

FILED

FEB 24 2005

Terri A. Lorenzon, Director
Environmental Quality Council

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE BOND)
FORFEITURE PROCEEDINGS)
AGAINST THE BOND OF) Docket No. 03-4415
EMULSIFIED ASPHALT, INC,)
LIMITED MINING OPERATION)
PERMIT NO. 1104ET)

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 (Council) for an order requiring Emulsified Asphalt, Inc. to forfeit its reclamation performance bond, and as grounds for this motion, offers the following:

1. Emulsified Asphalt conducts a Limited Mining Operation under Permit No. 1104ET located approximately fifteen miles southeast of Riverside Wyoming. Emulsified Asphalt posted a \$10,000.00 reclamation performance bond, in the form of a Surety Bond No. 11127336813, issued by The American Insurance Company.
2. The DEQ issued Notice of Violation No. 3477-03 to Emulsified Asphalt on April 30, 2003 because Emulsified Asphalt failed to submit annual reports to the Land Quality Division for 2002. In addition, the Land Quality Division determined that the site had been abandoned and that reclamation had not been completed.
3. Based on these facts, the DEQ determined Emulsified Asphalt, Inc.'s reclamation performance bond should be forfeited.
4. The Council approved the DEQ's request to initiate bond forfeiture proceedings against Emulsified Asphalt on October 22, 2003.
5. The DEQ then requested that the Office of the Attorney General begin this bond forfeiture proceeding.

6. On December 1, 2004, the Office of the Attorney General mailed notice to Emulsified Asphalt, Inc., Debra K. Stoddard (Attorney in Fact), and Ken Vines (Wyoming Insurance Commissioner) by certified mail that the Council would enter an order forfeiting its bond unless a hearing was demanded before the Council within thirty days.
7. Emulsified Asphalt received its notice on December 6, 2004.
8. 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.
9. 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.
10. 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.

WHEREFORE, the DEQ respectfully requests that the Council enter an order requiring Emulsified Asphalt, Inc. to forfeit its reclamation performance bond to the DEQ to be used to reclaim those lands affected by Emulsified Asphalt, Inc's mining activities under Limited Mining Operation, Permit 1104ET.

Respectfully submitted this 23 day of February, 2005.

FOR THE DEPARTMENT OF
ENVIRONMENTAL
QUALITY, LAND QUALITY DIVISION



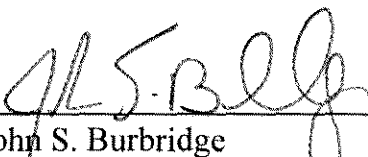
John S. Burbridge
Attorney General's Office
123 Capitol Building
Cheyenne, Wyoming 82002
(307) 777-7823

CERTIFICATE OF SERVICE

I, John S. Burbridge, hereby certify that on February 23, 2005, I served a true copy of the foregoing Motion For Bond Forfeiture order as follows:

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

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



John S. Burbridge
Wyoming Attorney General's Office