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SURFACE LANDOWNER RIGHTS WHEN THE STATE GRANTS A LEASE TO MINE BENTONITE IN EXCHANGE FOR REVENUE

1 message

Ronald Ericsson <ericsson@childselect.com>
To: "bridget.hill1@wyo.gov" <bridget.hill1@wyo.gov>

Tue, Sep 11, 2018 at 3:41 PM

**To: Bridget Hill, Director
Office of State Lands and Investments**

In reference to your letter (attached) you concluded the minerals covered in the lease are owned by the State of Wyoming. Records recorded in Crook County also document that some of the bentonite in the lease are claimed by heirs of Rawl and Hilda Robinson.

W.S. 35-11-402, Establishment of Standards states that reclamation should be to the "highest previous use of the affected lands, the surrounding terrain and natural vegetation, surface and subsurface flowing or stationary water bodies, wildlife and aquatic habitat and resources, and acceptable uses after reclamation including the utility and capacity of the reclaimed lands to support such uses."

DEQ - Non Coal Chapter 3 Non Coal Mine Environmental Protection Performance Standards state "Reclamation shall restore the land to a condition equal to or greater than the highest previous use." and "Operators are required to restore wildlife habitat, whenever the Administrator determines that this restoration is possible, on affected land in a manner commensurate with or superior to habitat conditions which existed before the land became affected."

We will assume for this matter that the state does own all of the bentonite proposed to be mined by Bentonite Performance Minerals (BPM). The objective of the Office of State Lands is to collect revenue with the price per ton of bentonite at around one dollar - historically bentonite purchased from the state demands a higher price than bentonite from private landowners.

There are 87 acres included in the lease that contain 10,936 trees. These trees would be destroyed if mining is allowed with no compensation to 2U Ranch with an appraised value of the land reduced by one-half and the total economic and aesthetic value of the ranch changed forever.

- **W.S. 35-11-402 and DEQ - Non Coal Chapter 3 (see above) have requirements that are impossible to fulfill. For more than nine months we have made repeated requests**

to the Office of State Lands, DEQ and BPM to explain how it would be possible to reclaim the land to a condition which existed before the land became affected. No rely ever receive for the obvious reason neither the state statute or DEQ requirement can be accomplished and all parties involved know it.


If the Office of State Lands continues to grant a mining lease for the area where the 10,936 trees exist then the state will violate the rights of 2U Ranch as the surface landowner because the state knows this land can not be restored to condition equal to or greater before being mined.

Yes, if the state denies a lease to mine in this area the state will lose some revenue. If the state continues to allow this area to be mined and habitat permanently destroyed then the state will be on record of ignoring the rights of surface landowners. What is more important revenue for the state or rights of the surface landowner! Which will it be? Please reply in a timely manner.

Note to landowners: Please forward this email to other landowners so that our rights as surface landowners become more knowledgeable. We can not depend on the state or DEQ to inform us of our rights. It is up to us to be informed and to protect our rights.

**Ronald J. Ericsson, PhD
Scott A. Ericsson, PhD
Roland S. Ericsson, Attorney at Law**

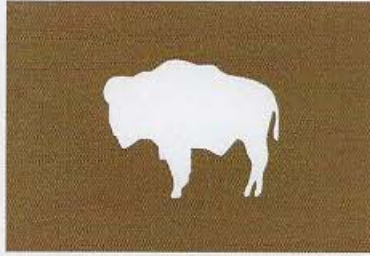
2 attachments

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3506K

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MATTHEW H. MEAD
Governor

BRIDGET HILL
Director

August 31, 2018

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

Re: State Bentonite Lease #0-42804

Dear Mr. Ericsson,

I have been copied on the correspondence between you and Mr. Kyle Wendtland regarding the ownership of the mineral estate covered by State Bentonite Lease #0-42804. Inasmuch as the management and leasing of those minerals falls within the authority of my office as the administrative arm of the Board of Land Commissioners, I wanted to make you aware that I too have concluded that the minerals covered by the lease are owned by the State of Wyoming.

The surface and mineral estate of the lands in question were acquired by the State through a Sheriff's Foreclosure Deed in 1933. The State then sold the surface estate in 1939 but reserved to itself the mineral estate. It is our position that the State has not conveyed that mineral estate to another entity. Indeed, we have found no documentation in either our records or the Crook County public records that shows a conveyance of the mineral estate after 1939.

The Crook County records do include the probate items you have indicated. However, there is no record of a conveyance of the mineral estate from the State to anyone else such that the mineral estate could be conveyed through a probate matter. Thus, it is our position that the State continues to own the mineral estate and it would be our intention to defend our ownership if the need arises.

Ronald Ericsson
August 31, 2018
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Given the voluminous correspondence on this matter and your continued assertion that the State does not own the minerals in question, I wanted to ensure that you were aware of my office's position on the matter.

Sincerely,

A handwritten signature in blue ink that reads "Bridget Hill". The signature is written in a cursive style with a large initial "B".

Bridget Hill, Director
Office of State Lands and Investments

CC: Kyle Wendtland