

NOTE: This disposition is nonprecedential.



United States Department of the Interior  
Office of Hearings and Appeals  
Interior Board of Land Appeals  
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January 29, 2016

IBLA 2016-13, <i>et al.</i>	)	UMC 128384 <i>et al.</i>
	)	
ALTHEA AND SHAYNE CRAPO	)	Maintenance Fees
	)	
	)	Decision Affirmed;
	)	Stay Denied at Moot

ORDER

Althea and Shayne Crapo (Appellants) have appealed from and petitioned for a stay of two September 23, 2015, decisions made by the Utah State Office, Bureau of Land Management (BLM). In those decisions, BLM declared the lode mining claims Treasure Chest #1-8 (UMC 128384, 128385, 128386, 128387, 128388, 128389, 128390, and 128391) forfeited for failure to pay the mining claim maintenance fees or file a small miner waiver certification (Waiver Certification) on or before September 1, 2015, for the 2016 assessment year. Although Appellants' appeals (IBLA 2016-13 and IBLA 2016-15) were docketed separately, given that the claims are identical in nature, the Board has consolidated the cases. *See* 43 C.F.R. § 4.404.

The issue before us in this case is: Did Appellants' failure to pay mining claim maintenance fees or file a Waiver Certification on or before September 1, 2015, render their mining claims forfeited (or void). For the reasons that follow, we answer that question in the affirmative. We also deny Appellants' petitions for a stay as moot.

Pursuant to the statute codified at 30 U.S.C. § 28f(a) (2006) and the regulations at 43 C.F.R. § 3834.11(a)(2), the holder of an unpatented mining claim, mill site, or tunnel site is required to pay a maintenance fee for each claim or site on or before September 1 of each year. The statute and its implementing regulations provide that failure to timely pay the required maintenance fee automatically results in forfeiture of the mining claim. 30 U.S.C. § 28i (2006); *see* 43 C.F.R. §§ 3830.91(a)(3), 3835.92(a).

The statute, however, grants the Secretary of the Interior the discretion to waive the fee for a claimant who certifies in writing that, on the date the payment is due, the claimant and all related parties hold not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands. A claimant who has filed a Waiver Certification is required to (1) perform assessment work during the assessment year for which the waiver is granted, and (2) file an affidavit of labor on or before December 30 of the calendar year in which the assessment year ends. 43 C.F.R. §§ 3835.12, 3835.15, 3835.31(a); see *John J. Trautner*, 165 IBLA 265, 267 (2005); *Earl Riggs*, 165 IBLA 36, 39 (2005).

BLM and this Board are without authority to excuse lack of compliance or extend the time for compliance with the maintenance fee requirement, or to afford any relief from the statute's automatic claim forfeiture provisions. *Randall Story*, 185 IBLA 239, 241 (2015); *Jon Roalf*, 169 IBLA 58, 62 (2006); *Carl A. Parker, Sr.*, 165 IBLA 300, 303-04 (2005), and cases cited.

On appeal, Appellants admit they did not submit a maintenance fee payment or Waiver Certification for the 2016 assessment year on or before September 1, 2015. Therefore, as a matter of law, their mining claims were automatically forfeited, and accordingly we uphold BLM's Decision. See 43 C.F.R. §§ 3830.91(a)(4), 3835.92(a), 3835.10(a).

In reviewing this case, we carefully considered Appellants' arguments made on appeal. Appellants claim that under usual circumstances, Loy Crapo was in charge of handling all of the mining claims. However, he suddenly passed away, leaving the new responsibility to them. As a result, Appellants explain that since they were not used to filing the Waiver Certifications for their mining claims, they simply forgot to do it for the 2016 assessment year. Unfortunately for Appellants, as noted, the law is self-operative, meaning once the deadline of September 1, 2015 was missed, Appellants automatically forfeited their claims. There is nothing BLM or this Board is legally authorized to do to relieve Appellants of the consequences of not timely filing their Waiver Certifications. 43 C.F.R. § 3835.92(a); See *Carl A. Parker, Sr.*, 165 IBLA 300, 303-04 (2005), and cases cited; *Joe Bob Hall*, 135 IBLA 284, 286 (1996); *Alamo Ranch CO.*, 135 IBLA 61, 76 (1996); *Jon Roalf*, 169 IBLA 58, 62 (2006).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the decision appealed from is affirmed and the petition for stay is denied as moot.

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/s/  
Eileen G. Jones  
Chief Administrative Judge

I concur:

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/s/  
James F. Roberts  
Deputy Chief Administrative Judge