471 U.S. 84, 86]

JUSTICE MARSHALL delivered the opinion of the Court.

The primary question presented by this appeal is whether the Constitution prevents Congress from providing that holders of unpatented mining claims who fail to comply with the annual filing requirements of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1744, shall forfeit their claims.

**I**

From the enactment of the general mining laws in the 19th century until 1976, those who sought to make their living by locating and developing minerals on federal lands were virtually unconstrained by the fetters of federal control. The general mining laws, 30 U.S.C. 22 et seq., still in effect today, allow United States citizens to go onto unappropriated, unreserved public land to prospect for and develop certain minerals. "Discovery" of a mineral deposit, followed by the minimal procedures required to formally "locate" the deposit, gives an individual the right of exclusive possession of the land for mining purposes, 30 U.S.C. 26; as long as $100 of assessment work is performed annually, the individual may continue to extract and sell minerals from the claim without paying any royalty to the United States, 30 U.S.C. 28. For a nominal sum, and after certain statutory conditions are fulfilled, an individual may patent the claim, thereby purchasing from the Federal Government the land and minerals and obtaining ultimate title to them. Patenting, however, is not required, and an unpatented mining claim remains a fully recognized possessory interest. Best v. Humboldt Placer Mining Co., [371 U.S. 334, 335](http://caselaw.findlaw.com/us-supreme-court/371/334.html#335) (1963).

By the 1960's, it had become clear that this 19th-century laissez-faire regime had created virtual chaos with respect to the public lands. In 1975, it was estimated that more than [471 U.S. 84, 87]   6 million unpatented mining claims existed on public lands other than the national forests; in addition, more than half the land in the National Forest System was thought to be covered by such claims. S. Rep. No. 94-583, p. 65 (1975). Many of these claims had been dormant for decades, and many were invalid for other reasons, but in the absence of a federal recording system, no simple way existed for determining which public lands were subject to mining locations, and whether those locations were valid or invalid. Ibid. As a result, federal land managers had to proceed slowly and cautiously in taking any action affecting federal land lest the federal property rights of claimants be unlawfully disturbed. Each time the Bureau of Land Management (BLM) proposed a sale or other conveyance of federal land, a title search in the county recorder's office was necessary; if an outstanding mining claim was found, no matter how stale or apparently abandoned, formal administrative adjudication was required to determine the validity of the claim. [1](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f1)

After more than a decade of studying this problem in the context of a broader inquiry into the proper management of the public lands in the modern era, Congress in 1976 enacted FLPMA, Pub. L. 94-579, 90 Stat. 2743 (codified at 43 U.S.C. 1701 et seq.). Section 314 of the Act establishes a federal recording system that is designed both to rid federal lands of stale mining claims and to provide federal land managers with up-to-date information that allows them to make informed land management decisions. [2](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f2) For claims located before FLPMA's enactment, [3](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f3)   [471 U.S. 84, 88]   the federal recording system imposes two general requirements. First, the claims must initially be registered with the BLM by filing, within three years of FLPMA's enactment, a copy of the official record of the notice or certificate [471 U.S. 84, 89]   of location. 90 Stat. 2743, 314(b), 43 U.S.C. 1744(b). Second, in the year of the initial recording, and "prior to December 31" of every year after that, the claimant must file with state officials and with BLM a notice of intention to hold the claim, an affidavit of assessment work performed on the claim, or a detailed reporting form. 90 Stat. 2743, 314(a), 43 U.S.C. 1744(a). Section 314(c) of the Act provides that failure to comply with either of these requirements "shall be deemed conclusively to constitute an abandonment of the mining claim . . . by the owner." 43 U.S.C. 1744(c).

The second of these requirements - the annual filing obligation - has created the dispute underlying this appeal. Appellees, four individuals engaged "in the business of operating mining properties in Nevada," [4](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f4) purchased in 1960 and 1966 10 unpatented mining claims on public lands near Ely, Nevada. These claims were major sources of gravel and building material: the claims are valued at several million dollars, [5](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f5) and, in the 1979-1980 assessment year alone, appellees' gross income totaled more than $1 million. [6](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f6) Throughout the period during which they owned the claims, appellees complied with annual state-law filing and assessment work requirements. In addition, appellees satisfied FLPMA's initial recording requirement by properly filing with BLM a notice of location, thereby putting their claims on record for purposes of FLPMA.

At the end of 1980, however, appellees failed to meet on time their first annual obligation to file with the Federal Government. After allegedly receiving misleading information from a BLM employee, [7](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f7) appellees waited until December 31 [471 U.S. 84, 90]   to submit to BLM the annual notice of intent to hold or proof of assessment work performed required under 314(a) of FLPMA, 43 U.S.C. 1744(a). As noted above, that section requires these documents to be filed annually "prior to December 31." Had appellees checked, they further would have discovered that BLM regulations made quite clear that claimants were required to make the annual filings in the proper BLM office "on or before December 30 of each calendar year." 43 CFR 3833.2-1(a) (1980) (current version at 43 CFR 3833.2-1(b)(1) (1984)). Thus, appellees' filing was one day too late.

This fact was brought painfully home to appellees when they received a letter from the BLM Nevada State Office informing them that their claims had been declared abandoned and void due to their tardy filing. In many cases, loss of a claim in this way would have minimal practical effect; the [471 U.S. 84, 91]   claimant could simply locate the same claim again and then rerecord it with BLM. In this case, however, relocation of appellees' claims, which were initially located by appellees' predecessors in 1952 and 1954, was prohibited by the Common Varieties Act of 1955, 30 U.S.C. 611; that Act prospectively barred location of the sort of minerals yielded by appellees' claims. Appellees' mineral deposits thus escheated to the Government.

After losing an administrative appeal, appellees filed the present action in the United States District Court for the District of Nevada. Their complaint alleged, inter alia, that 314(c) effected an unconstitutional taking of their property without just compensation and denied them due process. On summary judgment, the District Court held that 314(c) did indeed deprive appellees of the process to which they were constitutionally due. 573 F. Supp. 472 (1983). The District Court reasoned that 314(c) created an impermissible irrebuttable presumption that claimants who failed to make a timely filing intended to abandon their claims. Rather than relying on this presumption, the Government was obliged, in the District Court's view, to provide individualized notice to claimants that their claims were in danger of being lost, followed by a post-filing-deadline hearing at which the claimants could demonstrate that they had not, in fact, abandoned a claim. Alternatively, the District Court held that the 1-day late filing "substantially complied" with the Act and regulations.

Because a District Court had held an Act of Congress unconstitutional in a civil suit to which the United States was a party, we noted probable jurisdiction under 28 U.S.C. 1252. [467 U.S. 1225](http://caselaw.findlaw.com/us-supreme-court/467/1225.html) (1984). [8](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f8) We now reverse. [471 U.S. 84, 92]

**II**

Appeal under 28 U.S.C. 1252 brings before this Court not merely the constitutional question decided below, but the entire case. McLucas v. DeChamplain, [421 U.S. 21, 31](http://caselaw.findlaw.com/us-supreme-court/421/21.html#31) (1975); United States v. Raines, [362 U.S. 17, 27](http://caselaw.findlaw.com/us-supreme-court/362/17.html#27) , n. 7 (1960). The entire case includes nonconstitutional questions actually decided by the lower court as well as nonconstitutional grounds presented to, but not passed on, by the lower court. United States v. Clark, [445 U.S. 23, 27](http://caselaw.findlaw.com/us-supreme-court/445/23.html#27) -28 (1980). [9](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f9) These principles are important aids in the prudential exercise of our appellate jurisdiction, for when a case arrives here by appeal under 28 U.S.C. 1252, this Court will not pass on the constitutionality of an Act of Congress if a construction of the Act is fairly possible, or some other nonconstitutional ground fairly available, by which the constitutional question can be avoided. See Heckler v. Mathews, [465 U.S. 728, 741](http://caselaw.findlaw.com/us-supreme-court/465/728.html#741) -744 (1984); Johnson v. Robison, [415 U.S. 361, 366](http://caselaw.findlaw.com/us-supreme-court/415/361.html#366) -367 (1974); cf. United States v. Congress of Industrial Organizations, [335 U.S. 106, 110](http://caselaw.findlaw.com/us-supreme-court/335/106.html#110) (1948) (appeals under former Criminal Appeals Act); see generally Ashwander v. TVA, [297 U.S. 288, 347](http://caselaw.findlaw.com/us-supreme-court/297/288.html#347) (1936) (Brandeis, J., concurring). Thus, we turn first to the nonconstitutional questions pressed below. [471 U.S. 84, 93]

**III**

**A**

Before the District Court, appellees asserted that the 314(a) requirement of a filing "prior to December 31 of each year" should be construed to require a filing "on or before December 31." Thus, appellees argued, their December 31 filing had in fact complied with the statute, and the BLM had acted ultra vires in voiding their claims.

Although the District Court did not address this argument, the argument raises a question sufficiently legal in nature that we choose to address it even in the absence of lower court analysis. See, e. g., United States v. Clark, supra. It is clear to us that the plain language of the statute simply cannot sustain the gloss appellees would put on it. As even counsel for appellees conceded at oral argument, 314(a) "is a statement that Congress wanted it filed by December 30th. I think that is a clear statement . . . ." Tr. of Oral Arg. 27; see also id., at 37 ("A literal reading of the statute would require a December 30th filing . . ."). While we will not allow a literal reading of a statute to produce a result "demonstrably at odds with the intentions of its drafters," Griffin v. Oceanic Contractors, Inc., [458 U.S. 564, 571](http://caselaw.findlaw.com/us-supreme-court/458/564.html#571) (1982), with respect to filing deadlines a literal reading of Congress' words is generally the only proper reading of those words. To attempt to decide whether some date other than the one set out in the statute is the date actually "intended" by Congress is to set sail on an aimless journey, for the purpose of a filing deadline would be just as well served by nearly any date a court might choose as by the date Congress has in fact set out in the statute. "Actual purpose is sometimes unknown," United States Railroad Retirement Board v. Fritz, [449 U.S. 166, 180](http://caselaw.findlaw.com/us-supreme-court/449/166.html#180) (1980) (STEVENS, J., concurring), and such is the case with filing deadlines; as might be expected, nothing in the legislative history suggests why Congress chose December 30 over December 31, [471 U.S. 84, 94]   or over September 1 (the end of the assessment year for mining claims, 30 U.S.C. 28), as the last day on which the required filings could be made. But "[d]eadlines are inherently arbitrary," while fixed dates "are often essential to accomplish necessary results." United States v. Boyle, [469 U.S. 241, 249](http://caselaw.findlaw.com/us-supreme-court/469/241.html#249) (1984). Faced with the inherent arbitrariness of filing deadlines, we must, at least in a civil case, apply by its terms the date fixed by the statute. Cf. United States Railroad Retirement Board v. Fritz, supra, at 179. [10](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f10)

Moreover, BLM regulations have made absolutely clear since the enactment of FLPMA that "prior to December 31" means what it says. As the current version of the filing regulations states:

"The owner of an unpatented mining claim located on Federal lands . . . shall have filed or caused to have been filed on or before December 30 of each calendar year . . . evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the mining claim." 43 CFR 3833.2-1(b)(1) (1984) (emphasis added).

See also 43 CFR 3833.2-1(a) (1982) (same); 43 CFR 3833.2-1(a) (1981) (same); 43 CFR 3833.2-1(a) (1980) (same); 43 CFR 3833.2-1(a) (1979) (same); 43 CFR 3833.2-1(a)(1) (1978) ("prior to" Dec. 31); 43 CFR 3833.2-1(a)(1) (1977) ("prior to" Dec. 31). Leading mining treatises similarly [471 U.S. 84, 95]   inform claimants that "[i]t is important to note that the filing of a notice of intention or evidence of assessment work must be done prior to December 31 of each year, i. e., on or before December 30." 2 American Law of Mining 7.23D, p. 150.2 (Supp. 1983) (emphasis in original); see also 23 Rocky Mountain Mineral Law Institute 25 (1977) (same). If appellees, who were businessmen involved in the running of a major mining operation for more than 20 years, had any questions about whether a December 31 filing complied with the statute, it was incumbent upon them, as it is upon other businessmen, see United States v. Boyle, supra, to have checked the regulations or to have consulted an attorney for legal advice. Pursuit of either of these courses, rather than the submission of a last-minute filing, would surely have led appellees to the conclusion that December 30 was the last day on which they could file safely.

In so saying, we are not insensitive to the problems posed by congressional reliance on the words "prior to December 31." See post, p. 117 (STEVENS, J., dissenting). But the fact that Congress might have acted with greater clarity or foresight does not give courts a carte blanche to redraft statutes in an effort to achieve that which Congress is perceived to have failed to do. "There is a basic difference between filling a gap left by Congress' silence and rewriting rules that Congress has affirmatively and specifically enacted." Mobil Oil Corp. v. Higginbotham, [436 U.S. 618, 625](http://caselaw.findlaw.com/us-supreme-court/436/618.html#625) (1978). Nor is the Judiciary licensed to attempt to soften the clear import of Congress' chosen words whenever a court believes those words lead to a harsh result. See Northwest Airlines, Inc. v. Transport Workers, [451 U.S. 77, 98](http://caselaw.findlaw.com/us-supreme-court/451/77.html#98) (1981). On the contrary, deference to the supremacy of the Legislature, as well as recognition that Congressmen typically vote on the language of a bill, generally requires us to assume that "the legislative purpose is expressed by the ordinary meaning of the words used." Richards v. United States, [369 U.S. 1, 9](http://caselaw.findlaw.com/us-supreme-court/369/1.html#9) (1962). "Going behind the plain language of a statute in search of a possibly contrary congressional intent is `a step to [471 U.S. 84, 96]   be taken cautiously' even under the best of circumstances." American Tobacco Co. v. Patterson, [456 U.S. 63, 75](http://caselaw.findlaw.com/us-supreme-court/456/63.html#75) (1982) (quoting Piper v. Chris-Craft Industries, Inc., [430 U.S. 1, 26](http://caselaw.findlaw.com/us-supreme-court/430/1.html#26) (1977)). When even after taking this step nothing in the legislative history remotely suggests a congressional intent contrary to Congress' chosen words, and neither appellees nor the dissenters have pointed to anything that so suggests, any further steps take the courts out of the realm of interpretation and place them in the domain of legislation. The phrase "prior to" may be clumsy, but its meaning is clear. [11](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f11) Under these circumstances, we are obligated to apply the "prior to December 31" language by its terms. See, e. g., American Tobacco Co. v. Patterson, supra, at 68; Consumer Product Safety Comm'n v. GTE Sylvania, Inc., [447 U.S. 102, 108](http://caselaw.findlaw.com/us-supreme-court/447/102.html#108) (1980).

The agency's regulations clarify and confirm the import of the statutory language by making clear that the annual filings must be made on or before December 30. These regulations provide a conclusive answer to appellees' claim, for where the language of a filing deadline is plain and the agency's construction completely consistent with that language, the agency's construction simply cannot be found "sufficiently unreasonable" as to be unacceptable. FEC v. Democratic Senatorial Campaign Committee, [454 U.S. 27, 39](http://caselaw.findlaw.com/us-supreme-court/454/27.html#39) (1981).

We cannot press statutory construction "to the point of disingenuous evasion" even to avoid a constitutional question. Moore Ice Cream Co. v. Rose, [289 U.S. 373, 379](http://caselaw.findlaw.com/us-supreme-court/289/373.html#379) (1933) (Cardozo, J.). [12](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f12) We therefore hold that BLM did not act ultra vires in concluding that appellees' filing was untimely. [471 U.S. 84, 97]

**B**

Section 314(c) states that failure to comply with the filing requirements of 314(a) and 314(b) "shall be deemed conclusively to constitute an abandonment of the mining claim." We must next consider whether this provision expresses a congressional intent to extinguish all claims for which filings have not been made, or only those claims for which filings have not been made and for which the claimants have a specific intent to abandon the claim. The District Court adopted the latter interpretation, and on that basis concluded that 314(c) created a constitutionally impermissible irrebuttable presumption of abandonment. The District Court reasoned that, once Congress had chosen to make loss of a claim turn on the specific intent of the claimant, a prior hearing and findings on the claimant's intent were constitutionally required before the claim of a nonfiling claimant could be extinguished.

In concluding that Congress was concerned with the specific intent of the claimant even when the claimant had failed [471 U.S. 84, 98]   to make the required filings, the District Court began from the fact that neither 314(c) nor the Act itself defines the term "abandonment" as that term appears in 314(c). The District Court then noted correctly that the common law of mining traditionally has drawn a distinction between "abandonment" of a claim, which occurs only upon a showing of the claimant's intent to relinquish the claim, and "forfeiture" of a claim, for which only noncompliance with the requirements of law must be shown. See, e. g., 2 American Law of Mining 8.2, pp. 195-196 (1983) (relied upon by the District Court). Given that Congress had not expressly stated in the statute any intent to depart from the term-of-art meaning of "abandonment" at common law, the District Court concluded that 314(c) was intended to incorporate the traditional common-law distinction between abandonment and forfeiture. Thus, reasoned the District Court, Congress did not intend to cause a forfeiture of claims for which the required filings had not been made, but rather to focus on the claimant's actual intent. As a corollary, the District Court understood the failure to file to have been intended to be merely one piece of evidence in a factual inquiry into whether a claimant had a specific intent to abandon his property.

This construction of the statutory scheme cannot withstand analysis. While reference to common-law conceptions is often a helpful guide to interpreting open-ended or undefined statutory terms, see, e. g., NLRB v. Amax Coal Co., [453 U.S. 322, 329](http://caselaw.findlaw.com/us-supreme-court/453/322.html#329) (1981); Standard Oil Co. v. United States, [221 U.S. 1, 59](http://caselaw.findlaw.com/us-supreme-court/221/1.html#59) (1911), this principle is a guide to legislative intent, not a talisman of it, and the principle is not to be applied in defiance of a statute's overriding purposes and logic. Although 314(c) is couched in terms of a conclusive presumption of "abandonment," there can be little doubt that Congress intended 314(c) to cause a forfeiture of all claims for which the filing requirements of 314(a) and 314(b) had not been met.

To begin with, the Senate version of 314(c) provided that any claim not properly recorded "shall be conclusively presumed [471 U.S. 84, 99]   to be abandoned and shall be void." S. 507, 94th Cong., 1st Sess., 311 (1975). [13](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f13) The Committee Report accompanying S. 507 repeatedly indicated that failure to comply with the filing requirements would make a claim "void." See S. Rep. No. 94-583, pp. 65, 66 (1975). The House legislation and Reports merely repeat the statutory language without offering any explanation of it, but it is clear from the Conference Committee Report that the undisputed intent of the Senate - to make "void" those claims for which proper filings were not timely made - was the intent of both Chambers. The Report stated: "Both the Senate bill and House amendments provided for recordation of mining claims and for extinguishment of abandoned claims." H. R. Rep. No. 94-1724, p. 62 (1976) (emphasis added).

In addition, the District Court's construction fails to give effect to the "deemed conclusively" language of 314(c). If the failure to file merely shifts the burden to the claimant to prove that he intends to keep the claim, nothing "conclusive" is achieved by 314(c). The District Court sought to avoid this conclusion by holding that 314(c) does extinguish automatically those claims for which initial recordings, as opposed to annual filings, have not been made; the District Court attempted to justify its distinction between initial recordings and annual filings on the ground that the dominant purpose of 314(c) was to avoid forcing BLM to the "awesome task of searching every local title record" to establish initially a federal recording system. 573 F. Supp., at 477. Once this purpose had been satisfied by an initial recording, the primary purposes of the "deemed conclusively" language, in the District Court's view, had been met. But the clear language of 314(c) admits of no distinction between [471 U.S. 84, 100]   initial recordings and annual filings: failure to do either "shall be deemed conclusively to constitute an abandonment." And the District Court's analysis of the purposes of 314(c) is also misguided, for the annual filing requirements serve a purpose similar to that of the initial recording requirement; millions of claims undoubtedly have now been recorded, and the presence of an annual filing obligation allows BLM to keep the system established in 314 up to date on a yearly basis. To put the burden on BLM to keep this system current through its own inquiry into the status of recorded claims would lead to a situation similar to that which led Congress initially to make the federal recording system self-executing. The purposes of a self-executing recording system are implicated similarly, if somewhat less substantially, by both the annual filing obligation and the initial recording requirement, and the District Court was not empowered to thwart these purposes or the clear language of 314(c) by concluding that 314(c) was actually concerned with only initial recordings.

For these reasons, we find that Congress intended in 314(c) to extinguish those claims for which timely filings were not made. Specific evidence of intent to abandon is simply made irrelevant by 314(c); the failure to file on time, in and of itself, causes a claim to be lost. See Western Mining Council v. Watt, 643 F.2d 618, 628 (CA9 1981).

**C**

A final statutory question must be resolved before we turn to the constitutional holding of the District Court. Relying primarily on Hickel v. Oil Shale Corp., [400 U.S. 48](http://caselaw.findlaw.com/us-supreme-court/400/48.html) (1970), the District Court held that, even if the statute required a filing on or before December 30, appellees had "substantially complied" by filing on December 31. We cannot accept this view of the statute.

The notion that a filing deadline can be complied with by filing sometime after the deadline falls due is, to say the [471 U.S. 84, 101]   least, a surprising notion, and it is a notion without limiting principle. If 1-day late filings are acceptable, 10-day late filings might be equally acceptable, and so on in a cascade of exceptions that would engulf the rule erected by the filing deadline; yet regardless of where the cutoff line is set, some individuals will always fall just on the other side of it. Filing deadlines, like statutes of limitations, necessarily operate harshly and arbitrarily with respect to individuals who fall just on the other side of them, but if the concept of a filing deadline is to have any content, the deadline must be enforced. "Any less rigid standard would risk encouraging a lax attitude toward filing dates," United States v. Boyle, [469 U.S., at 249](http://caselaw.findlaw.com/us-supreme-court/469/241.html#249) . A filing deadline cannot be complied with, substantially or otherwise, by filing late - even by one day. Hickel v. Oil Shale Corp., supra, does not support a contrary conclusion. Hickel suggested, although it did not hold, that failure to meet the annual assessment work requirements of the general mining laws, 30 U.S.C. 28, which require that "not less than $100 worth of labor shall be performed or improvements made during each year," would not render a claim automatically void. Instead, if an individual complied substantially but not fully with the requirement, he might under some circumstances be able to retain possession of his claim.

These suggestions in Hickel do not afford a safe haven to mine owners who fail to meet their filing obligations under any federal mining law. Failure to comply fully with the physical requirement that a certain amount of work be performed each year is significantly different from the complete failure to file on time documents that federal law commands be filed. In addition, the general mining laws at issue in Hickel do not clearly provide that a claim will be lost for failure to meet the assessment work requirements. Thus, it was open to the Court to conclude in Hickel that Congress had intended to make the assessment work requirement merely an indicium of a claimant's specific intent to retain a [471 U.S. 84, 102]   claim. Full compliance with the assessment work requirements would establish conclusively an intent to keep the claim, but less than full compliance would not by force of law operate to deprive the claimant of his claim. Instead, less than full compliance would subject the mine owner to a case-by-case determination of whether he nonetheless intended to keep his claim. See Hickel, supra, at 56-57.

In this case, the statute explicitly provides that failure to comply with the applicable filing requirements leads automatically to loss of the claim. See Part II-B, supra. Thus, Congress has made it unnecessary to ascertain whether the individual in fact intends to abandon the claim, and there is no room to inquire whether substantial compliance is indicative of the claimant's intent - intent is simply irrelevant if the required filings are not made. Hickel's discussion of substantial compliance is therefore inapposite to the statutory scheme at issue here. As a result, Hickel gives miners no greater latitude with filing deadlines than other individuals have. [14](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f14)   [471 U.S. 84, 103]

**IV**

JUSTICE O'CONNOR, concurring.

I agree that the District Court erred in holding that 314(c) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1744(c), violates due process by creating an "irrebuttable presumption" of abandonment. . .

JUSTICE POWELL, dissenting.

I agree with much of JUSTICE STEVENS' dissent. I write separately only because under the special circumstances of this case I do not believe it necessary to decide what Congress actually intended. Even if the Court is correct in believing that Congress intended to require filings on or before the next-to-the-last day of the year, rather than, more reasonably, by the end of the calendar year itself, the statutory deadline is too uncertain to satisfy constitutional requirements. It simply fails to give property holders clear and definite notice of what they must do to protect their existing property interests. . .

JUSTICE STEVENS, with whom JUSTICE BRENNAN joins, dissenting.

The Court's opinion is contrary to the intent of Congress, engages in unnecessary constitutional adjudication, and unjustly creates a trap for unwary property owners. First, the choice of the language "prior to December 31" when read in [471 U.S. 84, 118]   context in 43 U.S.C. 1744(a) [1](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff1) is, at least, ambiguous, and, at best, "the consequence of a legislative accident, perhaps caused by nothing more than the unfortunate fact that Congress [471 U.S. 84, 119]   is too busy to do all of its work as carefully as it should." [2](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff2) In my view, Congress actually intended to authorize an annual filing at any time prior to the close of business on December 31st, that is, prior to the end of the calendar year to which the filing pertains. [3](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff3) Second, even if Congress irrationally intended that the applicable deadline for a calendar year should end one day before the end of the calendar year that has been recognized since the amendment of the Julian Calendar in 8 B. C., it is clear that appellees have substantially complied with the requirements of the statute, in large part because the Bureau of Land Management has issued interpreting regulations that recognize substantial [471 U.S. 84, 120]   compliance. Further, the Court today violates not only the long-followed principle that a court should "not pass on the constitutionality of an Act of Congress if a construction of the statute is fairly possible by which the question may be avoided," [4](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff4) but also the principle that a court should "not decide a constitutional question if there is some other ground upon which to dispose of the case." [5](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff5)

**I**

Congress enacted 314 of the Federal Land Policy and Management Act to establish for federal land planners and managers a federal recording system designed to cope with the problem of stale claims, and to provide "an easy way of discovering which Federal lands are subject to either valid or invalid mining claim locations." [6](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff6) I submit that the appellees' actions in this case did not diminish the importance of these congressional purposes; to the contrary, their actions were entirely consistent with the statutory purposes, despite the confusion created by the "inartful draftsmanship" of the statutory language. [7](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff7)

A careful reading of 314 discloses at least three respects in which its text cannot possibly reflect the actual intent of Congress. First, the description of what must be filed in the initial filing and subsequent annual filings is quite obviously garbled. Read literally, 314(a)(2) seems to require that a [471 U.S. 84, 121]   notice of intent to hold the claim and an affidavit of assessment work performed on the claim must be filed "on a detailed report provided by 28-1 of Title 30." One must substitute the word "or" for the word "on" to make any sense at all out of this provision. This error should cause us to pause before concluding that Congress commanded blind allegiance to the remainder of the literal text of 314.

Second, the express language of the statute is unambiguous in describing the place where the second annual filing shall be made. If the statute is read inflexibly, the owner must "file in the office of the Bureau" the required documents. [8](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff8) Yet the regulations that the Bureau itself has drafted, quite reasonably, construe the statute to allow filing in a mailbox, provided that the document is actually received by the Bureau prior to the close of business on January 19th of the year following the year in which the statute requires the filing to be made. [9](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff9) A notice mailed on December 30, 1982, and received by the Bureau on January 19, 1983, was filed "in the office of the Bureau" during 1982 within the meaning of the statute, but one that is hand-delivered to the office on December 31, 1982, cannot be accepted as a 1982 "filing."

The Court finds comfort in the fact that the implementing regulations have eliminated the risk of injustice. Ante, at 94. But if one must rely on those regulations, it should be apparent that the meaning of the statute itself is not all that obvious. [471 U.S. 84, 122]   To begin with, the regulations do not use the language "prior to December 31"; instead, they use "on or before December 30 of each year." [10](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff10) The Bureau's drafting of the regulations using this latter phrase indicates that the meaning of the statute itself is not quite as "plain," ante, at 93, as the Court assumes; if the language were plain, it is doubtful that the Bureau would have found it necessary to change the language at all. Moreover, the Bureau, under the aegis of the Department of the Interior, once issued a pamphlet entitled "Staking a Mining Claim on Federal Lands" that contained the following information:

"Owners of claims or sites located on or before Oct. 21, 1976, have until Oct. 22, 1979, to file evidence of assessment work performed the preceding year or to file a notice of intent to hold the claim or site. Once the claim or site is recorded with BLM, these documents must be filed on or before December 31 of each subsequent year." Id., at 9-10 (1978) (emphasis added).

"Plain language," ante, at 93, indeed.

There is a more important reason why the implementing regulations cannot be supportive of the result the Court reaches today: the Bureau's own deviation from the statutory language in its mail-filing regulation. See n. 9, supra. If the Bureau had issued regulations expressly stating that a [471 U.S. 84, 123]   December 31 filing would be considered timely - just as it has stated that a mail filing received on January 19 is timely - it is inconceivable that anyone would question the validity of its regulation. It appears, however, that the Bureau has more power to interpret an awkwardly drafted statute in an enlightened manner consistent with Congress' intent than does this Court. [11](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff11)

In light of the foregoing, I cannot believe that Congress intended the words "prior to December 31 of each year" to be given the literal reading the Court adopts today. The statutory scheme requires periodic filings on a calendar-year basis. The end of the calendar year is, of course, correctly described either as "prior to the close of business on December 31," or "on or before December 31," but it is surely understandable that the author of 314 might inadvertently use the words "prior to December 31" when he meant to refer to the end of the calendar year. As the facts of this case demonstrate, the scrivener's error is one that can be made in good faith. The risk of such an error is, of course, the greatest when the reference is to the end of the calendar year. That it was in fact an error seems rather clear to me because no one has suggested any rational basis for omitting just one day from the period in which an annual filing may be made, and I would not presume that Congress deliberately created a trap for the unwary by such an omission. [471 U.S. 84, 124]

It would be fully consistent with the intent of Congress to treat any filing received during the 1980 calendar year as a timely filing for that year. Such an interpretation certainly does not interfere with Congress' intent to establish a federal recording system designed to cope with the problem of stale mining claims on federal lands. The system is established, and apparently, functioning. [12](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff12) Moreover, the claims here were active; the Bureau was well aware that the appellees intended to hold and to operate their claims.

Additionally, a sensible construction of the statute does not interfere with Congress' intention to provide "an easy way of discovering which Federal lands are subject to either valid or [471 U.S. 84, 125]   invalid mining claim locations." [13](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff13) The Bureau in this case was well aware of the existence and production of appellees' mining claims; only by blinking reality could the Bureau reach the decision that it did. It is undisputed that the appellees made the first 1980 filing on August 29, 1980, and made the second required filing on December 31, 1980; the Bureau did not declare the mining claims "abandoned and void" until April 4, 1981. Thus, appellees lost their entire livelihood for no practical reason, contrary to the intent of Congress, and because of the hypertechnical construction of a poorly drafted statute, which an agency interprets to allow "filings" far beyond December 30 in some circumstances, but then interprets inflexibly in others. [14](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff14) Appellants acknowledge that "[i]t may well be that Congress wished to require filing by the end of the calendar year and that the earlier deadline resulted from careless draftmanship." Brief for Appellants 42, n. 31. I have no doubt that Congress would have chosen to adopt a construction of the statute that filing take place by the end of the calendar year if its attention had been focused on this precise issue. Cf. DelCostello v. Teamsters, [462 U.S. 151, 158](http://caselaw.findlaw.com/us-supreme-court/462/151.html#158) (1983). [15](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff15)   [471 U.S. 84, 126]

**II**

After concluding its constitutional analysis, the District Court also held that "the standard to be applied to assessment notice requirements is substantial compliance. Measured against this, the Lockes have satisfied their statutory duties under Section 1744 by filing their notices one day late." [16](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff16) The District Court grounded its holding on this Court's analysis in Hickel v. Oil Shale Corp., [400 U.S. 48](http://caselaw.findlaw.com/us-supreme-court/400/48.html) (1970).

In Hickel, the Court construed 30 U.S.C. 28, which reads:

"On each claim located after the 10th day of May 1872, and until a patent has been issued therefor, not less than $100 worth of labor shall be performed or improvements [471 U.S. 84, 127]   made during each year. . . . [U]pon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location." (Emphasis added.)

Recognizing that a claimant's "possessory title" should not be disturbed on "flimsy or insubstantial grounds," [400 U.S., at 57](http://caselaw.findlaw.com/us-supreme-court/400/48.html#57) , the Court wrote:

"We agree . . . that every default in assessment work does not cause the claim to be lost. Defaults, however, might be the equivalent of abandonment; and we now hold that token assessment work, or assessment work that does not substantially satisfy the requirements of 30 U.S.C. 28, is not adequate to `maintain' the claims within the meaning of 37 of the Leasing Act. To hold otherwise would help defeat the policy that made the United States, as the prospective recipient of royalties, a beneficiary of these oil shale claims. We cannot support [Wilbur v. Krushnic, [280 U.S. 306](http://caselaw.findlaw.com/us-supreme-court/280/306.html) (1930),] and [Ickes v. Virginia-Colorado Development Corp., [295 U.S. 639](http://caselaw.findlaw.com/us-supreme-court/295/639.html) (1935)], on so broad a ground. Rather, their dicta to the contrary, we conclude that they must be confined to situations where there had been substantial compliance with the assessment work requirements. . . ." Ibid.

Hickel thus demonstrates that the District Court was correct that substantial-compliance analysis was appropriate in this case, and that appellees substantially complied with the statute. Appellees earned their livelihood since 1960 by mining the 10 unpatented mining claims now in dispute. [17](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff17) They paid income taxes, and property and production taxes to the State of Nevada, which appears as an amicus in support [471 U.S. 84, 128]   of appellees. The statute, passed in 1976, required appellees to register their mining claims "in the office where the location notice or certificate is recorded" and "in the office of the Bureau" by October 21, 1979; it is not disputed that appellees met the statute's two initial filing requirements. [18](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22ff18) Moreover, the statute required, within three years of October 21, 1976, that appellees file "in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location." [19](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f19) Appellees also met this third requirement, thus completely informing the Bureau of the existence, the sizes, the locations, and the ownership of appellees' active mining claims. After the three initial filing requirements, the statute required that appellees make two separate annual filings: (1) an initial filing with the county recorder; and (2) a copy of the official record of the first filing filed with the Bureau. Appellees made the first of these filings for the 1980 calendar year on August 29, 1980. Because 1980 was generally the first year that claimants - including appellees - had to comply with the annual filing requirements that the new legislation mandated, the Bureau began the practice of mailing reminder notices about the filing due in the Bureau's office. Appellants acknowledge that appellees did not receive a reminder notice. [20](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f20) Nevertheless, appellees responsibly inquired about the date of filing with the Bureau for the 1980 calendar year; it is undisputed that Bureau personnel informed them that the filing was due "on or before December 31, 1980." [21](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f21) On December 31, 1980, appellees made a 700-mile round trip from Ely to Reno, Nevada, to hand-deliver their filings to the Bureau. The Bureau accepted the filings on that date.

In my view, this unique factual matrix unequivocally contradicts the statutory presumption of an intent to abandon by [471 U.S. 84, 129]   reason of a late filing. In sum, this case presents an ambiguous statute, which, if strictly construed, will destroy valuable rights of appellees, property owners who have complied with all local and federal statutory filing requirements apart from a 1-day "late" filing caused by the Bureau's own failure to mail a reminder notice necessary because of the statute's ambiguity and caused by the Bureau's information to appellees that the date on which the filing occurred would be acceptable. Further, long before the Bureau declared a technical "abandonment," it was in complete possession of all information necessary to assess the activity, locations, and ownership of appellees' mining claims and it possessed all information needed to carry out its statutory functions. Finally, the Bureau has not claimed that the filing is contrary to the congressional purposes behind the statute, that the filing affected the Bureau's land-use planning functions in any manner, or that it interfered "in any measurable way" with the Bureau's need to obtain information. [22](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22f22) A showing of substantial compliance necessitates a significant burden of proof; appellees, whose active mining claims will be destroyed contrary to Congress' intent, have convinced me that they have substantially complied with the statute.

I respectfully dissent.

[ [Footnote 1](http://caselaw.findlaw.com/us-supreme-court/471/84.html%22%20%5Cl%20%22tt1) ] The full text of 43 U.S.C. 1744 reads as follows:

"Recordation of Mining Claims

"(a) Filing requirements

"The owner of an unpatented lode or placer mining claim located prior to October 21, 1976, shall, within the three-year period following October 21, 1976 and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after October 21, 1976 shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

"(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, on a detailed report provided by section 28-1 of title 30, relating thereto.

"(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

"(b) Additional filing requirements

"The owner of an unpatented lode or placer mining claim or mill or tunnel site located prior to October 21, 1976 shall, within the three-year period following October 21, 1976, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill or tunnel site located after October 21, 1976 shall, within ninety days after the date of location of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground.

"(c) Failure to file as constituting abandonment; defective or untimely filing

"The failure to file such instruments as required by subsections (a) and (b) of this section shall be deemed conclusively to constitute an abandonment [471 U.S. 84, 119]   of the mining claim or mill or tunnel site by the owner; but it shall not be considered a failure to file if the instrument is defective filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill or tunnel site.

"(d) Validity of claims, waiver of assessment, etc., as unaffected

"Such recordation or application by itself shall not render valid any claim which would not be otherwise valid under applicable law. Nothing in this section shall be construed as a waiver of the assessment and other requirements of such law."