

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

FILED

FEB 25 2005

Terri A. Lorenzon, Director Environmental Quality Council

Docket No. 03-4413

IN THE MATTER OF THE BOND)
FORFEITURE PROCEEDINGS)
AGAINST THE BOND OF)
BENTON KARNES,)
LIMITED MINING OPERATION, 591ET.)

MOTION FOR BOND FORFEITURE ORDER

The Department of Environmental Quality, Land Quality Division (DEQ), by and through the Office of the Attorney General, pursuant to WYO. STAT. ANN. § 35-11-421(b), moves the Environmental Quality Council, hereafter (Council) for an order requiring Benton Karnes to forfeit his reclamation performance bond, and as grounds for this motion, offers the following:

- 1. On August 12, 1985, the DEQ approved Limited Mining Operation, 591ER for Benton Karnes to conduct a mining operation. Mr. Karnes posted a \$2,500.00 reclamation performance bond, in the form of Certificate of Deposit No. 5981, issued by Bent Tree National Bank, in Dallas Texas.
2. The DEQ issued Notice of Violation No. 3473-03 to Mr. Karnes on May 6, 2003 because the mining site had been inactive since approximately 2002, and Benton Karnes had failed to commence reclamation of the area disturbed by mining. Mr. Karnes had also failed to submit renewal reports since 1988.
3. Based on these facts, the DEQ determined Mr. Karnes' reclamation performance bond should be forfeited.
4. The Council approved the DEQ's request to initiate bond forfeiture proceedings against Benton Karnes on October 22, 2003.
5. The DEQ then requested that the Office of the Attorney General begin this bond forfeiture proceeding.
6. On December 8, 2003, the Office of the Attorney General sent by certified mail to Mr. Karnes, notice that the Council would enter an order forfeiting its bond unless the

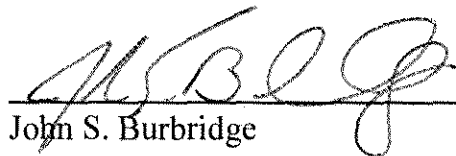
company demanded a hearing before the Council within thirty days. That notice was returned as delivery attempted, address not known.

7. On December 15, 2004, the office of the Attorney General published notification of bond forfeiture in the *Casper Star Tribune* with publication occurring on December 19, 2004, December 26, 2004, January 2, 2005 and January 9, 2005. The Affidavit of Publication is attached hereto and made a part hereof by this reference.
8. Neither the Office of the Attorney General nor the DEQ has a record of a request for a hearing before the Council from Benton Karnes.
9. WYO. STAT. ANN. § 35-11-421(b) states if no demand is made by the operator within thirty days of his receipt of the notice, the Council shall order the bond forfeited.
10. The DEQ and the Attorney General's Office have satisfied all of the statutory prerequisites for this bond forfeiture, and the Council should therefore order the bond forfeited.

WHEREFORE, the DEQ respectfully requests the Council enter an order requiring Benton Karnes to forfeit his reclamation performance bond to the DEQ to be used to reclaim those lands affected by Mr. Karnes' mining activities under Limited Mining Operation 591ET.

Respectfully submitted this 25 day of February, 2005.

FOR THE DEPARTMENT OF
ENVIRONMENTAL QUALITY, LAND
QUALITY DIVISION



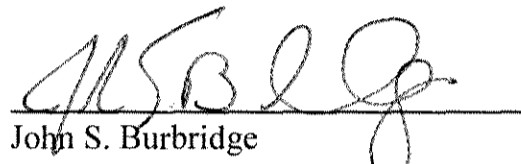
John S. Burbridge
Attorney General's Office
123 Capitol Building
Cheyenne, Wyoming 82002
(307) 777-7823

CERTIFICATE OF SERVICE

I, John S. Burbridge, hereby certify that on February 25, 2005, I served a true copy of the foregoing Motion For Bond Forfeiture Order as follows:

Benton Karnes
17250 Dallas Parkway
Dallas, Texas 75248

U.S. Mail, postage prepaid
 Facsimile
 Hand Delivery
 Express Mail



John S. Burbridge
Wyoming Attorney General's Office

NOTICE TO: Benton Karnes

whereabouts unknown, last known address 17250
Dallass Parkway, Dallas, Texas 75248, President
of Limited Mining Operation, 591ET located
approximately twenty (20) miles north of
Pinedale, Wyoming, more specifically located in
Sublette County in the SW 1/4, NE 1/4, Section 2,
Township 36 North, Range 112 West within Lot 60
of the Rim Ranches Subdivision on the East side
of Highway 191/189 north of Pinedale, Wyoming.
YOU ARE HEREBY NOTIFIED that the
Department of Environmental Quality has author-
ized the Wyoming Attorney General's Office to
forfeit the reclamation bond for the above
described location for failure to reclaim in viola-
tion of Wyo. Stat. § 35-11-401(e)(viii). Pursuant
to Wyo. Stat. § 35-11-421(b), the Attorney
General's Office is hereby notifying you that the
EQC will order the bond forfeited unless you make
a written demand for a hearing to the EQC within
thirty (30) days after the last date of publication of
this Notice. If you wish to dispute the bond for-
feiture, you must send a written demand for a hear-
ing to: Environmental Quality Council, Herschler
Building, Room 1714, 122 West 25th Street,
Cheyenne, Wyoming 82002 and John S.
Burbridge, Senior Assistant Attorney General,
Attorney General's Office, 123 Capitol Building,
Cheyenne, Wyoming 82002.

Legal No. 628935

Publish: December 19 and 26, 2004 and
January 2 and 9, 2005

AFFIDAVIT OF PUBLICATION

**STATE OF WYOMING)
COUNTY OF NATRONA)**

I, the undersigned, being a person in the employ of the
Casper Star-Tribune, a newspaper published in
CASPER, NATRONA COUNTY, WYOMING, and
knowing the facts herein set forth do so solemnly swear
that a copy of the notice as per clipping attached was
printed and published

daily

weekly

in the regular and entire issue of said newspaper, and
not in any supplement thereof,
for

4

consecutive

days

weeks

commencing with issue dated

December 19, 2004

ending with issue dated

January 9, 2005

[Signature]

Signed

Subscribed in my presence and sworn to before me this

10 day of January, 2005

[Signature]

