

FILED

APR 13 2005

**BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

Terri A. Lorenzon, Director
Environmental Quality Council

**IN THE MATTER OF THE BOND)
FORFEITURE PROCEEDINGS)
AGAINST THE BOND OF) DOCKET NO. 03-4410
EMULSIFIED ASPHALT, INC.)
PERMIT NO. 1107ET)**

ORDER FOR BOND FORFEITURE

THIS MATTER came before the Wyoming Environmental Quality Council on a motion from the Department of Environmental Quality for bond forfeiture against Emulsified Asphalt, Inc. holding Permit 1107ET. The Council, having reviewed the motion, and having been otherwise fully informed in the premises,

MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. Emulsified Asphalt holds permit 1107ET, authorizing it to operate a mining operation located at the SW1/4 of SE1/4, section 33, T.27N, R.69W., Platte County, Wyoming.
2. All operations have ceased at the mining site and Emulsified Asphalt failed to perform reclamation resulting in this bond forfeiture proceeding before the Environmental Quality Council.
3. Emulsified Asphalt posted a performance bond for the purpose of reclamation in the amount of ten thousand (\$10,000.00) dollars. The bond is a surety bond, number 11127336821, issued by The American Insurance Company.
4. The DEQ issued Notice of Violation No. 3478-03 to Emulsified Asphalt on May 1, 2003, because Emulsified Asphalt failed to submit its annual report during 2002. In addition, Emulsified Asphalt has failed to reclaim disturbed areas affected by its mining activities within 30 days of ceasing mining at the site set forth herein.
5. Based on the facts set forth in paragraph 4, it appears that Emulsified Asphalt has ceased mining and/or abandoned the site and failed to commence reclamation within thirty (30) days of said abandonment.
6. Based on these facts, the DEQ determined that Emulsified Asphalt's reclamation

- performance bond should be forfeited.
7. The Council approved the DEQ's request to initiate bond forfeiture proceedings against Emulsified Asphalt on October 22, 2003.
 8. The DEQ then requested that the Office of the Attorney General begin this bond forfeiture proceeding.
 9. On December 1, 2004, the Office of the Attorney General served notice to Emulsified Asphalt that the Council would enter an order forfeiting its bond unless the company demanded a hearing before the Council within thirty days. On the same date, Notice of Bond Forfeiture was also sent to: Ken Vines, State Insurance Commissioner; and Debra K. Stoddard, Attorney in Fact. The American Insurance Company was served with notice of these proceedings by the Insurance Commissioner.
 10. Emulsified Asphalt received the notice on December 6, 2004.
 11. Neither the Office of the Attorney General nor the DEQ has a record of a request for a hearing before the Council from Emulsified Asphalt or The American Insurance Company.
 12. WYO. STAT. ANN. § 35-11-421(b) states that if no demand is made by the operator within thirty days of his receipt of the notice, then the Council shall order the bond forfeited.
 13. The DEQ and the Attorney General's Office have satisfied all of the statutory prerequisites to this bond forfeiture, and the Council should therefore order the bond forfeited.
 14. The Council has jurisdiction over this matter and the parties hereto pursuant to WYO. STAT. ANN. § 35-11-421(c).

THEREFORE, IT IS HEREBY ORDERED THAT:

- a. The aforementioned reclamation performance bond be forfeited to the Wyoming Department of Environmental Quality, Land Quality Division, to be used by the Department for the reclamation of all lands affected by the aforementioned operation.
- b. Any proceeds remaining after reclamation shall be subject to any claim by the people of the State of Wyoming.

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- c. Any funds remaining after reclamation and payment of other claims shall be returned to Emulsified Asphalt, Inc., if it can be found.

DATED this 11 day of April, 2005.

WYOMING ENVIRONMENTAL QUALITY COUNCIL



Chairman

CERTIFICATE OF SERVICE

I, Terri Lorenzon, do hereby certify that the foregoing ORDER FOR BOND FORFEITURE was served on this 13th day of April, 2005, to the following:

Mr. Kenneth D. Freemole
Emulsified Asphalt, Inc.
P.O Box 1030
Evansville, Wyoming 82636

U.S. Mail, postage prepaid
 Facsimile
 Hand Delivery

AND also to the following person via interoffice mail of the State of Wyoming:

John Corra, Director
Department of Environmental Quality
Herschler Building
Cheyenne, WY 82002

Richard Chancellor, Land Quality Administrator
Department of Environmental Quality
Herschler Building
Cheyenne, WY 82002

John S. Burbridge
Attorney General's Office
123 Capitol Building
Cheyenne, Wyoming 82002



Terri Lorenzon