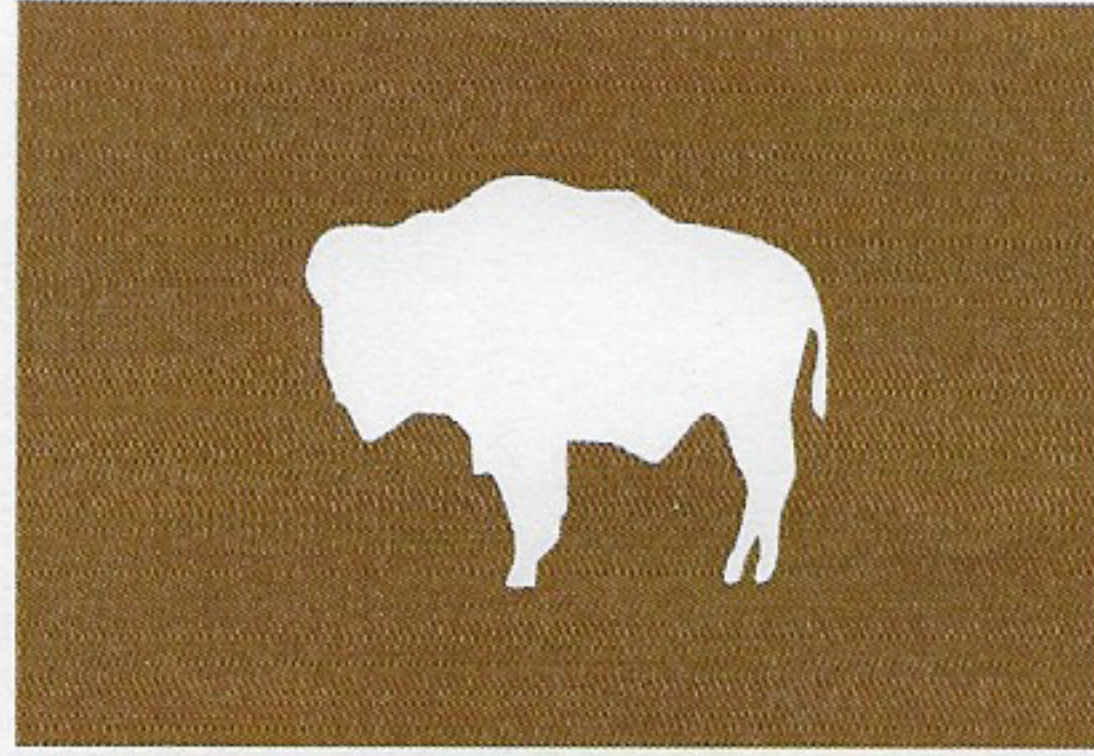


WYOMING OFFICE OF STATE LANDS AND INVESTMENTS

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MATTHEW H. MEAD
Governor

BRIDGET HILL
Director

July 27, 2018

Ronald Ericsson
2U Ranch LLC
426 Lonesome County Road
Alzada, MT 59311

Dear Mr. Ericsson,

You recently asked for an update on the status of the issues outlined in your letter dated November 28, 2017 regarding proposed mining by Bentonite Performance Minerals (BPM). Your letter outlined twenty-four numbered concerns regarding State Bentonite Lease #42804 and Department of Environmental Quality (DEQ) Mining Permit 267C. In addition to your numbered concerns, you asked that the mining be prevented, modified, or reassigned to a different mining company.

The majority of your numbered concerns pertained to the DEQ permit and permitting process. Mr. Kyle Wendtland, Administrator of the Land Quality Division, responded to your letter on April 24, 2018. I am unaware of any update regarding your DEQ concerns, but DEQ has been provided your request for an update.

With regard to the three concerns specifically pertaining to the Office of State Lands and Investments, I would first like to clarify the nature of the bentonite lease. In particular, the bentonite lease, like all our mineral leases, simply provides the lessee the opportunity, but not the obligation, to produce state minerals. In order for the lessee to mine the state minerals, the lessee must follow all applicable law and obtain any necessary regulatory permits for its activities from the appropriate regulatory agency. The state lease in no way exempts a lessee from applicable federal, state, or local laws nor does the regulatory authority for enforcing those laws or allowing the mining activities shift to the Office of State Lands and Investments. Accordingly, as BPM seeks to mine under the state lease, it must comply with, among other things, DEQ regulations and secure any necessary permits. My office does not participate in the DEQ permitting process. As long as BPM follows the law and is granted the necessary permits, there would be no cause to terminate, modify, or reassign the state lease.

With respect to the three specific items in your enumerated list specific to the state land lease, I provide the following:

- 1) You state that a cultural resource survey was not undertaken as part of the DEQ permitting process and assert that this violated various Wyoming statutes. One of the cited statutes falls within my office's authority. You cite, W.S. § 36-11-114 which provides, "[b]efore any excavation on any prehistoric ruins, pictographs, hieroglyphics, or any other ancient markings, or writing or archaeological and paleontological deposits in the state of Wyoming on any state or federal lands, shall be undertaken, a permit shall first be obtained from the state board of land commissioners."

The statute in question does not require a cultural resource survey as part of the DEQ permitting process, but it does require a permit if any of the enumerated items are to be excavated. Inasmuch as operations haven't begun, no violation of this statute has occurred. However, the Bentonite lease requires that the lessee comply with all law which would include this statute. If excavation of these types of items is contemplated, a permit must be obtained from the land office prior to excavation.

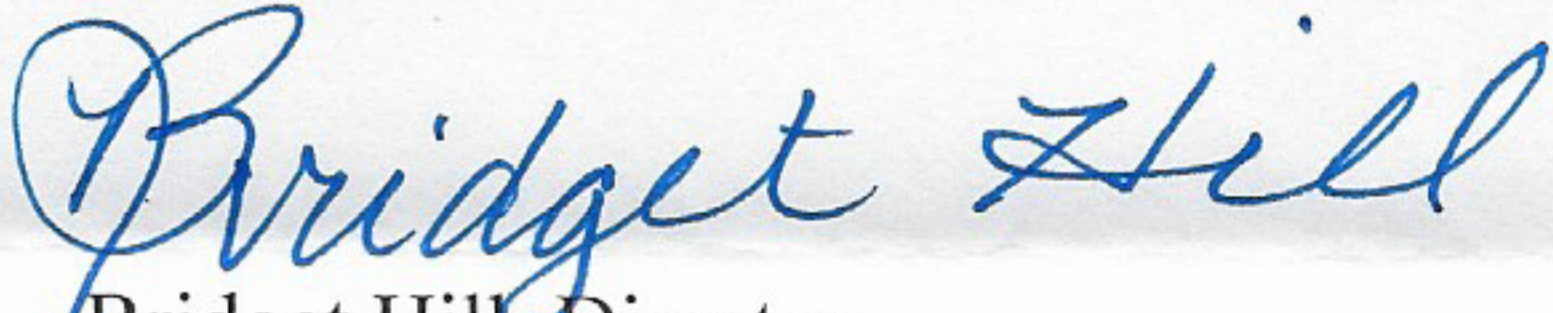
- 2) You assert that a failure to include a cultural resource survey in BPM's mining plan violates Chapter 22, Section 3(b) of the Board of Land Commissioners rules. That section provides, "[t]he Board **may** condition the issuance of any bentonite lease upon specific stipulations for the protection of the public, the environment, the waters of the state, historical, archeological or paleontological materials, the wildlife resources, or any of the subsurface or surface resources of the state." (Emphasis added). Lease #42804 was issued without any specific stipulations. Thus, a violation of this rule has not occurred. It is worth noting that Chapter 22, Section 3(g) which provides, "discovery of historical, archaeological, or paleontological deposits on state lands during the course of development shall be reported to the Office by the lessee prior to further disturbance, and operations may only recommence as authorized by the Director" would apply once production commences.
- 3) Lastly, you wonder "did BPM submit a cooperative mining development plan as required by W.S. 36-6-101 (k)." Wyoming Statute 36-6-101(k) does not require a cooperative mining plan. That statute provides that the Board **may** approve a cooperative mining development plan to allow for the mining of diverse mineral ownership in an efficient and economical manner. Under the statute, operators may file for approval of a cooperative mining plan, but they are not required to do so. We view cooperative mining plans much like requests for pooling of oil and gas operations. If operators want to develop more than just state ownership in a cooperative arrangement, they may do so upon proper application. However, there is no requirement that they do so. If BPM wishes to submit a cooperative mining plan to account for minerals owned by parties other than the State, it may do so and we will consider such a plan at that time.

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Inasmuch as there has been no violation of the lease or our rules, we cannot cancel or reassign the lease. As noted above, the majority of your concerns were related to the DEQ permit which Mr. Wendtland's letter was intended to address.

If you need any further information, or would like to discuss that matter further, please do not hesitate to contact me.

Sincerely,


Bridget Hill, Director
Office of State Lands and Investments

CC: Governor's Office