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United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155
www.ut.blm.gov

IN REPLY REFER TO:
SITLA (UT-923)
UTU-78402

CERTIFIED MAIL--Return Receipt Requested
Certification No.

MAY 28 2003

Mr. Earl White
American Gilsonite Company
HC 73 Box 28
Vernal, Utah 84078

Re: Surface Closure Directive, Federal Gilsonite lease UTU-78402

Dear Mr. White:

Surface Closure Directive

Gilsonite Lease Background- The United States of America ("BLM") and the State of Utah, School and Institutional Trust Lands Administration ("Trust Lands Administration") settled a lawsuit relating to the ownership of lands exchanged in 1983 as part of an exchange known as the Syntana Exchange. A judgement has been entered by the United States District Court, District of Utah, which states the terms of settlement. As part of the settlement, the ownership of the surface and the gilsonite estate covered under State Lease ML-926 was transferred to the jurisdiction of the BLM on October 21, 1998. It was reassigned the Federal Lease number of UTU-78402

Lease Terms and Conditions- This lease was issued on July 20, 1939 and can be readjusted every 20 years. The next readjustment is due on December 31, 2006.
Article III paragraph seven of the lease states the following:

> "To all times during the life of this lease perpetuate and protect the mainline tunnels of ingress and egress and from said lands and the air courses necessary for proper ventilation, by means of proper pillars and timbering as may be directed by the Lessor or State Mine Inspector, whether upon this leased land or extending through adjacent lands owned or operated by the Lessee, and that upon abandonment or termination of this lease from any cause, to substantially fence, fill in, cover, or close all surface openings or workings, if directed to do so by said lessor."

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DIV. OF OIL, GAS & MINING

Because the mine sites have been abandoned by the lessee and the "mainline tunnels of ingress and egress . . . and the air courses necessary for proper ventilation" have been unused and have fallen into disrepair, Article III, paragraph seven, requires the lessee to close all surface openings.

Status- At the present time there are 11 openings from the mining that has taken place on this lease. Some of the openings are caused by caving to the surface and other openings are from shaft sites. There appears to be a tank and a trailer that have been demolished also that can be found on the surface of the lease.

In April 1988 the Vernal Office of the BLM purchased fencing materials because BLM was of the opinion that only the surface of the land had been exchanged. BLM asked American Gilsonite Company if they would provide the manpower to fence the openings with the BLM provided materials. This was accomplished in a cooperative fashion and is considered by BLM to be a temporary solution to the problem of exposed openings on the surface. The BLM Solid Minerals Reclamation Handbook H-3042-1 states, ". . . Temporary closure measures such as fencing, barricading, or substantially filling in surface openings may be required for short-term non-operation . . . ." At the time of the fencing program, the ownership of the gilsonite had not been resolved and it had not been recognized that the operator had a responsibility to maintain the mine in an operating status or close all surface openings as directed by the lessor.

Directive- Within a 30-day compliance period after the receipt of this directive, BLM requires the lessee to submit a plan to permanently fill in and cover (close) all the surface openings on this lease. This plan should also include removal of the tank and trailer, how the openings will be closed, and include a time table for completion of the directive. Each opening must be addressed and surveyed by a registered land surveyor with a map provided. BLM will review and approve the plan prior to implementation. If the lessee fails to provide a plan in accordance with this directive, BLM will require a bond for the lease to cover the closure obligations of the lease.

Appeal Rights- You have 30 days after the compliance period (30 days) to appeal this directive to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 days following the date of this approval. The appellant has the burden of showing that the decision which is appealed is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If your require further information please contact Mr. Stan Perkes, (801) 539-4036.

Sincerely,

James F. Kohler

James F. Kohler
Chief, Solid Minerals Branch

Cc: Vernal Field Office
Utah Division of Oil, Gas, and Mining (Attn. Doug Jensen)
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