

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

FILED

APR 13 2005

Terri A. Lorenzon, Director Environmental Quality Council

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

DOCKET NO. 03-4413

ORDER FOR BOND FORFEITURE

THIS MATTER came before the Wyoming Environmental Quality Council on a motion from the Department of Environmental Quality for bond forfeiture against Benton Karnes holding Permit 591ET. The Council, having reviewed the motion, and having been otherwise fully informed in the premises,

MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- 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.
8. Neither the Office of the Attorney General nor the DEQ has a record of a request for a hearing before the Council from Gianunzio or his heirs.
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.
11. The Council has jurisdiction over this matter and the parties hereto pursuant to WYO. STAT. ANN. § 35-11-421(c).

THEREFORE, IT IS HEREBY ORDERED THAT:

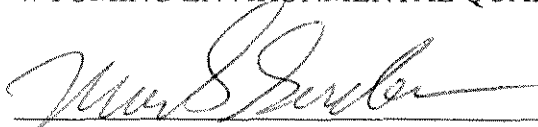
- a. The aforementioned reclamation performance bond be forfeited to the Wyoming Department of Environmental Quality, Land Quality Division, to be used by the Department for the reclamation of all lands affected by the aforementioned operation.
- b. Any proceeds remaining after reclamation shall be subject to any claim by the people of the State of Wyoming.

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- c. Any funds remaining after reclamation and payment of other claims shall be returned to Benton Karnes, if he can be found.

DATED this 11 day of April, 2005.

WYOMING ENVIRONMENTAL QUALITY COUNCIL



Chairman

CERTIFICATE OF SERVICE

I, Terri Lorenzon, do hereby certify that the foregoing ORDER FOR BOND FORFEITURE was served on this 13th day of April, 2005, to the following:

Mr. Benton Karnes
17250 Dallas Parkway
Dallas, Texas 75248

U.S. Mail, postage prepaid
 Facsimile
 Hand Delivery

AND also to the following person via interoffice mail of the State of Wyoming:

John Corra, Director
Department of Environmental Quality
Herschler Building
Cheyenne, WY 82002

Richard Chancellor, Land Quality Administrator
Department of Environmental Quality
Herschler Building
Cheyenne, WY 82002

John S. Burbridge
Attorney General's Office
123 Capitol Building
Cheyenne, Wyoming 82002


Terri Lorenzon