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## Claim Maintenance Fees – Mining Law of 1872

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On May 23, 2017 the U.S. Court of Federal Claims certified a class action and entered summary judgment in favor of the plaintiff, Silver Buckle Mines, Inc., an Idaho based mining claim holder, and concluded that Silver Buckle Mines is entitled to recover all 2013 claim maintenance fees paid on its unpatented mining claims located prior to August 10, 1993. The class, as described below, includes all persons who were the holder of all or part of a nonplacer unpatented mining claim or site for which claim maintenance fees were paid timely in 2013.

Prior to 1993 the Bureau of Land Management (“BLM”) required that mining claim holders conduct a minimum level of assessment work on their claims and comply with the Federal Land Policy Management act of 1976 annual filing requirements to continue holding their mining claims.

In 1993 Congress changed the law to require claim holders to pay an annual maintenance fee for each claim to the BLM in lieu of the assessment work and related filing requirements.

Congress made changes to the claim maintenance fees in the Consolidated Appropriations Act of 2012 eliminating the claim maintenance fees for unpatented lode mining claims, mill sites, and tunnel sites (nonplacer claims) located before August 10, 1993 and increasing the maintenance fees for unpatented placer mining claims. The changes provided that:

*The holder of each unpatented lode mining claim, mill site, or tunnel site, located pursuant to the mining laws of the United States on or after August 10, 1993, shall pay . . . a claim maintenance fee . . . .*

*. . . The holder of each unpatented placer mining claim located pursuant to the mining laws of the United States located before, on or after August 10, 1993, shall pay . . . .*

Disregarding the change in the law's text, the BLM promulgated regulations that continued to require payment of the claim maintenance fees for the 2013 Assessment year on pre-August 10, 1993 unpatented nonplacer claims. In 2013, Congress amended the claim maintenance fee requirement and inserted “before” so the language read “*before, on, or after August 10, 1993*” for unpatented non placer claims.

Silver Buckle Mines paid the claim maintenance fees on its lode mining claims located prior to August 10, 1993 and filed for a refund in the United States Court of Federal Claims. The Court determined that Silver Buckle was entitled to recover all 2013 claim maintenance fees paid.

The court defined the class as:

*With respect to an unpatented lode mining claim, unpatented mill site, or unpatented tunnel site located pursuant to the mining laws of the United States prior to August 10, 1993, for which a claim maintenance fee for such claim or site for assessment year 2013 was timely paid to the United States Secretary of the Interior on or before September 1, 2012, each and every person who, at the time of such payment, was the holder of all or any part of such claim or site, unless a waiver under 30 U.S.C. § 28f(d) pertaining to the claim or site was in place of assessment year 2013.*

The class action concerns the 2013 claim maintenance fees paid on pre-1993 (August 10, 1993) unpatented nonplacer claims. Silver Buckle Mines is the class representative and Frank R. Siderius of Seattle WA is class counsel.

If you or your company paid the claim maintenance fees on pre-August 10, 1993 unpatented nonplacer claims for the 2013 assessment year you may be entitled to a refund. Pursuant to applicable procedural rules, class counsel is required to send a court-approved notice of the class action and potential recovery to all known or reasonably-ascertainable class members. The court may consider the issue of class notices as soon as later this month. To ensure that you are included in the list of known potential class members, we would be happy to assist in providing your contact information to the class counsel so that receive notice.

For more information, please contact Karol Kahalley at (303) 290-1060 or [kkahalley@hollandhart.com](mailto:kkahalley@hollandhart.com).