



BRUCE CURTIS

185 IBLA 371

Decided June 2, 2015



United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy St., Suite 300
Arlington, VA 22203

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IBLA 2015-37

Decided June 2, 2015

Appeal from a decision of the Arizona State Office, Bureau of Land Management, declaring unpatented mining claims forfeited and void for failure to cure defects within 30 days of receipt of notice. AMC371711, *et al.*

Affirmed.

1. Federal Land Policy and Management Act of 1976:
Recordation of Mining Claims or Abandonment--Mining
Claims: Defective Filing--Mining Claims: Placer Claims

Under 43 C.F.R. § 3833.33, an association placer mining claim may be transferred, sold, or otherwise conveyed to an equal or greater number of mining claimants. If the claim is transferred to an individual or an association that is smaller in number than the association that located the claim, a valuable mineral deposit must have been discovered before the transfer, or upon notice from BLM, the transferee claimant(s) must reduce the acreage of the claim, if necessary, to meet the 20-acre per locator limit. When the claimant has not filed documentation supporting a discovery of a valuable mineral deposit prior to the date of transfer, BLM properly affords the claimant 30 days notice to reduce the acreage of the claim to meet the 20-acre limit. If a claimant fails to amend the claim within the 30-day period, the mining claim is forfeited.

APPEARANCES: Bruce Curtis, Mina, Nevada, *pro se.*

OPINION BY ADMINISTRATIVE JUDGE ROBERTS

Bruce P. Curtis (Appellant) appeals a decision of the Arizona State Office, Bureau of Land Management (BLM), declaring 5 mining claims (Royal Gold #1 (AMC371066) and Cortez Gold #1 through #4 (AMC371711 through AMC371714))

forfeited and void. BLM stated in its Decision that the claims were forfeited because Appellant failed to either amend the claims to reduce the number of acres in the claims, or in the alternative, to file documentation supporting a discovery of a valuable mineral deposit prior to the date of transfer of the claims. BLM had previously issued a Notice to Appellant affording him 30 days in which to file claim amendments or documentation supporting a discovery of a valuable mineral deposit. Based on the following analysis, we affirm BLM's decision.

Background

The five claims at issue were originally located in La Paz County, Arizona by an association of 8 persons in February 2006. Each of the 8 co-locators located 20 acres in each claim, so that each association placer mining claim contained 160 acres, the maximum permitted by law for an association placer mining claim. 30 U.S.C. §§ 35, 36 (2012); 43 C.F.R. § 3832.22(b). The 8 original locators then quitclaimed the mining claims to Bruce P. and Gaile A. Curtis on June 12, 2006. BLM's record shows that it received copies of the quitclaim deeds on that date. However, there is no record that the original locators complied with the regulation applicable to a transfer of an association placer mining claim.¹ That regulation requires that upon transfer of an association placer claim to an individual or an association that is smaller in number than the association that located the claim, the transferor must either "have discovered a valuable mineral deposit before the transfer" or, "[upon] notice from BLM . . . reduce the acreage of the claim" to meet the 20-acre per claimant limit. 43 C.F.R. § 3833.33.

BLM sent a Notice to Appellant on August 18, 2014, alerting him to the fact that the claims at issue did not comply with the 20-acre per locator limit. BLM Letter of Aug. 18, 2014, "Association Placer Mining Claims Documentation or Amendments Required" (Notice) at 1. BLM gave Appellant two options by which he could remedy this problem. Appellant could submit documentation, dated prior to the date of transfer to the lesser number of claimants, supporting a discovery of a valuable mineral deposit. Notice at 2. In the alternative, Appellant could amend the claims to reduce the acreage to meet the 20-acre per locator limit. *Id.* BLM provided Appellant 30 days from the date he received the notice to document a discovery of a valuable mineral deposit or to amend the claims. *Id.* BLM provided notice to Appellant that if the required documents or amendments were not received within the 30 day time period, the mining claims would be declared forfeited and void. *Id.*

Appellant responded to the Notice with a letter received by BLM on September 26, 2014. In that letter, Appellant stated that the "claims had 8 locators and test pits

¹ The record demonstrates that Appellant made timely filings of Maintenance Fee Waiver Certifications and Affidavits of Performance of Assessment Work, and the required processing fees, for the claims from 2006 to 2014.

to verify the mineral sources when originally filed.” Undated Letter from Bruce and Gaile Curtis to BLM. Appellant concluded on that basis that “the claims were transferred per 43 CFR 3833.33 as required.” *Id.*

On October 3, 2014, BLM issued the decision under appeal, finding the 5 claims forfeited and void because Appellant had not filed amendments to the claims or documentation supporting a discovery of a valuable mineral deposit by within the 30 days provided. Appellant timely appealed BLM’s decision. Appellant does not state that he filed amendments to the claims or provided the requested documentation. Instead, Appellant explains that he was in the process of moving when he received the Notice and was therefore unable to locate his claim documents. Notice of Appeal at 1. Appellant further states that he was unable to contact the original locators of the claims or the BLM staff person listed on the Notice. *Id.* He states that his cell phone service is very limited, and that in his present circumstances he has “no way to copy, fax or scan anything.” *Id.* In conclusion, Appellant requests “as much time as can be allowed to contact the sellers, and try to unpack and locate the documents [BLM is] requesting.” *Id.*

Analysis

[1] The law provides that no placer location shall include more than 20 acres for each individual claimant, and may not exceed 160 acres for an association of up to eight individual claimants. 30 U.S.C. §§ 35, 36 (2012); 43 C.F.R. § 3832.22(b). Upon transfer of an association placer claim to an individual or an association that is smaller in number than the association that located the claim, the transferor must either “have discovered a valuable mineral deposit before the transfer” or, “[upon] notice from BLM . . . reduce the acreage of the claim” to meet the 20-acre per claimant limit. 43 C.F.R. § 3833.33.

When BLM determines that a claimant has filed any defective document, BLM must send the claimant a notice of the defect by certified mail—return receipt requested. 43 C.F.R. § 3830.94(a). The claimant must cure the defect within 30 days of receipt of BLM’s notification of the defects for any document other than a defective fee waiver request. 43 C.F.R. § 3830.94(b). If a claimant fails to submit the required documentation within the 30-day period, the claimant forfeits the mining claims or sites. 43 C.F.R. § 3830.91(a)(8); *see also* 43 C.F.R. §§ 3830.93(b), 3830.94(d); *Johnny Smith*, 185 IBLA 254 (2015).

In this case, the claims at issue, each of which comprised 160 acres, did not comply with the 20-acre per claimant limit following their transfer to Appellant. 30 U.S.C. §§ 35, 36 (2012); 43 C.F.R. § 3832.22(b). BLM notified Appellant of that defect in the claims, and provided him with 30 days to cure the defect. 43 C.F.R.

§ 3830.94; *see also Melvin Helit*, 146 IBLA 362, 368 (1998) (holding that the provision of notice and opportunity to cure is proper when the inclusion of excess acreage is inadvertent). However, the record does not show that Appellant provided the required documentation that any claimant had “discovered a valuable mineral deposit before the transfer” of the claims to Appellant, or that Appellant amended the claims, within the prescribed time period. 43 C.F.R. § 3833.33.

We have carefully considered Appellant’s Notice of Appeal. A mining claimant on Federal lands has a responsibility to respond to information requests from the agency charged by the United States Congress with managing the Federal lands and resources the claimant wishes to exploit. In accordance with the applicable regulations, 43 C.F.R. §§ 3830.91(a)(8), 3830.93(b), and 3830.94(d), we conclude that BLM properly declared the mining claims abandoned and void.

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.

/s/
James F. Roberts
Administrative Judge

I concur:

/s/
Eileen Jones
Chief Administrative Judge