



LAURA Y. STEFFLER

188 IBLA 171

Decided August 25, 2016



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IBLA 2016-101

Decided August 25, 2016

Appeal from a decision of the Idaho State Office, Bureau of Land Management (BLM). In its decision, BLM declared an unpatented mining claim abandoned and void by operation of law for failure to file an affidavit of assessment work. IMC 175830.

Affirmed.

1. Mining Claims: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold

A claimant who files a maintenance fee waiver certification must perform assessment work during the same assessment year for which the waiver is granted, and then file an affidavit of the assessment work on or before December 30 following the end of that assessment year in accordance with annual filing requirements found in section 314(a) of FLPMA. Failure to timely file an affidavit of assessment work when required is deemed conclusively to constitute an abandonment of the mining claim, rendering the claim void. Neither BLM nor the Board has discretion to waive these requirements or to provide relief from the consequences of noncompliance.

APPEARANCES: Laura Y. Steffler, Boise, Idaho, *pro se*.

OPINION BY CHIEF ADMINISTRATIVE JUDGE JONES

Summary

When a mining claimant files a maintenance fee waiver certification (Waiver Certification) for an assessment year, the claimant must file an Affidavit of assessment work on or before December 30 immediately following the end of that

assessment year.¹ Failure to timely file an Affidavit renders the claim void.² Here, Appellant did not timely file the required Affidavit. Therefore, BLM properly found the claim null and void.

*Appellant Did Not Timely File Her Affidavit of Assessment Work
and Therefore Her Claim is Void*

[1] Under Federal law, the holder of an unpatented mining claim is required to pay a maintenance fee for each claim or site on or before September 1 of each year.³ But the maintenance fee can be waived for small miners who meet certain requirements. If a claimant timely certifies in writing that the claimant, and all related parties, have no more than 10 mining claims, mill sites, tunnel sites, or any combination thereof, on public lands, the claimant may file a Waiver Certification.⁴ A mining claimant who files such a Waiver Certification is required to perform assessment work during the assessment year for which the waiver is granted, and then file an Affidavit on or before December 30 of the calendar year in which the assessment year ends.⁵ Failure to timely file an Affidavit when required constitutes an abandonment of the mining claim, rendering the claim void.⁶

In this case, BLM granted Appellant a waiver of the maintenance fee requirement for the 2014 assessment year, so Appellant was required to file an Affidavit for that assessment year on or before December 30, 2014, to maintain her unpatented mining claim.⁷ The record shows that Appellant did not file an Affidavit for the 2014 assessment year. Consequently, Appellant's claim was automatically forfeited and became null and void when the deadline for filing passed.⁸ BLM's decision therefore properly declared Appellant's claim abandoned and void by operation of law.

¹ 43 U.S.C. § 1744(a)(1) (2012); 43 C.F.R. §§ 3835.15, 3835.31(a); *see also Paul Dickison*, 186 IBLA 69, 70-71 (2015).

² 43 U.S.C. § 1744(c) (2012); 43 C.F.R. § 3835.91; *see also Paul Dickison*, 186 IBLA at 71 (citing *United States v. Locke*, 471 U.S. 84, 97-100 (1985)).

³ 30 U.S.C. § 28f(a) (2012); 43 C.F.R. § 3834.11(a)(2).

⁴ 30 U.S.C. § 28f(d) (2012).

⁵ 43 U.S.C. § 1744(a)(1) (2012); 43 C.F.R. §§ 3835.12, 3835.15(b)-(c), 3835.31(a) and (d)(3); *see, e.g., Michael Warholic*, 186 IBLA 358, 359, 361 (2015).

⁶ 43 U.S.C. § 1744(c) (2012); *see, e.g., Michael Warholic*, 186 IBLA at 360-61.

⁷ *See* 43 C.F.R. §§ 3835.12, 3835.31(a) and (d)(3).

⁸ *See* 43 U.S.C. § 1744(c)(2012); 43 C.F.R. § 3835.91.

In deciding this appeal, we carefully considered Appellant's arguments. Appellant argues that she was confused about when she had to file the Affidavit. However, that does not change the statutory requirement that an Affidavit must be timely filed, and in the absence of that filing, a claim is automatically voided. We do not have discretion to waive the requirements or to provide relief from the consequences of noncompliance.⁹

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior,¹⁰ we affirm BLM's decision.

_____/s/_____
Eileen Jones
Chief Administrative Judge

I concur:

_____/s/_____
James F. Roberts
Deputy Chief Administrative Judge

⁹ *Paul Dickison*, 186 IBLA at 71.

¹⁰ 43 C.F.R. § 4.1.