

## Bureau of Land Management, Interior

## § 3851.5

Statutes (30 U.S.C. 28) will render the claim subject to cancellation.

(b) Except as provided in § 3851.5 and subpart 3852, failure to perform the assessment work required under § 3851.1 causes the interest of the claimant(s) in the minerals subject to the mining laws to revert back to the public domain.

(c) 30 U.S.C. 28f, with certain exceptions for small miners, temporarily suspends and supersedes the requirement to perform assessment work under § 3851.1, and requires the payment of an annual \$100 maintenance fee per mining claim in lieu of the assessment work. For oil shale claims, the Energy Policy Act of 1992 (30 U.S.C. 242) suspends and supersedes the requirement to perform assessment work under § 3851.1, and requires the payment of an annual \$550 rental fee per oil shale mining claim in lieu of the assessment work. The maintenance fee requirements and waivers from the maintenance fee are described in §§ 3833.0-3(f), 3833.1-5, 3833.1-6, and 3833.1-7 of this title.

[37 FR 17836, Sept. 1, 1972, as amended at 58 FR 38202, July 15, 1993; 59 FR 44863, Aug. 30, 1994; 64 FR 47022, Aug. 27, 1999; 67 FR 38206, June 3, 2002]

### **§ 3851.4 Failure of a co-owner to contribute to annual assessment work; or to the payment of maintenance fees.**

(a) Upon the failure of any co-owner of a mining claim or mill or tunnel site to contribute the proper proportion of the required expenditures, the co-owners who have performed the labor, made improvements, paid the maintenance fee required under §§ 3833.1-5 and 3833.1-6 of this title, may, at the expiration of the assessment year, give such delinquent co-owner personal notice of this failure in writing. Alternatively, this notice may be given by publication in the newspaper published nearest the claim for at least once a week for 90 days. If, upon the expiration of 90 days, after such notice in writing, or upon the expiration of 180 days after the first newspaper publication of notice, the delinquent co-owner shall have failed to contribute the proportionate share of such expenditures or improvements, such interest in the

claim by law passes to the co-owners who have made the expenditures or improvements.

(b) A claimant alleging ownership of a forfeited interest under paragraph (a) of this section who requests the authorized officer to change the ownership records of the affected mining claims or sites shall present the following:

(1) Statement of the publisher of the newspaper as to the facts of publication, giving the beginning and ending dates of publication, a printed copy of the notice published, and a statement by the claimant that the delinquent co-owner failed to contribute the proper proportion within the period fixed by the statute, or

(2) Evidence of personal notice of delinquency upon the delinquent party. If notice is effected by mail, the minimum sufficient evidence shall consist of a copy of the notice and a copy of the return receipt of the U.S. Postal Service evidencing receipt by the delinquent party of a registered or certified envelope containing the notice. If notice was made in person, an affidavit signed and dated on the date of notice will suffice as evidence of such notice; and

(3) In all cases, a signed and dated statement by the claimant that the delinquent co-owner failed to contribute the proper proportion within the period fixed by the statute.

(c) Upon determination by the authorized officer that paragraphs (a) and (b) of this section have been complied with, the BLM records of the mining claim shall be changed pursuant to § 3833.3 of this title. Such a change in ownership requires that the claimant submit the service charge required for a transfer of interest pursuant to § 3833.1-4 of this title.

(d) Active duty military personnel who give notice and comply with § 3851.6 are not subject to the provisions of this section.

[59 FR 44863, Aug. 30, 1994]

### **§ 3851.5 Assessment work not required after allowance of mineral entry.**

Performance of annual assessment work and payment of maintenance fees is not required after the date that the mineral entry has been allowed.