

**FILED**

APR 13 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.            )  
PERMIT NO. 1104ET                    )**

**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 Emulsified Asphalt, Inc. holding Permit 1104ET. 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. 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.
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.
- c. Any funds remaining after reclamation and payment of other claims shall be returned to Emulsified Asphalt, Inc., if it 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 13<sup>th</sup> day of April, 2005, to the following:

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

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

  
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Terri Lorenzon