



DOROTHY SPANGLER

188 IBLA 89

Decided July 20, 2016



United States Department of the Interior  
Office of Hearings and Appeals  
Interior Board of Land Appeals  
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Appeal from an October 15, 2015, decision of the New Mexico State Office, Bureau of Land Management. In its decision the Bureau of Land Management declared a mining claim forfeited because Appellant failed to pay a sufficient claim maintenance fee. NMMC53056.

Affirmed.

1. Mining Claims: Rental or Maintenance Fees

Not paying the regulatory amount of the claim maintenance fee by the deadline results in forfeiture of the mining claim.

2. Regulations

Persons dealing with the Government are presumed to have knowledge of relevant statutes and regulations even if their misunderstanding results in hardship based on application of applicable regulations.

3. Mining Claims: Rental or Maintenance Fees

Since a claim maintenance fee is required by statute, when a mining fee claimant does not pay the proper amount, BLM is not required to provide the claimant with an opportunity to cure the error by submitting additional adequate funds.

APPEARANCES: Dorothy Spangler, *pro se*, Silver City, New Mexico; Benjamin Vaccaro, Esq., U.S. Department of the Interior, Office of the Solicitor, Southwest Regional Office, Albuquerque, New Mexico, for the Bureau of Land Management.

## OPINION BY CHIEF ADMINISTRATIVE JUDGE JONES

*Summary*

To retain a mining claim, a claimant must meet certain regulatory requirements. In this case, the applicable regulatory requirement is payment of a \$155.00 claim maintenance fee by September 1, 2015, for the upcoming assessment year. The appellant mining claimant only submitted \$140.00 for the 2016 assessment year, an insufficient amount. Therefore her mining claim was automatically forfeited, and we affirm the Bureau of Land Management's (BLM) decision.

*BLM Increased the Claim Maintenance Fee in 2014, but in 2015 Appellant Only Paid the Claim Maintenance Fee Due in Previous Years*

On June 30, 2014, BLM amended its regulations to adjust the claim maintenance fee amount, raising it from \$140.00 to \$155.00 per year.<sup>1</sup> On August 21, 2014, Dorothy Spangler (Appellant) paid a maintenance fee in the amount of \$155.00 for the 2015 assessment year (September 1, 2014, to September 1, 2015) for her mining claim.<sup>2</sup> On September 3, 2015, Appellant submitted only \$140.00 to satisfy the claim maintenance fee requirement for the 2016 assessment year (September 1, 2015, to September 1, 2016).<sup>3</sup> BLM found the payment insufficient, and therefore concluded in its decision that Appellant's mining claim was forfeited (voided) as a matter of law (automatically).<sup>4</sup>

On November 5, 2015, Appellant timely filed a Notice of Appeal and Statement of Reasons. In response, BLM filed an Answer.

*BLM Properly Found that Because Appellant Did Not Submit a Full Payment for Her Claim Maintenance Fee, Her Mining Claim was Forfeited*

[1] Under applicable law, a holder of a mining claim must pay an annual maintenance fee on or before September 1 of each year.<sup>5</sup> Failure to timely submit the annual maintenance fee results in forfeiture of a mining claim; therefore, the claim is

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<sup>1</sup> 43 C.F.R. § 3830.21(d).

<sup>2</sup> Administrative Record (AR), Tab 23.

<sup>3</sup> AR, Tab 24.

<sup>4</sup> AR, Tab 25.

<sup>5</sup> 30 U.S.C. § 28f(a)(1) (2012); 43 C.F.R. § 3830.21(d); *Ed Hagberg*, 185 IBLA 403, 404 (2015).

null and void.<sup>6</sup> Partial payment results in forfeiture of a claim, unless a claimant submits additional funds to cover the complete amount of a claim maintenance fee before the deadline of September 1.<sup>7</sup> Appellant did not submit the full amount of her claim maintenance fee for the 2016 assessment year by September 1, 2015. Therefore, BLM did not err in declaring her mining claim forfeited as a matter of law.

[2] On appeal, Appellant contends she relied on Form 3830-5, which she found on a BLM internet site. Appellant states that the form shows that the claim maintenance fee is \$140.00. Appellant argues forfeiture is a grave consequence and should not be used in this instance in which she relied on the form published by BLM.<sup>8</sup>

Our law presumes persons dealing with the Government have knowledge of relevant statutes and regulations even if their misunderstanding results in hardship based on application of applicable regulations.<sup>9</sup> Regardless of the form on BLM's website – which was dated 2012, and thus, preceded BLM's adjustment of the claim maintenance fee – the fact remains that the applicable regulation calls for payment in the amount of \$155.00, not \$140.00. Because Appellant's payment was inadequate, her claim was automatically forfeited.

[3] Appellant also contends BLM was required by 43 C.F.R. § 3830.94 to notify her of an underpayment and provide 30 days to pay the additional amount necessary to complete payment of the \$155.00 claim maintenance fee.<sup>10</sup> The regulation at section 3830.94 provides that when BLM determines a mining claimant has filed any document that is defective or underpaid a fee or service charge, BLM will send a notice to the claimant requiring it to cure the defect within 30 days of receiving BLM's notice. But BLM's regulations specify that if the defect is statutory, it is not curable.<sup>11</sup> Claim maintenance fees are mandated by statute,<sup>12</sup> and BLM is authorized to periodically adjust the amount of the fees.<sup>13</sup> The regulation at

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<sup>6</sup> 30 U.S.C. § 28i (2012); 43 C.F.R. § 3830.91(a)(3); *Chagdud L'hundrub Ling*, 185 IBLA 365, 368 (2015).

<sup>7</sup> See 43 C.F.R. §§ 3830.91(a)(3), 3830.96(b).

<sup>8</sup> Notice of Appeal and Statement of Reasons at 1-2.

<sup>9</sup> See, e.g., *Michael Warholic*, 186 IBLA 358, 361 (2015) (quoting *Fed. Crop Ins. Corp. v. Merrill*, 332 U.S. 380, 385 (1947) and *Audrey Bradbury*, 160 IBLA 269, 274 (2003)).

<sup>10</sup> *Id.*

<sup>11</sup> 43 C.F.R. § 3830.93(a).

<sup>12</sup> See 30 U.S.C. § 28f (2012); see also *Chagdud L'hundrub Ling*, 185 IBLA at 369.

<sup>13</sup> See 30 U.S.C. § 28j(c) (2012).

43 C.F.R. § 3830.94 is not applicable, and BLM is not obliged to provide notice to a claimant that the claimant can submit additional funds to complete payment of the full amount owed for claim maintenance.

We have considered all of Appellant's arguments as well as the entire record. Based on that review and the applicable law, we find no error in BLM's decision.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior,<sup>14</sup> we affirm the decision under appeal.

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

I concur:

\_\_\_\_\_/s/\_\_\_\_\_  
Amy B. Sosin  
Administrative Judge

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<sup>14</sup> 43 C.F.R. § 4.1.