

**FILED**

FEB 24 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 )**

***MOTION FOR BOND FORFEITURE***

The Department of Environmental Quality, Land Quality Division (Division), through the Office of the Attorney General, hereby moves the Environmental Quality Council (Council) for an order forfeiting the bond of Emulsified Asphalt, Inc., and as grounds for this motion, states the following:


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 for this bond forfeiture, and the Council should therefore order the bond forfeited.
14. Based on the foregoing facts, it is appropriate for Emulsified Asphalt's bond to be 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's activities under permit number 1107ET.

DATED this 23 day of February, 2005.

FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION

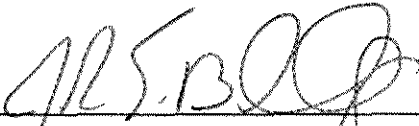
  
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John S. Burbridge  
Senior Assistant Attorney General  
123 Capitol Building  
Cheyenne, Wyoming 82002  
(307) 777-7841

CERTIFICATE OF SERVICE

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

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

U.S. Mail, postage prepaid  
 Facsimile  
 Hand Delivery

  
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John S. Burbridge  
Wyoming Attorney General's Office