

**FILED**

NOV 25 2004

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. 04-4400  
N. A. CORPORATION, )  
PERMIT NO. 1126ET )**

***BOND FORFEITURE ORDER***

This matter comes before the Council on a Motion For Bond Forfeiture filed by the Department of Environmental Quality, Land Quality Division (Division). The Council, having considered this case, and having been otherwise fully informed in the premises, finds and concludes as follows:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. N. A. Corporation holds permit 1126ET, authorizing it to operate a gravel mining operation located 5.5 miles south of Lusk, Niobrara County, Wyoming.
2. All operations have ceased at the mine.
3. N. A. Corporation posted a performance bond for the purpose of reclamation of the mine in the amount of ten-thousand (\$10,000.00) dollars. The bond is a surety bond, number B2922073, issued by Reliance Surety Company.
4. The DEQ issued Notice of Violation No. 3448-03 to N. A. Corporation on February 25, 2003, because N. A. Corporation abandoned its mine without completing reclamation in violation of WYO. STAT. § 35-11-401(e)(viii).
5. Based on the facts set forth in paragraph 4, it appears that N. A. Corporation 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 N. A. Corporation's reclamation performance bond should be forfeited.
7. The Council approved the DEQ's request to initiate bond forfeiture proceedings against N. A. Corporation on May 18, 2004.
8. The DEQ then requested that the Office of the Attorney General begin this proceeding.

9. On July 13, 2004, the Office of the Attorney General served notice to N. A. Corporation by personal service that the Council would enter an order forfeiting its bond unless the company demanded a hearing before the Council within thirty days. In addition, Ken Vines, State Insurance Commissioner; and Vicky Skadsem of Talbot-BHJ Insurance, Inc., were served with notice of these proceedings. Reliance Surety Company was served with notice of these proceedings by the Insurance Commissioner.
10. N. A. Corporation was personally served the notice on July 20, 2004 by the Yavapai Sheriff's department located in Prescott, Arizona.
11. N. A. Corporation requested a telephonic hearing on August 9, 2004, but did not provide any information or method by which representatives of N. A. Corporation could be reached. In addition, N. A. Corporation failed to attend the pre-hearing conference scheduled by the EQC and held on September 8, 2004.
12. After the pre-hearing conference, N. A. Corporation was Ordered to show cause as to why the bond forfeiture should not proceed. N. A. Corporation failed to respond to the EQC as Ordered by the Order to Show Cause.
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. § 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.

- c. Any funds remaining after reclamation and payment of other claims shall be returned to N. A. Corporation, if it can be found.

DATED this 21<sup>st</sup> day of November, 2004.

WYOMING ENVIRONMENTAL QUALITY COUNCIL



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Chairman