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Constitutional Law - Mining and Minerals - The Constitutionality of FLPMA's Forfeiture Provision - United States v. Locke

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CASE NOTE

CONSTITUTIONAL LAW—Mining and Minerals—The Constitutionality of FLPMA's Forfeiture Provision. *United States v. Locke,* 105 S.Ct. 1785 (1985).

Madison D. Locke forfeited ten unpatented mining claims valued at several million dollars because he failed to comply with the Federal Land Policy and Management Act of 1976 (FLPMA). These claims were located on public lands.[1]

Locke registered his claims with the Bureau of Land Management (BLM) in accordance with the initial recording requirement of section 314(b) of FLPMA.[2] On December 31, 1980, Locke filed his affidavits of annual assessment work with the BLM Nevada State Office, one day past the December 30 deadline set by FLPMA for annual filing. As a conse-

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1. United States v. Locke, 105 S.Ct. 1785, 1789-90 (1985). Other persons purchased the claims with Locke. *Id.*

2. *Id.* at 1790. FLPMA states:

> 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. . . .
>
> (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 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 or not timely 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.

Federal Land Policy and Management Act of 1976, § 314, 90 Stat. 2743 (1976) (codified at 43 U.S.C. § 1744 (1982)).

quence of the untimely filing, the BLM declared Locke's claims abandoned and void.[3]

Locke appealed to the Interior Board of Land Appeals (IBLA), alleging that section 314(c) of the Act was an unconstitutional taking of property and a denial of due process.[4] After losing his appeal to the IBLA, Locke sued in the United States District Court for the District of Nevada.[5] The district court granted Locke a summary judgment. The district court held that section 314(c) denied constitutional due process by creating an irrebuttable presumption of abandonment.[6]

The United States Supreme Court reversed and remanded, holding that Congress may provide that holders of unpatented mining claims who fail to comply with the requirements of FLPMA shall forfeit their claims.[7] The Court determined that Congress intended to void claims which were not filed prior to December 31 and, therefore, evidence of intent to abandon was irrelevant.[8] The Court also reasoned that "substantial compliance" with the filing deadline was insufficient.[9] Finally, the Court found that the recordation laws, when construed as forfeiture provisions, afforded adequate due process.[10] The Court concluded that mere failure to file on time extinguishes a claim.[11]

BACKGROUND

Mining Claims

Congress enacted FLPMA in response to a number of federal land policy problems including a lack of centralized information and numerous stale claims. Prior to the Act, a sale of federal land required an arduous title search in county recorders' offices for any outstanding claims.[12] Several million unpatented claims encumbered state land records before the passage of FLPMA.[13]

Under section 314 of FLPMA, the owner of an unpatented lode or placer mining claim located prior to October 21, 1976 must meet two

3. Brief for the Appellants at 7, United States v. Locke, 105 S.Ct. 1785 (1985) [hereinafter Appellant's Brief]. The claims were located before Congress passed the Common Varieties Act of 1955, prospectively barring location of claims for gravel, building materials or other "common varieties." 30 U.S.C. § 611. The Lockes were informed by a district office of the Bureau of Land Management that the filing deadline was December 31st. Appellees' Answering Brief at 5, United States v. Locke, 105 S.Ct. 1785 (1985).

4. Appellant's Brief, *supra* note 3, at 8.

5. *Locke*, 105 S.Ct. at 1790.

6. *Id.* at 1791.

7. *Id.* at 1799. Appellees had three years to familiarize themselves with the statute. *Id.* at 1800.

8. *Id.* at 1795-96.

9. *Id.* at 1796.

10. *Id.* at 1798-1800.

11. *Id.* at 1796.

12. Strauss, *Mining Claims on Public Lands: A Study of Interior Department Procedures*, 1974 UTAH L. REV. 185, 215-219 (1974).

13. *Id.* at 192. During the mid-nineteenth century different mining districts had individual rules on the matter of acquiring and holding a mining claim. Early mining law embodied the traditions of custom and local administration of mining claims. *Id.* at 186.

general requirements.[14] First, under subsection (a) an owner must file a notice of intention to hold the claim or an affidavit of assessment work performed on the claim within three years of October 21, 1976. The notice and the affidavit of assessment work performed must be refiled each year thereafter "prior to December 31."[15] The second stipulation, found in section 314(b), is an initial recordation requirement.[16] Section 314(c) provides that failure to meet the requirements of either sections 314(a) or 314(b) "shall be deemed conclusively to constitute an abandonment of the mining claim . . . by the owner."[17] Thus, Congress intended section 314(c) of FLPMA to extinguish all claims for which a timely filing had not been made.[18]

Due Process

An unpatented mining claim is entitled to due process protection because it is property in the fullest sense of the word.[19] In *Locke,* the Supreme Court considered whether the Constitution authorizes Congress to provide for the forfeiture of mining claims, and if so whether FLPMA afforded the requisite constitutional protection.

The fifth amendment proscribes the taking of property without just compensation and requires reasonable notice of the proceedings that result in the taking.[20] In *Locke,* the Court discussed the due process aspects of two methods of taking: the irrebutable presumption and forfeiture.[21]

A statute which creates a legislative presumption of one fact from proof of another can meet due process requirements only when there is an essential connection between them.[22] The Court in *Vlandis v. Kline* struck down a Connecticut statute as violative of the due process clauses of the fifth and fourteenth amendments.[23] Under the statute, a student classified as a nonresident could never receive resident status for tuition purposes at state universities.[24] The Court held that the statute resulted in an impermissible irrebuttable presumption.[25]

The irrebuttable presumption doctrine was limited as a generally used approach in *Weinberger v. Salfi.*[26] The Court upheld a regulation requiring marriage at least nine months before the wage earner's death in order for the surviving wife and stepchildren to be eligible for social security

14. 43 U.S.C. § 1744 (1982).
15. *Id.* § 1744(a).
16. *Id.* § 1744(b). A copy of the official notice of location or certificate of location must be registered with the BLM within three years of FLPMA's enactment. *Id.*
17. *Id.* § 1744(c).
18. United States v. Locke, 105 S.Ct. 1785, 1794 (1985).
19. Wilbur v. United States *ex rel.* Krushnic, 280 U.S. 306, 316 (1930).
20. North Laramie Land Co. v. Hoffman, 268 U.S. 276, 282 (1925).
21. *Locke,* 105 S.Ct. at 1797-1801.
22. Vlandis v. Kline, 412 U.S. 441, 451 (1973).
23. *Id.* at 452.
24. *Id.* at 443.
25. *Id.* at 452.
26. 422 U.S. 749 (1975).

benefits.[27] The presumption was that the couple had entered into marriage for the fraudulent purpose of obtaining social security benefits.[28] In upholding the regulation, the Court signaled an intent to narrow the application of the irrebuttable presumption doctrine to areas involving fundamental rights.[29]

Forfeiture was the second method of taking property addressed by the Court in *Locke*.[30] The seminal case on this point was *Texaco, Inc. v. Short*.[31] In that case the Indiana Legislature enacted the Mineral Lapse Act to weed out stale mineral interests which had not been used for twenty years.[32] The Court held that states may "condition retention of a property right upon the performance of an act within a limited period of time."[33] The absence of specific notice did not invalidate the self-executing feature of the statute.[34] The situation parallels the running of a statute of limitations.[35]

In *Texaco,* the Court set out a three part test to determine when an automatic forfeiture provision is constitutionally permissible. First, one must determine "whether Congress is authorized to 'provide that property rights . . . shall be extinguished if their owners do not take the affirmative action required by the' statute."[36] A legislature generally has this power if the constraint or duty imposed is reasonable and is designed to attain legitimate legislative goals.[37]

Second, one must look to the substantive effect of the statute. Congress is barred from enacting a statute which infringes on constitutionally protected rights.[38] When property is subject to forfeiture, constitutional protection must be found in the fifth amendment's prohibition of the taking of private property without just compensation.[39]

Finally, a statute must provide individuals with constitutionally adequate process.[40] Generally, this is satisfied if the legislature enacts and publishes the law, and gives the citizenry a reasonable opportunity to familiarize themselves and comply with its terms.[41] The Court in *Texaco* noted that individuals are charged with the knowledge of statutes that

27. *Id.* at 754-56.
28. *Id.* at 767-68.
29. NOWAK, ROTUNDA, & YOUNG, CONSTITUTIONAL LAW 553-54 (2d ed. 1983).
30. *Locke,* 105 S.Ct. at 1797-1801.
31. 454 U.S. 516 (1982).
32. *Id.* at 518. The statute contained a two-year grace period during which mineral interests could be saved by filing a claim in the recorder's office.
33. *Id.* at 529.
34. *Id.* at 535-36.
35. *Id.* at 536. Due process does not require notice to one adversely affected by the running of a statute of limitations. *Id.*
36. United States v. Locke, 105 S.Ct. 1785, 1797 (1985) (quoting Texaco, Inc. v. Short, 454 U.S. 516, 525 (1982)).
37. United States v. Locke, 105 S.Ct. 1785, 1797-98.
38. *Id.* at 1799.
39. *Id.*
40. *Id.* at 1799-1800.
41. *Id.* at 1800.

affect them.[42] Specific notice to an individual is not required if the legislature enacts a law uniformly affecting all citizens and sets out the conditions that will result in a forfeiture.[43] The Court found no procedural defect in the Indiana statute.[44] The Court in *Locke* followed the foundation laid in *Texaco* when it decided the constitutionality of the forfeiture provision of FLPMA.[45]

THE PRINCIPAL CASE

In *Locke,* the Court rejected the district court's view that the Act created an irrebuttable presumption.[46] The Court reasoned that nothing in FLPMA indicated that Congress was concerned with a claimant's intent to abandon his claim.[47] Section 314(c) provides that "failure to file such instruments as required by subsections (a) and (b) of this section shall be *deemed conclusively to constitute an abandonment* of the mining claim. . . ."[48] The Court concluded from the language of the statute that there was no proof that Congress presumed a claimant actually *intended* to abandon the claim by failing to make a timely filing.[49] Thus, the Court avoided applying the standard tests for irrebuttable presumptions. The Court then scrutinized the constitutionality of section 314(c) of the Act as a forfeiture provision.[50]

The Court followed the *Texaco* three part test in determining whether the forfeiture provision was unconstitutional.[51] The Court said that Congress may impose reasonable restrictions to further legitimate legislative goals by conditioning retention of vested property rights on the performance of affirmative duties.[52] According to the Court, this power is particularly broad in cases such as *Locke,* in which the interests are a unique form of property. The United States owns the underlying fee title to the public domain and therefore maintains broad powers over the terms and conditions of land use, leasing, and acquisition.[53]

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42. *Texaco,* 454 U.S. at 532.
43. *Id.* at 537.
44. *Id.* at 538.
45. *Locke,* 105 S.Ct. at 1797.
46. *Id.*
47. *Id.* The Act does not expressly state an intention to depart from the common law term-of-art meaning of abandonment. The common law of mining has traditionally distinguished between abandoment and forfeiture. Abandonment requires an intent to abandon, whereas forfeiture merely requires noncompliance with the law. 2 AM. L. MINING § 46.01[2] - [3][a] (2d ed. 1985). Interpreting the Act as following the traditional use of the term abandonment (in mining law), the District Court invalidated the Act because it created an irrebuttable presumption. *Locke,* 105 S.Ct. at 1794. "As a forfeiture provision, [section] 314(c) is not subject to the individualized hearing requirement of such irrebuttable presumption cases as *Vlandis v. Kline,* or *Cleveland Bd. of Education v. LaFleur.*" *Locke,* 105 S.Ct. at 1797 (citations omitted).
48. 43 U.S.C. § 1744(c) (1982).
49. *Locke,* 105 S.Ct. at 1797.
50. *Id.*
51. *Id. See supra* text accompanying notes 36-42 (three part *Texaco* test).
52. *Locke,* 105 S.Ct. at 1797.
53. *Id.* at 1798.

The Court found that the Act's purpose, to rid federal lands of stale mining claims and to provide for current information on claim status, is legitimate. It also found that 314(c) is a reasonable means of attaining FLPMA's goals.[54]

Next the Court addressed the question of whether the forfeiture provision of the Act resulted in a "taking" of private property. It determined that reasonable regulatory restrictions on property rights do not "take" private property when an individual must merely comply with reasonable regulations.[55] Congress is not required to compensate an individual for his own neglect.[56]

As the final part of the *Texaco* test, the Court considered whether FLPMA provided a constitutionally adequate process to alter the substantive rights of claim holders. The Act gave individuals a three year period to familiarize themselves with the published law and to comply with its requirements. The Court, again under the *Texaco* framework, found this sufficient.[57]

Apart from the *Texaco* test, the Court found that "substantial compliance" with the filing deadline was not enough. It reasoned that the filing deadline must be strictly enforced to have any substance, even though the result is sometimes harsh. According to the Court, "any less rigid standard would risk encouraging a lax attitude toward filing dates."[58]

ANALYSIS

The Court upheld the constitutionality of FLPMA by analyzing the Act as a forfeiture statute.[59] It summarily rejected the irrebuttable presumption doctrine that was the basis of the lower court's opinion.[60] The Act could have withstood a due process challenge on either ground, and the Court should have addressed them both. While the irrebuttable presumption doctrine may be of little force, it has not been wholly rejected, and the Court should have faced the issue squarely.

The Court circumvented Locke's irrebuttable presumption argument by interpreting section 314(c) as a forfeiture provision.[61] The Court concluded from the language of the statute that Congress did not presume that a claimant actually intended to abandon the claim by failing to make a timely filing.[62] It is undenied, however, that FLPMA employs the term "abandoned" rather than "forfeited." Further, while the original Senate version of the forfeiture statute called late filed claims "abandoned and

54. *Id.* at 1798-99.
55. *Id.* at 1799.
56. *Id.*
57. *Id.* at 1800. The *Texaco* Court upheld an Indiana statute with only a two year grace period. The Indiana statute contained a similar regulation of mineral interests. *Texaco,* 454 U.S. at 533-34.
58. *Locke,* 105 S. Ct. at 1796 (citing United States v. Boyle, 105 S.Ct. 687, 692 (1984)).
59. *Id.* at 1797-1801.
60. *Id.* at 1797.
61. *Id.*
62. *Id.*

void,"[63] the final version merely says that late filing shall constitute an abandonment. This deletion suggests that Congress intended to create not a forfeiture statute, but one of abandonment. Arguably, Congress used the term abandonment as it is commonly understood in the field of mining.[64] If this usage was employed, the statute indeed presumes an intent to abandon.[65] Therefore, the Court should have addressed the irrebuttable presumption doctrine.

Had the Court chosen to apply the irrebuttable presumption doctrine, however, FLPMA could still withstand attack under the analysis of *Salfi.* The irrebuttable presumption doctrine was employed to invalidate the statutes in both *Cleveland Board of Education v. LaFleur*[66] and *Vlandis v. Kline.*[67] The school board rule in *LaFleur* affected the fundamental right to bear children.[68] *Vlandis* dealt with education,[69] which the Court has found to be an important, although not a fundamental, right.[70]

The irrebuttable presumption doctrine did not apply in *Salfi.*[71] Justice Rehnquist's opinion in *Salfi* distinguished most of the earlier cases on the grounds that they involved interests with a "constitutionally protected status."[72] The right to receive social security benefits at issue in *Salfi* is not a fundamental liberty or property interest recognized by the Constitution.[73] Congress may reasonably conclude that generalized rules are appropriate when a statute does not deal with constitutionally protected rights. Any imprecision is justified by ease and certainty of operation.[74]

The property interest in *Locke,* which the Court identifies as the right to a flow of income from property, is an economic interest.[75] This interest is more closely related to the interest in social security benefits in *Salfi* than it is to the fundamental right to bear children or the importance attributed to education. The Court could still have upheld the constitutionality of FLPMA against an irrebuttable presumption challenge because Locke's interest was not a fundamental right.

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63. S. 507, 94th Cong., 1st Sess. § 311 (1975) originally stated that a claim not properly recorded "shall be conclusively presumed to be abandoned and shall be void."
64. *See supra* note 47.
65. *See* Locke v. United States, 573 F. Supp. 472 (1983).
66. 414 U.S. 632 (1974).
67. 412 U.S. 441 (1973).
68. *LaFleur,* 414 U.S. at 639-40.
69. *Vlandis,* 412 U.S. 441.
70. Plyer v. Doe, 457 U.S. 202, 221 (1982).
71. *Salfi,* 422 U.S. at 772-73.
72. *Id.* at 771-73.
73. *Id.*
74. *Id.* at 784-85.
75. *Locke,* 105 S.Ct. at 1798. In *Carolene Products,* the Court deferred to legislative judgment on an economic issue. The Court said that regulatory legislation dealing with commercial transactions will not be found unconstitutional without proof that it does not rest on a rational basis. In a footnote, the Court pointed out that where legislation deals with rights protected by the Constitution, particularly those protected by the Bill of Rights, the presumption of constitutionality might be narrower. United States v. Carolene Products Co., 304 U.S. 144, 152 n.4 (1938). This reinforces the difference between the economic interest at stake in *Locke* and the rights affected in *LaFleur* and *Vlandis.*

The Court, however, correctly dealt with the closely related question of substantial compliance. Justice Stevens argued that the untimely filing did not diminish the importance of Congress's purposes and that Locke's acts were entirely consistent with the statutory ends.[76] Thus, substantial compliance would not frustrate the intent of Congress.[77] The majority reasoned, however, that "[f]iling deadlines, like statutes of limitations, necessarily operate harshly and arbitrarily . . . but if the concept of a filing deadline is to have any content, the deadline must be enforced."[78]

The dissent would have the Court do equity.[79] Locke had actively operated his claim for twenty years and had earned four million dollars from gravel sales.[80] Depriving Locke of his livelihood because he missed a filing deadline by merely one day seems excessively harsh. The majority's concern, though, was that a less rigid standard would encourage a lax attitude towards filing deadlines.[81] Further, Locke could easily have protected his interest in the claims by informing himself of the filing deadline and filing the required papers. He cannot complain because he was not vigilant in asserting his rights.[82]

The statute creates a "trap for the unwary"[83] only if it is impermissibly vague. A vague statute would violate due process by giving insufficient notice of what is required.[84] The Court dealt with the notice requirement as part of the third prong of the *Texaco* test.[85]

Disagreement arose over whether or not the Act provided adequate notice.[86] The Justices agreed that publication of the statute provided at least some notice. The dissenting Justices argued, however, that the filing deadline, "prior to December 31," was impermissibly vague.[87]

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76. *Locke*, 105 S.Ct. at 1806 (Stevens, J. dissenting).

77. *Id.* at 1808.

78. *Id.* at 1796 (Marshall, J., for the Court).

79. *Id.* at 1808 (Stevens, J., dissenting). "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." *Id.*

80. *Id.* at 1803 (Powell, J., dissenting).

81. *Id.* at 1796 (Marshall, J., for the Court).

82. *Id.* at 1799.

83. *Id.* at 1808 (Stevens, J., dissenting).

84. *See* Texaco, Inc. v. Short, 454 U.S. 516, 531-33 (1982); Usery v. Turner Elkhorn Mining Co., 428 U.S. 1, 16-17 (1976).

85. *Locke*, 105 S.Ct. at 1799-1801. All Justices agreed that FLPMA met the first and second prongs of the *Texaco* test. "[J]ust as a state may create a property interest that is entitled to constitutional protection, the state has the power to condition retention of that property right on the performance of reasonable conditions that indicate a present intention to retain the interest." Texaco, Inc. v. Short, 454 U.S. 516, 526 (1982). Further, "regulation of property rights does not 'take' private property. . . ." *Locke*, 105 S.Ct. at 1799. A number of decisions establish the authority of the state to condition the retention of a property right on the performance of an act within a limited time period. *See, e.g.*, El Paso v. Simmons, 377 U.S. 902 (1964); Wilson v. Iseminger, 185 U.S. 55 (1902).

86. *Compare Locke*, 105 S.Ct. at 1799 *with id.* at 1803 (Powell, J., dissenting) *and id.* at 1805 (Stevens, J., dissenting).

87. *Id.* at 1804 (Powell, J., dissenting); *id.* at 1810 (Stevens, J., dissenting).

Justice Stevens said that Congress could not have intended for the deadline to 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. . . ."[88] Locke lost his entire livelihood because the Court's construction of the statute, according to Justice Stevens, "creates a trap for the unwary."[89]

After the enactment and publication of the statute, however, Locke had ample time to familiarize himself and comply with the terms of the Act.[90] Locke met the initial filing requirement; thus he presumably knew of the Act and his need to inquire into the Act's demands.[91]

The dissent argued that the enactment of the statute did not provide sufficient notice because the "statutory deadline [for filing] is too uncertain to satisfy constitutional requirements."[92] The statute reads that filing must occur "prior to December 31." This, according to the dissent, creates uncertainty as to when the documents must be filed. This uncertainty arises because there is a natural tendency to interpret the language as "by the end of the calendar year."[93] The dissent further noted that the BLM regulations interpreting the statute do not use the language of the statute "prior to December 31." Instead, they read "on or before December 30." The dissent questioned the Court's conclusion that the language is plain, reasoning that, if the language was plain, the BLM would feel no need to change it.[94]

This argument fails when confronted by past decisions. Fixed dates are often essential to accomplish necessary results.[95] When faced with a deadline, which is inherently arbitrary, the Court must, at least in a civil case, apply the date fixed by statute.[96] A literal reading of Congress' words is generally the only proper reading with respect to filing deadlines.[97] When one reads the statute literally, the filing deadline is December 30, because the statute says "prior to December 31." The majority thus correctly determined that the filing deadline was clear and not vague.

CONCLUSION

The Court found that section 314(c) of FLPMA is a forfeiture provision which presumes nothing about a claimant's intent. The Court applied the *Texaco* test and correctly determined that FLPMA met all the due process requirements of a forfeiture statute. Where a statute provides for forfeiture, substantial compliance is not sufficient. The burden is proper-

88. *Id.* at 1806 (Stevens, J., dissenting) (emphasis in original).
89. *Id.* at 1808.
90. *Id.* at 1800 (Marshall, J., for the Court).
91. *Id.*.
92. *Id.* at 1802 (Powell, J. dissenting).
93. *Id.* at 1805-06 (Stevens, J. dissenting).
94. *Id.*. at 1807
95. United States v. Boyle, 105 S.Ct. 687, 692 (1984).
96. United States Railroad Retirement Board v. Fritz, 449 U.S. 166, 179 (1980).
97. *Locke*, 105 S.Ct. at 1792.

ly placed on the party affected by the statute to inform himself of the statutory requirements and comply with them.

The Court could have upheld FLPMA using the irrebuttable presumption analysis as limited by *Salfi*. It ignored the common usage of the term "abandonment" in the mining field. This emphasizes the Court's intention to narrow the use of the irrebuttable presumption analysis to situations fitting squarely within the framework of *Vlandis*.

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