BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

In the Matter of the Appeal	)	
of the Renewal Bond Amount for	)	
Bentonite Mining Permit No. 624.	)	Docket No. _____

APPEAL OF DEPARTMENT OF ENVIRONMENTAL QUALITY'S DETERMINATION OF RENEWAL BOND AMOUNT FOR BENTONITE MINING PERMIT NO. 624 AND REQUEST FOR HEARING

COMES NOW, Good Bentonite Company, LLC, (Good), by and through its attorney, Heather A. Jacobson, Jacobson Law Office, LLC, and hereby appeals the Department of Environmental Quality's determination of the renewal bond amount for Bentonite Mining Permit No. 624, attached hereto as Exhibit "A", and further requests that the Environmental Quality Council hold a hearing in this matter. In support of this appeal, Good states as follows:

FACTS:

1) Good Bentonite Company, LLC, a Wyoming Limited Liability Company, whose address is 3796 Lane 32 ½, Greybull, Wyoming 82426, is the Appellant in this matter.

2) Brian Good and Danae Good, husband and wife, are the owners of Good Bentonite Company, LLC, and own the real property described as follows:

Township 53 North, Range 79 West of the 6th PM

Sec 1: NW1/4SW1/4

Sec 2: N1/2S1/2, E1/2SE1/4NE1/4, E1/2W1/2SE1/4NE1/4
E1/2E1/2W1/2SE1/4NE1/4

Located in Big Horn County, Wyoming.

3) Brian Good and Danae Good, the owners of Good Bentonite Company, LLC, lease the bentonite rights from the owner of the bentonite on the above described real property.

4) Originally, Ken Tanner obtained Permit No. 624 to mine bentonite on the property.

5) Good obtained Permit No. 624 in August 2010, when Ken Tanner transferred the permit to it.

6) Good has mined bentonite on the property since 2010 and has filed the appropriate annual reports.

7) On or about August 14th, 2015, Good submitted its Annual Report to the DEQ for Permit No. 624. Attached to the Annual Report was a reclamation plan and bond estimate of $154,000.

8) This annual report detailed that in the previous year, more acres had been reclaimed on the mine site than had been newly disturbed, as there was 5 acres of new disturbance and 24.35 acres of old disturbance reclaimed. See attached Exhibit B.

9) Despite the reduction in disturbed areas on the mine site, DEQ employee Brian R. Wood issued a letter to Good dated December 11, 2015, with the November 2015 Annual Inspection Report attached, stating that he was recommending an increase in the bond amount required for the permit to $220,000. See attached Exhibit C.

10) The last page of the Inspection Report detailed Mr. Woods' calculations in determining the $220,000 bond requirement.

11) The main item that differed between Good's bond estimate and DEQ's bond requirement is that DEQ included calculations and cost in its bond requirement for covering the entire disturbed mine site, excepting the Prelaw disturbed area, (whether previously reclaimed or not) with 18" of topsoil.

12) Mr. Woods made this unfounded determination despite having approved the previous reclamation plan wherein Good proposed to use 6" topsoil coverage.

13) Mr. Woods would have also had in his possession soil reports generated on the lands prior to the commencement of mining that demonstrates that at no time has there ever been 18" of topsoil on the property.

14) The new 18" topsoil requirement was applied to both new disturbance and land that had been previously reclaimed pursuant to Good's DEQ approved reclamation plan.

15) The inclusion of the 18" topsoil requirement in the bond, as well expanding the acreage that would require the spreading of the additional topsoil, increased the required bond amount by approximately $63,000.

16) With no citation to statutory or regulatory authority or industry standards, DEQ also required a 30% contingency fee be included in all bond estimates and bond amounts.

17) This contingency fee alone increases the required bond by approximately $50,000.00.

ISSUES ON APPEAL:

1) Good, as surface owner of the property, should be allowed to reclaim the property to whatever standard that he desires. DEQ's forcing of Good to accept their requirements as to what the land should look like and be usable for after the bentonite mining is complete is an unconstitutional infringement upon Good's private property rights.

2) DEQ's bond requirement that utilizes cost calculations as if 18" of topsoil must be spread on the property, thereby increasing the bond amount by over $63,000, is unsupported by either law or science and is an arbitrary and capricious decision that should be overturned.

3) DEQ's failure to allege any violations or failure to adhere to previously approved reclamation plans precludes DEQ from forcing Good to completely redo the completed reclamation work to a different standard at this time.

4) DEQ's bond requirement that requires a 30% contingency fee, thereby increasing the bond amount by over $50,000, is unsupported by either law or industry standard and is an arbitrary and capricious decision that should be overturned.

REQUEST FOR HEARING:

Based upon the foregoing facts and identified issues on appeal, Good hereby requests that the Environmental Quality Council schedule a hearing in this matter and issue an Order directing DEQ to do the following:

1) Eliminate any reclamation requirements that the surface owner does not consent to;

2) Eliminate the bond calculation based upon anything but a 6" topsoil spread on the lands that have not been previously reclaimed;

3) Eliminate any additional bond amounts based upon a calculation of additional reclamation on lands reclaimed pursuant to previously approved DEQ reclamation plans;

4) Eliminate the contingency fee of 30%; and

5) Provide Good any other relief that the Council finds just and equitable.

Submitted this 2 day of February, 2016.

Good Bentonite Company, LLC

By: Heather A. Jacobson

Heather A Jacobson, WSB # 6-3648
Attorney for Appellant
Jacobson Law Office, LLC
204 North 5th St.
Douglas, WY 82633
Phone: (307) 358-3180
Fax: (307) 358-3182

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Appeal was served by Certified Mail, return receipt requested, on the 2 day of February, 2016, to the following:

Chairman, Environmental Quality Council
122 West 25th St.
Herschler Building, Rm. 1714
Cheyenne, WY 82002

Director, Wyoming DEQ
Herschler Building, 4th Floor West
122 West 25th Street
Cheyenne, WY 82002

EXHIBIT “A”

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

DEQ

Matthew H. Mead, Governor

Todd Parfitt, Director

December 16, 2015

CERTIFIED RETURN MAIL RECEIPT REQUESTED #7015 0920 0001 5194 0527

Mr. Brian (Pab) Good
3796 Lane 32½
Greybull, WY 82426

RE: Bond Amount for Permit No. 624

Dear Mr. Good:

The information presented in the 2014 - 2015 Annual Report for Permit No. 624 has been reviewed by the Wyoming Department of Environmental Quality / Land Quality Division (WDEQ/LQD), District II staff. The Annual Inspection of the site was conducted on November 24, 2015. In accordance with W.S. §35-11-411(d), the bond amount is set at $220,000. This represents an increase of $55,000 over the bond amount of $165,000 currently held by the State of Wyoming. Please contact Ms. Carol Bilbrough, WDEQ/LQD Program Manager, at (307) 777-7756 with any questions you may have regarding the bonding of your operation. All bonds should be submitted to the WDEQ/LQD within forty-five (45) days of your receipt of this letter, care of Ms. Carol Bilbrough.

This bond amount is based solely on an estimate of the cost of the State of Wyoming performing reclamation in the event of bond forfeiture. If this estimate proves to be less that the amount required, the WDEQ will bring suit to recover the additional cost as allowed under W.S. §35-11-422.

Should you have any questions, please contact John Erickson, WDEQ/LQD District II Supervisor, at the Lander Field Office at (307) 332-3047.

Sincerely,

Todd Parfitt
Director

TP:JE:kp

cc: Carol Bilbrough – WDEQ/LQD Cheyenne
Brian Wood – WDEQ/LQD Lander

EXHIBIT “B”

GOOD MINING COMPANY, LLC
PERMIT PT-624, 2014-2015 ANNUAL REPORT
Summary Information

1. (a) Permittee: *Brian Good*
   (b) Address & Phone: *3796 Lane 32½, Greybull, WY, 82426, (307) 765-2875*
   (c) Permit: *WDEQ/LQD Permit PT-624*
   (d) Permit Issue Date: *June 27, 1989*
   (e) Mineral mined: *Bentonite*
   (f) State and/or Federal Lease number(s): *N/A*

2. **Report period:** *June 28, 2014 to June 27, 2015*

3. **Mining Summary for the Report Period:**

   (a) Number of acres disturbed during the report period: *5.0*
   (b) Number of acres disturbed to date: *107.42*
   (c) Topsoil stockpile volumes: 50,973.74
   (d) Out-of-Pit Spoil Volume: *0*
   (e) Bentonite quantity mined: *115,028*
   (f) New Construction during the report period: N/A
   (g) Describe any environmental problems: N/A

4. **Reclamation**

   (a) Number of acres reclaimed during the report period: Contour map: *24.35*
   (b) Acreage reclaimed: Reclamation procedures utilized during the report period: *Backfilled, topsoiled and broadcast seeded*
   (c) Results of previous reclamation efforts: *successful*
   (d) Reclamation costs incurred during the report:
   This cost is mixed into the mining costs and cannot be accurately determined

5. **Discuss in detail mining plans for the coming year:**
   Continued Mining on the East side of Bear Creek. The Brown Bentonite piles will be combined to reduce footprint.

6. **Discuss in detail reclamation plans for the coming year:**
   Reclamation will be completed on the west side of the haul road. the Brown Bentonite piles, B4, B5 & B6 will be combined into pile B3 and the area they surrounding the Camp will be reclaimed completely

7. **Discuss in detail all monitoring conducted during the report period:** *N/A*

8. **Reclamation performance bond estimate.** *Attached*

9. **Additional information as required by the WDEQ/LQD:** *N/A*

10. **Abandon Drill Hole Information:** *N/A*

11. **Map:** *Attached*

Note: The format of the map matches the format of the previous maps for the small mine permit

12. **Company information:**

1. General Manager:
Brian Good:
3796 Lane 32½, Greybull, WY, 82426

Office – 307-765-2875
Cell – 307-272-7495

2. Party To Receive Notice:
Brian Good
3796 Lane 32½, Greybull, WY, 82426

Names /Address and Phone numbers of Officers:

Lacee Good
Opperations
3796 Lane 32½, Greybull, WY, 82426

Office -307-765-2875
Cell - 307-272-7386

REPORT PREPARED BY: _____ _____
Signature Date

_____
Name and Title

#0X

BRIAN GOOD PERMIT #624(S)
PERMIT AMENDMENT AUGUST 12, 2015
BIG HORN COUNTY, WYOMING
Township 53N, Range 93W

ENGINEERS

ENGINEERS

Surface Report

Project Name: Z:_Active\100022_Good Mining Permits\Lower Bear Creek\CAD\100022_Quantities_081115.dwg

Report Date: 8/13/2015 4:01:06 PM

Client: Good Mining

Project Description:

Prepared by: Cody O'Bryan

Linear Units: USSurveyFoot **Area Units:** [redacted] **Volume Units:** cubicYard

Volume Surface: BENTONITE 2
Description: Description
Volume Cut: 0.039 Volume Fill: 25519.092 Volume Total: 25519.052
Compare Surface: B2 PILE
Base Surface: B2 BASE
Area: [redacted]

Volume Surface: BENTONITE 3
Description: Description
Volume Cut: 0.231 Volume Fill: 18177.300 Volume Total: 18177.068
Compare Surface: B3 PILE
Base Surface: B3 BASE
Area: [redacted]

Volume Surface: BENTONITE 4
Description: Description
Volume Cut: 5.558 Volume Fill: 3598.479 Volume Total: 3592.921
Compare Surface: B4 PILE
Base Surface: B4 BASE
Area: [redacted]

Volume Surface: BENTONITE 5
Description: Description
Volume Cut: 0.000 Volume Fill: 10866.861 Volume Total: 10866.861
Compare Surface: B5 PILE
Base Surface: B5 BASE
Area: [redacted]

Volume Surface: BENTONITE 6
Description: Description
Volume Cut: 0.402 Volume Fill: 5375.560 Volume Total: 5375.158
Compare Surface: B6 PILE
Base Surface: B6 BASE
Area: [redacted]

Volume Surface: BENTONITE 7
Description: Description
Volume Cut: 0.838 | Volume Fill: 15261.849 | Volume Total: 15261.012
Compare Surface: B7 PILE
Base Surface: B7 BASE
Area: [redacted]

Volume Surface: BENTONITE 8
Description: Description
Volume Cut: 2.482 | Volume Fill: 6764.720 | Volume Total: 6762.239
Compare Surface: B8 PILE
Base Surface: B8 BASE
Area: [redacted]

Volume Surface: BENTONITE 9
Description: Description
Volume Cut: 0.000 | Volume Fill: 25164.073 | Volume Total: 25164.073
Compare Surface: B9 PILE
Base Surface: B9 BASE
Area: [redacted]

Volume Surface: SUBSOIL 1
Description: Description
Volume Cut: 0.876 | Volume Fill: 65600.010 | Volume Total: 65599.133
Compare Surface: T4 PILE
Base Surface: T4 BASE
Area: [redacted]

Volume Surface: SUBSOIL 2
Description: Description
Volume Cut: 0.847 | Volume Fill: 10993.254 | Volume Total: 10992.407
Compare Surface: T7 PILE
Base Surface: T7 BASE
Area: [redacted]

Volume Surface: TOPSOIL 1
Description: Description
Volume Cut: 0.002 | Volume Fill: 3089.337 | Volume Total: 3089.335
Compare Surface: T1 PILE
Base Surface: T1 BASE
Area: [redacted]

Volume Surface: TOPSOIL 2
Description: Description
Volume Cut: 0.000 | Volume Fill: 753.753 | Volume Total: 753.753
Compare Surface: T2 PILE
Base Surface: T2 BASE
Area: [redacted]

Volume Surface: TOPSOIL 3
Description: Description

Volume Cut: 0.141	Volume Fill: 10888.972	Volume Total: **10888.831**
Compare Surface: T3 PILE	Area: [redacted]	
Base Surface: T3 BASE		

Volume Surface: TOPSOIL 4
Description: Description

Volume Cut: 0.840	Volume Fill: 31400.202	Volume Total: **31399.361**
Compare Surface: SUB1 PILE	Area: [redacted]	
Base Surface: SUB1 BASE		

Volume Surface: TOPSOIL 5
Description: Description

Volume Cut: 4.101	Volume Fill: 3684.691	Volume Total: **3680.590**
Compare Surface: T5 PILE	Area: [redacted]	
Base Surface: T5 BASE		

Volume Surface: TOPSOIL 6
Description: Description

Volume Cut: 0.000	Volume Fill: 1143.564	Volume Total: **1143.564**
Compare Surface: T6 PILE	Area: [redacted]	
Base Surface: T6 BASE		

Volume Surface: TOPSOIL 7
Description: Description

Volume Cut: 0.120	Volume Fill: 16073.817	Volume Total: **16073.697**
Compare Surface: T8 PILE	Area: [redacted]	
Base Surface: T8 BASE		

2014 – 2015 Permit 624 Annual Report Bond Estimate

The disturbance associated with WDEQ/LQD Permit 624 operations was mapped on August 7th, 2015. The attached map reflects the outcome of that effort.

The Disturbance was divided into the following groups:

a. Reclaimed = 41.1 acres of which liability is associated with 8.9 acres (reduction do to covering of prelaw spoil that was not reaffected other than use as an equipment camp area).
b. Topsoiled (not seeded) =0
c. Disturbance =25.2 acres
d. Pit area = 5.2 acres
e. Topsoil Stockpiles =4.7 acres
f. Subsoil Stockpiles = 3.1 acres
g. Overburden Stockpile = 0 acres
h. Bentonite Stockpiles = 12.0 acres
i. Pond Effected Area 2.3 acres
j. Pond Water Area 1.2 acres

The total affected over the life of the operation to date is approximately 107.4 acres.

The WDEQ/LQD's Bond Estimate for the operation is the following:

Retainage – 8.9 acres @ $350.00/ac = $3,115

Pit Backfill – [Assume required fill is 20,000 yd^3 /ac] 104,000 yd^3 x $0.72/$yd^3$ = $74,880

Pickup and dispose of 0.5 of ashy material underlying Bentonite stockpiles – 12.0 acres x 0.5' = 9,680 yd^3
9,680 yd^3 x 0.89/yd^3 (Cat 637 at 1,000' haul) = $8,615

Site grading – 27.3 acres x $71.62/ac (Cat 140 patrol blade) = $1,955

Soil (respread on all affected areas except for topsoil and subsoil piles) – 17.4 acres x 0.5' = 14,036 yd^3
14,036 yd^3 x $0.89/$yd^3$ (Cat 637 at 1,000' haul) = $12,492

Scarification of all areas not seeded - 65.1 acres x $62.80/ac (Cat 140 patrol blade) = $4,088

Seed [(seed + application) (existing disturbance)] – 65.1 acres @ $200.00/ac = $13,020
(Seed price is bid on proposed mix +10% delivery + $120/ac application)

Subtotal = $118,165
Contingency Fee = $35,450
Total Estimate = $153,615 > $154,000 (rounded)
Existing Bond Held = $165,000.00
Total Excess = $11,000

RECLAMATION PLAN FOR GOOD MINING PERMIT 624(S)

TO ACCOMPANY MINE PLAN CONVERSION REQUEST NOVEMBER 25, 2013

POST MINING LAND USES

Livestock grazing and wildlife habitats are the post-mining land uses for lands affected by mining activities on the amendment area.

There is a 1.2 Acre totally encapsulated pond that is being permitted for dust control now that is intended to be left as a stock watering pond when reclamation is complete.

CONTOURING PLAN

All mining features will be graded and contoured in such a manner that the approximate original topographic contours will be reestablished or lessened to accommodate dryland pasture use. Post mining slopes will approximate the pre-mining slopes in terms of magnitude, aspect and shape and will not exceed 4(H):1(V) unless required to blend with an adjacent native or previously reclaimed slope. The operation is designed to work under the auspices of cast back mining with the majority overburden (spoil) being returned to mined-out pits. However, material swell will necessitate the creation of overburden stockpiles, which remain as permanent reclamation features. These features will be establish within the limits of prior mined-out pits, of which most of this disturbed area is considered prelaw disturbance by the WDEQ/LQD. The reclaimed spoil pile will be blended into the surrounding area, consisting of a combination of prelaw disturbance and reclaimed ground associated with current operations. Maximum height of the reclaimed spoil pile(s) is anticipated to be on the order of ten feet and the slopes will be graded to 4(H):1(V) or less prior to topsoil application and seeding.

Small ephemeral drainages which may be removed during the course of mining activities and will be reestablished at a density and gradient that mimics pre-mined conditions during the backfilling of pits and by grading and contouring. One permanent impoundment will be left as a post-mined feature near the southeast end of the permit area. In the near term, the pond will provide sediment control for the reclaimed area. Long-term, the intent of this feature is to act as a water supply source for cattle and wildlife. All reclaimed drainages will flow into this impoundment with an overflow that drains into Bear Creek.

SURFACE PREPARATION FOR TOPSOIL APPLICATION

During mining, care has been taken to salvage all suitable material between the topsoil/subsoil and unsuitable overburden. This material is stockpiled separately from the topsoil and stockpiles will be identified as either "subsoil" or "suitable" in the field. Suitable material will be spread via push-pull scrapers as the upper layer of over burden/pit backfill.

TOPSOIL REPLACEMENT

Stockpiled topsoil will be applied to the backfilled and contoured overburden with push-pull scrapers. Topsoil will be reapplied to approximately the original topsoil depth, but not less than 6". If the Topsoil resource proves to be insufficient to provide a minimum six-inch cover over the entire reclaimed surface, suitable material will be used as the final cover.

A portion of the area that has been affected by the post-transfer mining activity is located on pre-law spoil for which there was no topsoil present. Activities on these spoils primarily consist of stockpiling various materials and staging of equipment used in the operation. Aside from covering and seeding any regraded spoil generated by post transfer operations and place on prelaw spoil, Good Mining assumes no liability for the revegetation of these prelaw spoil areas. If sufficient cover/suitable material exists, Good Mining will attempt to revegetate a portion of these prelaw lands to improve the final condition of the parcel. If there is not enough cover/suitable available, it is recognized that there will be areas where reclamation directly abuts prelaw spoil.

Topsoiled surfaces, or surfaces in final cover, will be ripped along the contour. In order to avoid contamination with underlying material, the ripping depth will be confined to the depth of the topsoil or final cover. Topsoil will be applied to the affected areas as soon as possible, although the replacement schedule for topsoil application is dependent upon the mining and backfilling schedule. Topsoil application is generally conducted during the late summer or early fall, in advance of the fall planting of the permanent seed mixture.

POSTMINE SEDIMENT AND EROSION CONTROL

During reclamation sediment control will be provided using a combination of Best Management Practices (BMP's) and ASCM's. Following final contouring and topsoiling of a reclaimed area it will be ripped along the contour, which will serve to reduce any compaction present as well as create furrows that will minimize runoff potential. For reclaimed drainage channels, if determined to be necessary, straw bale check dams will be placed within the post-mined drainage to serve as energy dissipaters/sediment filters. The channel at each dam location will be slightly sub-excavated and the bales will be staked into placed such that flow is forced to remain along the centerline of the reclaimed drainage. These check dams will remain in the drainage until revegetation has been established.

If through time erosional features, such as headcuts, develop within a reclaimed channel one of several remediation measures will be implemented, depending on the conditions present. These mitigation measures include, but are not limited to: (1) armoring problematic channel reach with rock; (2) installation of rock check dams or gabion baskets keyed into the channel bed and banks to create drop structures that will reduce channel gradient, or (3) construction of point berms to force the channel to develop a more sinuous path, lessening channel gradient. (See Good Mining SWPPP for BMP typical)

The impoundment that was created by earlier mining activity will remain as a permanent feature and serve as a stormwater detention pond.

REVEGETATION PRACTICES

Cover Crops and Mulch

If a fall seeding is not possible on a topsoiled area due to weather or other circumstances, the area will be seeded with a small grain such as barley, winter wheat or millet the following spring in order to establish a cover crop. Barley and winter wheat will be drill seeded at a rate of fifty (50) pounds per acre and millet will be applied at a drill seeding rate of fifteen (15) pound per acre. Lands seeded with a cover crop will be inter-seeded with the permanent seed mixture in the autumn of the same year.

No mulch will be applied in conjunction with the reclamation activities conducted on the amendment area.

Permanent Seed Mixtures

The permanent seed mixture will be planted in the fall, generally beginning during the month of October. Seed will be planted utilizing a standard grain drill or a no-till drill. The seed will be planted approximately one-quarter to one-half inch in depth.

Species contained in the permanent seed mixture for the amendment area have been selected based on the following criteria:

- Adaptability to existing soil conditions
- Forage potential and palatability to livestock
- Forage, cover and habitat potential for wildlife
- Pre-mining presence as documented by vegetation inventory
- Reclamation success proven by previous revegetation efforts
- Contribution to species and structural diversity
- Ability to remain self-sustaining
- Commercial availability

The components of this seed mixture are listed below:

Species	Pounds of pure live seed per acre
Gardner Saltbush	4.0 lb/ac
Blue Grama	0.5 lb/ac
Bottlebrush Squirreltail	1.0 lb/ac
Species	**Pounds of pure live seed per acre**
Slender Wheatgrass	2.0 lb/ac
Crested Wheatgrass	3.0 lb/ac

	Russian Wildrye	2.0 lb/ac
	Rocky Mountain Beeplant	1.5 lb/ac
	Falcata	2.0 lb/ac
	Total	16.00

Temporary Seed Mixtures

No temporary seed mixtures will be used on the amendment area other than annual small grains previous discussed.

Protection of Seeded Areas

If necessary, newly reclaimed (seeded) areas will be fenced to protect these areas from grazing by livestock. If fences are constructed, they will be constructed to allow the egress and ingress of wildlife species.

RECLAMATION EVALUATION PROCEDURES

Reclamation Goals

All lands affected under this amendment will be reclaimed in such a manner that forage for domestic livestock grazing, wildlife forage, and wildlife habitats, will be reestablished to a condition equal to or greater than pre-mining conditions on the affected lands.

Revegetation of lands affected under Permit to Mine No. 624(s) will be considered complete and eligible for full bond release when the following criteria are met:

1) The vegetation species of the reclaimed land are self-renewing under natural conditions prevailing at the site;

2) The total vegetation cover of perennial species, (excluding noxious weed species) and any species in the approved seed mix is at least equal to the total vegetation cover of perennial species (excluding noxious weed species) on the area before mining.

3) The species diversity and composition are suitable for the approved post-mining land use; and

4) The requirements in 1), 2) and 3), are achieved during one growing season, no earlier than the fifth full growing season on the reclaimed lands.

Evaluation of Reclamation Success

Reclamation success will be evaluated by onsite inspections with WDEQ/LQD personnel and the landowner.

Good Mining personnel will make the preliminary decision on the timing of any full bond release request, based in part upon comparison of annual observations of reclamation success and progress. In general, Good Mining anticipates that 2-3 years of accumulated reclamation may be combined in a single final bond release request. Per W.S. § 35-11-423, it is understood that the vegetation retainer portion of the bond will, in general, be held for a minimum of five years after reclamation is complete. However, should the revegetation appear to be doing exceptionally well, Good Mining may request release earlier, the approval of which is dependent concurrent acceptance by the WDEQ/LQD. In each request package, Good Mining will also provide a written statement that the reclamation is satisfactory to the surface owner.

Reclamation Schedule

A pit series requires a progression of cuts before adequate space is developed to provide room to disperse the overburden from the first cut, for the management of reclamation materials and product, and for the effective mobilization of equipment. Live cast back of materials will begin as soon as adequate room for reclamation develops behind the active pit.

With the above consideration in mind, reclamation has been initiated and will continue until completion of mining operations within four years of the date that the land was first affected by mining subsequent to the Permit transfer and the current conversion (on areas where field drying is to take place, reclamation will begin within three years, and completed within five years, of the date that the land is first affected). Access and haul roads will be reclaimed, with culverts removed, as they are abandoned.

EXHIBIT "C"

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Matthew Mead, Governor

Todd Parfitt, Director

December 11, 2015

Mr. Brian Good
3796 Lane 32½
Greybull, WY 82426

RE: Permit 624, Annual Inspection

Dear Mr. Good:

On November 24, 2015 John Erickson (District Supervisor) and I met you, Danae and Lacee for the purpose of conducting inspections of Permits 533 and 624. You provided us with an overview as to what was occurring and the plans for the future at each site. At the present time, site activities consisted of gradual mining of the active pit east of Bear Creek, hauling stockpiled bentonite to MI, LLC's plant, consolidating stockpiled materials, and ripping / discing of stockpiled bentonite to facilitate field drying.

All issues discussed in the field I believe are addressed in either this Inspection Report or the one for Permit 533 (North Bear Creek). The attached map is based on the map provided with the 2015 Annual Report with the only addition being the bentonite stockpile at the very west end of the permit area. This Report contains a bond estimate based on information provided in the Annual Report and field observations. The Reclamation Performance bond for Permit 624 is estimated at $220,000.00 which is a $55,000.00 increase over the amount currently held by the State. Please review the contents of the enclosed reports carefully and if you have any questions about their contents or find something in error, please contact me.

Sincerely,

Brian R. Wood
District II Assistant Supervisor

w/ enclosure – 2015 Annual Inspection Report for Permit 624

cc WyDEQ/LQD Cheyenne Office – Permit 624 Inspection File
John Erickson > WyDEQ/LQD Lander Office Permit 624 Inspection File
Alan Edwards, WDEQ Deputy Director
Brian Wood, Chron File

NOVEMBER 2015 INSPECTION REPORT

MINE:	Good Bentonite Company (GBC) – South Bear Creek, Permit 624
INSPECTION DATE:	November 24, 2015
REPORT DATE:	December 11, 2015
PARTICIPANTS:	John Erickson, WDEQ/LQD District 2 Supervisor Brian Wood, WDEQ/LQD District 2 Assistant Supervisor
PREPARED BY:	Brian Wood, WDEQ/LQD District 2 Assistant Supervisor

INTRODUCTION

The Annual Report (AR) for Permit 624 was received electronically on August 14, 2015. The Report was reviewed and a letter was sent on September 8, 2015 requesting some clarifications be provided. No response was provided. One of the comments concerned the respread of top and sub soil (Soil) material stockpiled at the site. During the inspection Mr. Good indicated that a portion of the stockpiled Soil would be hauled to the North Bear Creek Mine and used as additional cover on some of the areas previously reclaimed by Black Hills Bentonite where cover was thin and the revegetation had performed poorly. This may be possible dependent on a demonstration that an adequate volume of Soil exists to reclaim the existing liability at South Bear Creek. This issue aside, GBC has never accounted for this effort in bonding calculations presented for Permit 533 or 624. Therefore, for bonding purposes this proposed effort is not considered.

A portion of Permit 624 was disturbed prior to the passage of the Open Cut Land Reclamation Act (OCLRA) of 1969. Much of the "Pre-Law" area (areal extent shown on the attached map) was not directly re-affected by mining activity. In other words, it was used for ancillary purposes such as an equipment camp site or storage. As indicated in the approved Reclamation Plan, there is no revegetation liability associated with the Pre-Law area. As shown on the attached map, much of the Pre-Law area has been reclaimed; if the reclamation in these areas is successful and there is an area where a revegetation liability exists that is not successful, a land exchange is possible.

The AR Map was based on site mapping completed by ECS Engineers during the first part of August 2015. The number of changes since that time are minimal. Bentonite Pile BP-1 is not shown on the AR map but a volume is provided; it may be reasonably assumed as the pile identified as BP-1 on the attached map which was observed during the site inspection. Bentonite Piles BP-5, BP-6, and BP-8 have either been hauled to a GBC customer or have been consolidated into another pile. Topsoil pile TS-6 has been re-spread and no longer exists. The Camp Area has now been relocated to an area on the west side of Bear Creek adjacent to the crossing. The attached map is a reproduction of the 2015 AR Map, but adds the Bentonite Pile BP-1 and also shows the approved Disturbance Boundary and lands identified as "Pre-Law" from original permit maps. All disturbance is within the Permit Area Boundary with the exception of a corner of Subsoil Pile SS-2.

SITE INSPECTION

The bentonite market is soft at the moment. At the time of the inspection Mr. Good's field crew appeared to consist of three individuals. Assuming sales improve after the first of the year, staff will be added and reclamation operations will recommence in the pit series west of the access road that bisects the permit area. No issues were noted with runoff from bentonite stockpile areas and contaminating either stockpiled Soil or adjacent native areas.

Pits

There are currently two active pits, referred to as "East" and "West" in this report based on their location. The West Pit has been mined out. Assuming John and I understood Mr. Good correctly, this was the last pit related to mining west of the access road that bisects the Permit Area. **Photo 1** illustrates the West Pit. We did not perform a measurement in the field, but it is estimated that "west" pit endwall and the "north" pit highwall average 40 feet in height. The northwest corner of the pit is right at the edge of the permit area boundary and with this in mind highwall reduction as a means of reclamation is limited. No stability issues were noted with the walls.

Photo 3 looks from the inside of the West Pit along the void between the spoil dump and a partially reclaimed bench to the north. The spoil dump will need to be reclaimed in some manner. Some options include grading in place to establish a suitable slope from the reclaimed / disturbed area to the north, placement in the West Pit, or some combination of the two.

Photo 2 shows the active East Pit. At the time of the inspection a crew of two were active in stripping overburden to expose the Flat Bed seam of the Frontier Formation. The material was being dumped in a mined out section of the pit to the west. Recently there has been a rise in the local water table as there is a small amount of water puddling on top of the seam as can be seen in the referenced photo. The East Pit series is all that remains in terms of approved mining.

Topsoil

In general Soil salvage operations have been good. Aside from the Pre-Law lands discussed in the Introduction, all of the disturbed lands were vegetated prior to mining. The dominant species in the area appears to have been Gardner Saltbush (see **Photo 5**). To date, it appears that provided materials are handled cautiously during mining, meaning burial of all bentonitic materials, a sufficient soil resource has been salvaged to date to facilitate reclamation success. **Photo 6** provides an example of Soil salvage efforts that are assumed to have been generally practiced during mining. The photo also shows that an adequate buffer zone has been established between native land and active mining in the East Pit series.

Two problem areas were noted during the inspection. The first is located around the perimeter of the West Pit. **Photo 4** shows the inadequate buffer zone between the end / high wall crest and the adjacent native ground. The second area noted is shown is **Photo 7** where it appeared some Soil was randomly bucked up into a corner near the creek crossing. This material should either be picked up and added to an existing Soil stockpile or picked up and used during GBC's next "live spread" operation. Topsoil / Subsoil signs were not observed on all piles; all Soil piles should be identified as required under NonCoal Rules and Regulations, Chapter 3, Section 2 (c)(i)(D).

Impoundments

There are two impoundments within the Permit Area Boundary, referred to as "North" and "South" in this Inspection Report. The South Impoundment was created by Ken Tanner, the prior permittee. As mentioned in prior correspondence as well as on-site during the inspection, the drainages to the north must be reconstructed such that this impoundment can continue to function as originally intended. The North impoundment was created approximately a year ago. It is intended to function primarily as a ground water fed impoundment; the primary water source being the Bear Creek alluvial aquifer. There is small drainage that comes down from the north that intersects the northeast corner of the impoundment. A discussion was held in the field regarding the disposition of this channel and I indicated that rock-lined inlet channel would need to be constructed given the channel slope that would be involved.

During the inspection, Mr. Good indicated that the water level in the North impoundment recently rose approximately 15 feet. Within the confines of the impoundment, there were two ramps that provide a circular drive access to the "water's edge", presumably to obtain water for dust suppression purposes. The base of the circular drive area appeared to be well saturated, making use of the water haul travel route as originally intended risky, if not impractical. This evidence supports that a rise in water level occurred. Further, several tension cracks were noted in the unconsolidated regraded backfill on the west side of the impoundment. These are shown in **Photo 9.** There could be the potential for future settling of the fill in this area as it consolidates through saturation. **Photo 10** is a close-up of one of the cracks easily appeared to be five deep, though not directly measured. This condition as well as the need for additional grading of the impoundment's perimeter, especially along the north and east sides suggests there is still a fair amount of earth movement required around the North impoundment.

I have contacted the State Engineer's Office and it does not appear that a water right has been secured for either impoundment. Securing a water right was addressed in my January 2015 letter. In particular with the North impoundment it would advised to secure a water right before pursuing any additional reclamation work in the areas that abut the impoundment.

Reclamation

To date, there has been approximately 36.2 acres that have been "reclaimed" within the permit area boundary. **Photo 8** shows some of the most recent reclamation completed in the pit series on the east side of Bear Creek. Based on the site inspection, not all of the areas indicated as reclaimed on the AR map have been seeded. Revegetation success to date on those areas that have been seeded has been poor. For bonding purposes rather than assume a retainage cost for areas that have been seeded, a seeding cost is applied to all disturbed areas whether or not they have been completely reclaimed minus those initially identified as "Pre-Law".

Regrade of the disturbed area is not complete as there is a need to re-establish the drainage network. This issue was discussed in the field. In addition, as mentioned in prior correspondence, the drainage network for the mine area east of the access road and west of Bear Creek needs to be re-established in order for the South impoundment to function as intended.

Bond Estimate: The table below contains a bond estimate which based on information presented in the AR as well as observations made during the inspection. The bond estimate assumes replacement of 18 inches of topsoil over all disturbed lands, excluding areas shown to be "Pre-Law" that have not been reclaimed to date. Aside from "Pre-Law" lands, all other lands were vegetated prior to disturbance. Permit 533 provides a good example of the revegetation problems with only spreading six inches of soil as is proposed in the AR. The required material to achieve the 18-inch replacement depth is shown to be available and should be utilized for that purpose.

2015 Bond Estimate for Permit 624			
	Unit	Unit Cost	Total
West Pit Backfill (1)	48,000	$1.00	$48,000.0
West Pit Spoil, Assume half the width of the arm (30') x est. pile height 15' x 600'	5,000	$0.28	$1,420.0
East Pit backfill (2)	25,000	$0.40	$9,900.0
North Pond, reduction of vertical pit walls to 3(h):1(v) (4)	16,800	$0.22	$3,696.0
Ashy Material Disposal [cu-yds, 12.9 ac @ 0.5' deep] (3)	10,400	$1.13	$11,752.0
Site Grading [acres, all acreage not designated as reclaimed] (5) 37.3	54	$71.62	$3,867.4
Soil Respread [cu-yds, 37.4 * 1.5'] (6) 37.4 + .5	90,508	$0.84	$75,574.1
Scarification of all areas not seed (7)	40.12	$62.80	$2,519.5
Seed [ac,($81.80 seed +10% tax and delivery + $90 application)]	67.36	$180.00	$12,124.8
Total			$168,854.0
Contingency Fee (30%)			$50,656.2
Total			$219,510.1
Rounded Bond			220,000.0
Existing Bond			165,000.0
Shortfall			55,000.0

(1) The Northwest corner of the pit appears to abut land not owned by GBC > limited opportunities for highwall reduction. Cost estimate assumes hauling backfill material using 637 scrapers from approximately 1,000 feet away. Volume calculated assuming a 40' west wall and a 25' east wall w/ a pit floor area of 0.92 acres.

(2) Assume the pit void encompasses 1.4 acres, required backfill equals 18,000 cubic-yards per acre. Topsoil to be windrowed off reclaimed area to west. Use a D10T, average push distance is 200', assume 5% downhill grade.

(3) Material to be used to buttress the failing portion of the North Pond failing west slope. Guideline 12A - assume 1,500 haul with Articulated Trucks and placement with D9T within North Pond to buttress slope.

(4) North Pond, Assume 750' of vertical wall along the south, east and north wall with an average height of 40' reduced to a 3(h):1(v) slope. Reduce using a D9T.

(5) A site grading cost was applied to the entire disturbed area understanding that not all lands are in need of grading. However the drainage system west of the access road as well as to the South Pond to insure functionality must be re-established. Thus, it is assumed that a cost for light grading of the entire disturbance will balance with a more intensive effort in localized areas.

(6) Available topsoil and subsoil to cover disturbance, pit, and bentonite stockpile areas with 18" of suitable growth medium (top and sub soil), not within the PreLaw envelope.

(7) Unit scarification cost Guideline 12A

Comparison of DEQ Bond Calculations To Good Mining Bond Calculations
2/1/2016

Good Mining	Unit	Estimated Quantity	Unit Cost	Total		DEQ Unit	Estimated Quantity	Unit Cost	Total		Difference	
Pit Backfill	CY	104,000	$ 0.72	$ 74,880.00		CY	48,000	$ 1.00	$ 48,000.00	West Pit		
						CY	5,000	$ 0.284	$ 1,420.00	West Pit Spoil		
					$ 74,880.00	CY	25,000	$ 0.396	$ 9,900.00	$ 59,320.00 Total Backfill	[illegible]	DEQ broke this up apparently to save distance
Pick up and dispose of .5' ashy material	CY	9,680	$ 0.89	$ 8,615.20		CY	10,400	$ 1.13	$ 11,752.00		[illegible]	DEQ used higher unit price
Site Grading	Acre	27.3	$ 71.62	$ 1,955.23		Acre	54.0	$ 71.62	$ 3,867.48		[illegible]	DEQ wants some drainages restored so they used a higher acreage
Soil Respread	CY	14,036	$ 0.89	$ 12,492.04		CY	90,508	$ 0.835	$ 75,574.18		[illegible]	DEQ Placed 1.5', Good Placed 0.5'
Scarification of all areas not seeded	Acre	65.1	$ 62.80	$ 4,088.28		Acre	40.1	$ 62.80	$ 2,519.54		[illegible]	Good included Pre-Law areas here
Seed	Acre	65.1	$ 200.00	$ 13,020.00		Acre	67.4	$ 180.00	$ 12,124.80		[illegible]	Good is using a higher grade seed mix here, Acreage difference?
Retainage	Acre	8.9	$ 350.00	$ 3,115.00		Acre	-	$ -	$ -		[illegible]	
North Pond Reduction of Vertical Pit Walls	CY	-	$ -	$ -		CY	16,800	$ 0.22	$ 3,696.00		[illegible]	DEQ wants Further work here
											[illegible]	Total Difference
Total				$ 118,166					$ 168,854		$ 50,688	
Contingency Fee (30%)				$ 35,450					$ 50,656			
Total Estimate				$ 153,615	$ 154,000 rounded				$ 219,510	$ 220,000 rounded		
Existing Bond Held				$ 165,000					$ 165,000			
Total				$ (11,000.00) Excess					$ 55,000.00	Shortfall		