



NEW BRUNSWICK
ENERGY & UTILITIES BOARD
COMMISSION DE L'ÉNERGIE ET DES SERVICES PUBLICS
NOUVEAU-BRUNSWICK

PROVINCE OF NEW BRUNSWICK
NEW BRUNSWICK ENERGY AND UTILITIES BOARD
IN THE MATTER OF THE MINING ACT, S.N.B., c. M-14.1

Matter: MN-001-2025

BETWEEN:

MegumaGold Corp.,

Appellant,

-and-

The Recorder

Respondent.

DECISION AND ORDER

PANEL: Christopher Stewart

DATE OF HEARING: February 28, 2025

WRITTEN REASONS: March 11, 2025

APPEARANCES: Mike Taylor for the Appellant
Christopher Whibbs for the Respondent

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1 Introduction and Summary Conclusion

- [1] This matter involves an application pursuant to paragraph 13(1)(e) of the *Mining Act* (the “Act”) to reinstate mineral claims 3848 and 7923. These claims expired at midnight on December 18, 2024, because the holder of the claims failed to pay the required fees, one of the prerequisites for renewal set out in section 56.
- [2] Unless otherwise noted, all statutory references in this decision are references to portions of the *Act*.
- [3] By correspondence dated January 23, 2025, and in accordance with subsection 113(1), the Appellant appealed to the Board with respect to the expiry of claims 3848 and 7923. The Board summarily heard the parties in accordance with subsection 113(6) by videoconference on February 28, 2025.
- [4] The Board reinstates mineral claims 3848 and 7923 until **midnight, March 26, 2025**, providing an opportunity for the Appellant to meet the conditions precedent for the ongoing renewal of a mineral claim set out in section 56.

2 Background

- [5] The Appellant, MegumaGold Corp. is the holder of certain mineral claims located northwest of Bathurst, New Brunswick, known as the Elmtree Claims and identified in the Recorder’s records as claims 3848 and 7923.
- [6] The fee required to be submitted to the Recorder by subparagraph 56(1)(a)(ii) before the expiration of a mineral claim is a precondition for the holder of a claim to have an automatic statutory right to renew that claim under subsection 55(1).
- [7] Claims 3848 and 7923 expired pursuant to subsection 55 after the Appellant failed to submit the required \$100 fee for each claim on or before midnight on December 18, 2024.
- [8] The Appellant seeks reinstatement of claims 3848 and 7923. The Appellant asserted a demonstrable ongoing intention to maintain the claims, that its failure to pay the prescribed fees was inadvertent, and that the Recorder’s failure to immediately process a filed Report of Work on claim 3848 contributed to its failure to pay the prescribed fees. The Appellant submits it would be unfair to lose the claims after several years and considerable investment in maintaining them because of a single administrative oversight.

[9] In response, the Recorder disputed the Appellant’s allegation that the Recorder contributed to the Appellant’s failure to pay the required fees but took no position on the request for reinstatement of claims 3848 and 7923.

3 Issues

- a. Is it fair and equitable in the circumstances for the Board to reinstate claims 3848 and 7923?

4 Should the Board reinstate claims 3848 and 7923?

[10] The Board’s jurisdiction with respect to matters relating to the *Act* is largely set out in section 13. The Board has the authority to order the reinstatement of an expired mineral claim pursuant to subsection 13(6), which expressly provides that, “*In determining any question, disagreement, matter or claim under this section ... the Board may order the ... reinstatement of a mineral claim*”. Section 13 includes matters, “*...respecting the ... extension or renewal of mineral claims....*” as referenced in paragraph 13(1)(e).

[11] The Board applies a test of what is fair and equitable in the circumstances to determine if the relief of reinstatement should be granted (***Cadillac Ventures Inc. and Ring of Fire Metals PYT Ltd. v. The Recorder MN-001-2023, Stewart v. New Brunswick (Mining Commissioner)*** (1995), N.B.R. (2d) 353 (Q.B.); [1995] N.B.J. No. 191).

[12] The Board’s review of the evidentiary record leads to the following findings of fact:

- 1) The Appellant moved quickly to seek relief once the expiry of claims 3848 and 7923 was discovered. Michael Taylor is a director of the Appellant. He testified that he sought reinstatement on December 22, 2024, immediately after discovering the claims had expired 4 days earlier. Page 19 of Exhibit A-1 is a copy of Mr. Talyor’s email to the Recorder and to Joe MacIntosh, Resource Information Systems Administrator with Resource Development Branch, asking the Recorder to reinstate claims 3848 and 7923 and confirming the Appellant’s intention to continue with the claims in 2025. Mr. MacIntosh responded the next day, offering to prevent the claims from coming open for acquisition until Mr. Taylor had the opportunity to obtain a determination from the Recorder after the holiday season [Exhibit A-1, pg. 22]. The Recorder responded on January 3, 2025, saying that the expired claims were not able to be reinstated because it is “not something that has historically been done” and noting that the Recorder’s Office had sent renewal reminders [Exhibit A-1, pg. 25]. Mr. Taylor testified that the Appellant continued to exchange

emails with the Recorder’s Office for the purpose of learning how to seek reinstatement from the Mining Commissioner, which led to this appeal.

- 2) The Appellant did not intend claims 3848 and 7923 to expire. Mr. Taylor confirmed that the Appellant had intended to renew the claims. The Recorder did not challenge this position or submit any contradictory evidence. The record demonstrates that the Appellant has made significant investment in the claims and intends to continue exploration activities in the future. The Appellant’s Management Discussion and Analysis for the periods ended December 31, 2024 and 2023 indicates that the Appellant’s primary focus will be to advance the Elmtree project and it, along with a related company, invested \$224,719 in the claims since 2018, including a \$82,974 drilling expenditure in 2022 [Exhibit A-1, pg. 12]. The Appellant reported to the Recorder approximately \$83,000 in work on claim 7923 in 2022 [Exhibit A-1, pg. 16] and work valued at \$2,825 on claim 3848 in 2024 [Exhibit A-1, pg. 17].
- 3) The Appellant’s failure to pay the fees was inadvertent and a result of Mr. Taylor’s oversight. On November 22, 2024, Mr. Taylor filed a Report of Work for claim 3848 valued at \$2,825 [Exhibit A-1, pg. 17] to resolve an outstanding 2024 work requirement of \$1,039.99 and to satisfy the requirement to declare \$1,200 of work to allow renewal of the claim. Claim 7923 was in good standing on November 22, 2024, as the Appellant’s 2022 drilling expenditure generated sufficient credits to allow renewal of that claim without declaring further work. Mr. Taylor testified that he attempted to renew both claims immediately after filing the Report of Work on November 22 and again on November 25 after he received a renewal reminder from the Recorder’s office for claim 3848, but the electronic filing system did not allow him to do so. Even though Mr. Taylor admitted to having been active on the Recorder’s electronic filing system over the subsequent weeks, the Board accepts his testimony that he forgot about the renewals until he discovered on December 22 that the claims had expired.
- 4) The Appellant was aware of its obligations to submit the required fees and of the consequences for failing to do so. The evidence of Mr. Taylor demonstrates that the Appellant is sophisticated and was aware of its obligations to maintain mineral claims and the potential consequences of failing to do so. Despite the importance of submitting the fees, the Appellant’s only internal reminder system was a spreadsheet Mr. Taylor maintains for his personal use. He admitted that he became too busy in December 2024 to follow his typical practice of consulting the spreadsheet to ensure he is aware of any upcoming changes in the status of claims.

- 5) The Recorder did not contribute to the Appellant’s failure to successfully renew the claims. The November 25 reminder informed Mr. Taylor of a \$1,039.99 “negative excess” in respect of claim 3848 and warned that “the Report of Work previously submitted has yet to be approved or processed” [Exhibit A-1, pg. 20]. The reminder also invited Mr. Taylor to contact the Recorder’s Office for further information. While the atypical renewal process for claim 3848 may have contributed to Mr. Taylor’s oversight, the Board finds that the Recorder bears no responsibility. The Recorder instead facilitated the timely renewal of claim 3848 by sending the November 25 reminder.
- [13] The Recorder did not lead evidence in this matter or take a position on whether the Appellant should be granted reinstatement. Counsel for the Recorder urged the Board to establish a clear evidentiary basis for the circumstances in which reinstatement is fair and equitable.
- [14] The Board stated in **Cadillac** that while the process for acquiring and maintaining mineral claim rights under the *Act* is deliberately demanding and maintaining the integrity of that statutory regime is important, the seven-day holding period following expiry created by subsection 60(4) and the avenues by which a tardy claim holder can seek redress from the Minister or the Board indicate the possibility of correction is envisioned in the statutory regime. The Board determined in **Cadillac** that allowing a claim holder relief from the “*cruelty of the clock*” in limited and appropriate circumstances after a hearing process is consistent with the purpose and intent of the *Act*, concluding such circumstances exist where the claim expired due to a single internal error, significant investment has been made in the claim, demonstrable evidence exists of an intention to maintain the claim, and the claimant immediately and consistently took steps to pursue reinstatement of the claim.
- [15] The Board concludes that it would be unfair and inequitable for the Appellant to lose its rights as holder of claims 3848 and 7923 because of Mr. Taylor’s oversight. As in **Cadillac**, the evidence demonstrates the Appellant’s claims expired due to a single internal error, significant investment has been made in the claims, demonstrable evidence exists of an intention to maintain the claims, and the Appellant immediately and consistently took steps to pursue reinstatement of the claims.
- [16] Despite evidence that the Appellant had been non-compliant with respect to claim 3848 by failing to file the outstanding Report on Work until November 22, 2024, there is no evidence that the Appellant has failed to heed previous warnings from the Recorder or been relieved from similar oversights in the past. Mr. Taylor reacted immediately to the

November 25 reminder by attempting to renew the claims in accordance with his typical practice. He admitted on cross-examination that he chose not to contact the Recorder as instructed in the November 25 reminder. Instead, relying on his familiarity with the operation of the electronic filing system, he expected to soon be able to renew claim 3848 electronically and intended to renew both claims at that time. The Board concludes that, while Mr. Taylor could have contacted the Recorder or adapted his personal reminder system upon being unable to complete the renewals on November 25, his failure to take these steps does not make an otherwise simple oversight unreasonable.

5 Conclusion

- [17] Accordingly, the Board orders claims 3848 and 7923 to be reinstated as of the date of this decision until **midnight, March 26, 2025**. This time frame will allow the Appellant to submit the required fees and take such other actions as may be necessary to renew claims 3848 and 7923. The onus is on the Appellant to move diligently and ensure all matters are addressed so claims 3848 and 7923 will renew in the normal course before the Board-ordered reinstatement expires. If the Appellant fails to do so, the reinstatement of claims 3848 and 7923 will expire on that date.
- [18] For greater certainty, the Board’s reinstatement order in this decision does not affect the claims’ existing anniversary date of December 18. If the Appellant successfully renews claims 3848 and 7923 by paying the required fees, whatever obligations the Appellant would have under the Act to exercise another renewal on or before December 18, 2025, including submitting a full annual fee, are unchanged by the Board’s order.

Dated at Saint John, New Brunswick, this 11th day of March, 2025.



Christopher J. Stewart
Acting Chairperson