



MARIE STRICKLAN

187 IBLA 355

Decided May 17, 2016



United States Department of the Interior  
Office of Hearings and Appeals

Interior Board of Land Appeals  
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MARIE STRICKLAN

IBLA 2016-95

Decided May 17, 2016

Appeal from a decision of the Idaho State Office, Bureau of Land Management (BLM). In that decision, BLM stated unpatented mining claims IMC13661 through IMC13668 were forfeited.

Affirmed as modified.

1. Mining Claims: Rental or Claim Maintenance Fees:  
Generally--Mining Claims: Rental or Claim Maintenance Fees

Mining claimants must pay yearly maintenance fees or file for a waiver of maintenance fees for their claims on or before September 1 for the upcoming assessment year. The BLM may waive the claim maintenance fee requirement for a claimant who files a waiver certification on or before September 1 of the assessment year. In the waiver certification, the claimant must certify two facts. One, on the date the maintenance fee payment was due, the claimant and all related parties held not more than 10 mining claims, mill sites, tunnel sites, or any combination thereof, on public lands. And two, they have performed any required assessment work during the assessment year preceding the assessment year for which the waiver is sought.

APPEARANCES: Marie Stricklan, *pro se*.

OPINION BY CHIEF ADMINISTRATIVE JUDGE JONES

Summary

Appellant Marie Stricklan appeals a decision of the Idaho State Office, BLM, issued on January 11, 2016. In its decision, BLM stated Appellant's unpatented mining claims, IMC 13661-13668, were forfeited because Appellant did not timely file a waiver certification. We affirm as modified.

We note that BLM's decision contains a clerical error which we correct on appeal. The decision refers to 8 mining claims, but misidentifies the full name of the claims for IMC 13665-13668. We therefore modify the decision as follows: to refer to IMC 13665 as Crazy Lumberjack #5, IMC 13666 as Crazy Lumberjack #6, IMC 13667 as Crazy Lumberjack #7, and IMC 13668 as Crazy Lumberjack #8.

Appellant's Mining Claims are Forfeited  
Because She Did Not Timely File a Waiver Certification

[1] Mining claimants must pay yearly maintenance fees on or before September 1 for the upcoming assessment year.<sup>1</sup> But BLM may waive the claim maintenance fee requirement for a qualifying small mining claimant who files a waiver certification on or before September 1 for the assessment year.<sup>2</sup> In the waiver certification, the claimant must certify two facts. One, on the date the maintenance fee payment was due, the claimant and all related parties held not more than 10 mining claims, mill sites, tunnel sites, or any combination thereof, on public lands. And two, they have performed any required assessment work during the assessment year preceding the assessment year for which the waiver is sought.<sup>3</sup> The record does not contain evidence that Appellant paid maintenance fees or filed a waiver certification in a timely manner for the 2016 assessment year. Therefore, BLM's decision is consistent with applicable law, and we uphold it.

Appellant does not dispute she did not pay maintenance fees or file a waiver certification by the deadline.<sup>4</sup> Appellant states she realizes her mistake and has provided the necessary forms with her appeal.<sup>5</sup> She asks that the Board reinstate her ownership of the claims.<sup>6</sup> The fact remains, however, that Appellant did not timely pay maintenance fees or file a waiver certification. Under applicable law, we may not

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<sup>1</sup> See 30 U.S.C. § 28f(a) (2012); see 43 C.F.R. § 3834.11(a)(2).

<sup>2</sup> 43 C.F.R. §§ 3835.1, 3835.10, 3835.11(a).

<sup>3</sup> 30 U.S.C. § 28f(d)(1)(A) and (B); 43 C.F.R. § 3835.11(a); see *Kenneth Pedersen*, 187 IBLA 130, 133 (2015).

<sup>4</sup> Notice of Appeal at 2.

<sup>5</sup> *Id.* at 2-3.

<sup>6</sup> *Id.* at 3.

excuse lack of compliance with the maintenance fee and waiver certification requirements. Nor can we extend the time for compliance, or afford relief from the statutory consequences of forfeiture. Because BLM's decision is consistent with applicable law, we uphold it.<sup>7</sup>

Conclusion

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 Board affirms BLM's decision.

\_\_\_\_\_/s/\_\_\_\_\_  
Eileen Jones  
Chief Administrative Judge

I concur:

\_\_\_\_\_/s/\_\_\_\_\_  
James F. Roberts  
Deputy Chief Administrative Judge

<sup>7</sup> See *Ronald W. Ruff*, 185 IBLA 320, 322 (2015).