

In the United States Court of Federal Claims

No. 13-476C
(Filed: July 10, 2018)

SILVER BUCKLE MINES, INC., *
for Itself and as Representative of a *
Class of Similarly Situated Parties, *
*
Plaintiff, *
*
v. *
*
THE UNITED STATES, *
*
Defendant. *

ORDER

On May 23, 2017, the court issued an opinion and order granting summary judgment in favor of plaintiff Silver Buckle Mines, Inc. (“Silver Buckle”), certifying the above-captioned case as a class action, and defining the class as follows:

With respect to an unpatented lode mining claim, unpatented mill site, or unpatented tunnel side 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 for assessment year 2013.

Silver Buckle Mines, Inc. v. United States, 132 Fed. Cl. 77, 103-04 (2017).

After defendant challenged Silver Buckle’s standing and, alternatively, the scope of the class definition, the court issued an opinion and order on February 2, 2018, in which it determined that plaintiff had standing to pursue its claim and that “the class definition as currently constituted is appropriate.” Silver Buckle Mines, Inc. v. United States, 136 Fed. Cl. 179, 186-87 (2018).

On June 25, 2018, Silver Buckle filed a motion to modify the class definition. Silver Buckle explains that “there were some potential class claimants who were allowed to pay claim maintenance fees for the 2013 assessment year after September 1, 2012 [which were] deemed by

the [United States Department of the Interior Bureau of Land Management] to be timely paid” and that its proposed modification to eliminate the clause “‘on or before September 1, 2012’ . . . will result in a class consisting of claimants who have ‘timely paid’ claim maintenance fees for assessment year 2013, even if such timely payments were made after September 1, 2012.” Pl.’s Mot. 1-2, ECF No. 67 (emphasis added). Accordingly, Silver Buckle proposes a modified class definition as follows:

With respect to an unpatented lode mining claim, unpatented mill site, or unpatented tunnel side 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, 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 for assessment year 2013.

Id. at 2. Defendant does not oppose “modification of the definition [of the class] to address instances where timely payment occurred after September 1, 2012.” Def.’s Resp. 1, ECF No. 71.

The court agrees with the parties that all claimants “with respect to whom a claim maintenance fee was timely paid for assessment year 2013,” id. (emphasis added), should be included in the class. Therefore, the court **GRANTS** Silver Buckle’s unopposed motion to modify the class definition because the proposed modification limits the class accordingly. The class definition is hereby modified as follows:

With respect to an unpatented lode mining claim, unpatented mill site, or unpatented tunnel side 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, 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 for assessment year 2013.

IT IS SO ORDERED.

s/ Margaret M. Sweeney
MARGARET M. SWEENEY
Judge