



Department of Environmental Quality

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



Mark Gordon, Governor

Todd Parfitt, Director

CERTIFIED MAIL, RETURN RECEIPT REQUESTED: 7020 1810 0001 9090 9151

Mr. John Corra
Wyoming Environmental Quality Council
2300 Capitol Avenue
Cheyenne, WY 82002

RE: Bond Forfeiture Recommendation - Future Enterprises, LLC, Limited Mining Operation, ET1335

Dear Mr. Corra:

Attached is the required information relating to the failure of Future Enterprises, LLC (Mr. Gary Muller, Agent) to reclaim lands affected by gravel mining under Limited Mining Operation (LMO) No. ET1335. Future Enterprises, LLC is no longer licensed to do business in Wyoming.

I have reviewed the supporting information in the attached File Memorandum and have determined that the following performance bonds for LMO No. ET1335 should be forfeited:

\$5,000.00 Certificate of Deposit, issued by First Interstate Bank (Bond No. 220144610)

At this time, in accordance with W.S. § 35-11-421(a), I am seeking approval from the Wyoming Environmental Quality Council (EQC) to make a formal request of the Attorney General to begin bond forfeiture proceedings for the aforementioned bond.

If you have questions, please contact Kyle Wendtland, WDEQ/LQD Administrator at (307) 777-7655 or kyle.wendtland@wyo.gov.

Sincerely,

Todd Parfitt, Director
Department of Environmental Quality

Date: June 16, 2021

Attachments: ET1366 File Memorandum, NOV Docket No. 6083-21

cc: Kyle Wendtland, WDEQ/LQD Administrator
Mark Rogaczewski, WDEQ/LQD District 3 Supervisor
Steve Lenz, EQC Secretary

MEMORANDUM

TO: Todd Parfitt, WDEQ Director
File, Docket No. 6083-21, LMO ET1335 Abandonment

THROUGH: Kyle Wendtland, LQD Administrator
Mark Rogaczewski, WDEQ/LQD District 3 Supervisor

FROM: Kole Stewart, District 3 Natural Resource Analyst

DATE: June 8, 2021

SUBJECT: Bond Forfeiture Recommendation – Future Enterprises, LLC, Limited Mining Operation No. ET1335

Background:

Authorization for Limited Mining Operation (LMO) ET1335 was granted to Future Enterprises LLC, and L & K Sales on December 16, 2005. The mine is located in the NWSE Qtr-Qtr of Section 2 of Township 56N, Range 86W. Currently, there are approximately 1.5 acres that have been disturbed and left un-reclaimed. The Department of Environmental Quality, Land Quality Division (LQD) is currently holding Certificate of Deposit Number 220144610 with First Interstate Bank in the amount of \$5,000. The total bond currently held by the LQD is \$5,000.00 for the reclamation of this mine. The Wyoming Secretary of State dissolved Future Enterprises, LLC, on June 4, 2008 for delinquent taxes.

Mr. Gary Muller, a representative of now defunct Future Enterprises, LLC, has not submitted the required annual report for this LMO since the 2013-2014 reporting period despite repeated requests to do so. Mr. Muller was sent a letter by the District III LQD each year from 2005 to 2019 reminding him to submit an annual report on or before the due date of December 16. Additionally, there has been no activity at the mine since 2008. According to Chapter 10, Section 5(a) of the Non-Coal Rules, “[a]fter the mining operations have ceased the operator shall notify the Administrator of such fact and commence reclamation and restoration.”

Mr. Muller was issued a NOV for abandonment and failure to reclaim LMO ET1335 under Docket No. 6083-21 on April 14, 2021. In addition to LMO ET1335, Mr. Muller currently holds LMO authorizations for ET1179 and ET1366. The LQD has issued NOVs 6084-21 and 6082-21 to Mr. Muller for abandonment and failure to reclaim these LMO mines. Mr. Muller previously held LMO ET0786 under the entity Muller Construction Company. The bond was forfeited for LMO ET0786 in 1992 as a result of abandonment and failure to reclaim this mine. Based on the aforementioned information and the lack of response to the NOV, I recommend that the following bond for LMO ET1335 be forfeited:

- 5,000.00 Certificate of Deposit, issued by First Interstate Bank (Bond No. 220144610)

Reclamation Requirements:

The reclamation cost estimate was developed for ET1335 based on the existing liabilities present at the site. The reclamation cost is based on current WEDQ/LQD Guidelines 12/12A rates in conjunction with information provided from past inspections and aerial imagery.

The mine site is inactive with no formal reclamation plan. This site is an LMO and therefore exempt from statutory permitting requirements. Information from the 2020 and previous inspection reports indicates that the disturbance spans approximately 1.5 acres. The mine is completely overgrown with trees and other vegetation, and there is approximately 1000 cubic yards of overburden/reject material and 1000 cubic yards of topsoil. The Sheridan LQD office estimated that reclamation at the site will cost approximately \$2,500.00, which is \$2,500.00 less than the bond currently held by WDEQ. This estimate may be subject to increase as a result of the cost to remove any materials that cannot be used as fill and any other unforeseen costs.

Pertinent History:

The following chronological timeline is provided to show the correspondence and requests the District III LQD has sent to Mr. Muller in regards to ET1335 and his response or lack thereof.

1. 10/10/07 - Mr. Muller submitted an annual report for the 2005-2006 reporting period. This report was ten months late. This report stated that one acre was newly disturbed, and 400 cubic yards of gravel was removed from the mine. This annual report states that the remaining life of this operation is 10 years.
2. 09/23/08 - Mr. Muller submitted an annual report for the 2006-2007 reporting period. This report was nine months late. This report stated that no acres were newly disturbed, and no gravel was removed from the mine. This annual report states that the remaining life of this operation is 6-10 years.
3. 04/08/09 - District III LQD sent a certified letter notifying Mr. Muller that the 2007-2008 Annual Report had not been received. This letter was signed for by Mr. Muller on 04/21/09. This letter requested submission of this annual report within 10 days. Mr. Muller did not submit this report until nearly three months later.
4. 07/01/09 - Mr. Muller submitted an annual report for the 2007-2008 reporting period. This report was seven months late. This report stated that 0.5 acres were newly disturbed, and 519 cubic yards of gravel had been removed from the mine. This annual report states that the remaining life of this operation is 5-10 years.
5. 05/13/10 - Mr. Muller submitted an annual report for the 2008-2009 reporting period. This report was five months late. This report stated that no acres were newly disturbed, and no material had been removed from the mine. This annual report states that the remaining life of this operation is 5-10 years and that Mr. Muller's intent is to "continue

developing pond". Required State Engineers Office (SEO) permits have not been supplied to the LQD granting permission to construct a pond as a post mine feature.

6. 01/19/12 - Mr. Muller submitted annual reports for the 2009-2010 and 2010-2011 reporting periods. These reports were one-year late and one month late respectively. These reports stated that no acres were newly disturbed, and no material had been removed from the mine. These annual reports state that the remaining life of this operation is 5-10 years and that Mr. Muller's intent is to "continue developing pond". Required SEO permits have not been supplied to the LQD granting permit to construct a pond as a post mine feature.
7. 09/24/12 - The 09/20/12 inspection report for LMO ET1335 was sent to Mr. Muller certified mail. Mr. Muller signed for this document on 09/28/12. This inspection report detailed multiple compliance concerns. This report also informed Mr. Muller of the requirements of LQD Non-Coal Rules Chapter 10, Section 5(a)(i), and requested that this mine be reclaimed if no further mining activity is planned. No attempt to reclaim the mine was made.
8. 10/30/12 - A certified letter was sent to Mr. Muller detailing the compliance issues at ET1335. This letter was signed for by Mr. Muller on 11/12/12. This letter states the pit has been inactive for several years.
9. 12/06/12 - Mr. Muller submitted an annual report for the 2011-2012. This annual report was on time. This report stated that no acres were newly disturbed, and no material had been removed from the mine. This annual report states that the remaining life of this operation is five years and that Mr. Muller's intent is to turn the LMO operation over to the landowner.
10. 09/17/13 - Mr. Muller submitted an annual report for the 2012-2013. This annual report was three months early. This report stated that no acres were newly disturbed, and no material had been removed from the mine. This annual report states that the remaining life of this operation is one year and that Mr. Muller's intent is to turn the pit into a pond and turn it over to the landowner. Required SEO permits have not been supplied to the LQD granting permission to construct a pond as a post mine feature.
11. 10/16/13 - The 10/09/13 inspection report for LMO ET1335 was sent to Mr. Muller. This inspection report detailed multiple compliance concerns. This report also informed Mr. Muller of Non-Coal Rules Chapter 10, Section 5(a)(i), and requested that this mine be reclaimed if no further mining activity is planned. No attempt to reclaim the mine was made.
12. 10/15/14 - Mr. Muller submitted an annual report for the 2013-2014. This report was submitted two months early. This report stated that no acres were newly disturbed, and no material had been removed from the mine. This annual report states that the remaining life of this operation is one year and that Mr. Muller's intent is to turn the pit into a pond

and turn it over to the landowner. Required SEO permits have not been supplied to the LQD granting permission to construct a pond as a post mine feature.

13. 10/17/14 - The 10/02/14 inspection report for LMO ET1335 was sent to Mr. Muller. This inspection report detailed multiple compliance concerns, these compliance concerns were also detailed during previous inspections. No response to this inspection report was received from Mr. Muller and no attempts to resolve previous compliance concerns had been made.
14. 09/27/17 - The District III LQD sent a certified letter notifying Mr. Muller that the required 2014-2015, 2015-2016, 2016-2017 Annual Reports were not received and requested submission of the reports within 15 days. Mr. Muller did not sign for this letter and it was returned undelivered.
15. 04/25/19 - The 08/02/18 inspection report for LMO ET1335 was sent to Mr. Muller certified mail. Mr. Muller signed for this document on 05/13/2019. This inspection report detailed multiple compliance concerns including failure to reclaim the site. These compliance concerns were also detailed during previous inspections. No response to this inspection report was received from Mr. Muller and no attempts to resolve previous compliance concerns had been made.
16. 09/12/19 - The District III LQD sent a certified letter notifying Mr. Muller that the required 2018-2019 Annual Report was not received and requested submission of the report within 30 days. Mr. Muller did not sign for this letter and it was returned on 10/04/19.
17. 11/14/19 - The 10/17/19 inspection report for LMO ET1335 was sent to Mr. Muller. This inspection report detailed multiple compliance concerns including failure to reclaim the site. These compliance concerns were also detailed during previous inspections. No response to this inspection report was received from Mr. Muller and no attempts to resolve previous compliance concerns had been made.
18. 01/07/20 - The LQD Administrator sent Mr. Muller a letter advising him of the revised statute W.S. 35-11-401(e)(vi).
19. 11/10/20 - The 10/15/20 inspection report for LMO ET1335 was sent to Mr. Muller. This inspection report detailed multiple compliance concerns including failure to reclaim the site. These compliance concerns were also detailed during previous inspections. No response to this inspection report was received from Mr. Muller.
20. 04/05/21 - The LQD attempted to obtain contact information for Mr. Gary Muller through reviews of LQD files, Secretary of State websites in Wyoming and Montana, internet address and phone searches, and attempts to contact local landowners and government agencies with no success.

21. 04/14/21 - An NOV for abandonment and failure to reclaim LMO ET1335 was sent to Mr. Muller certified mail.
22. 5/25/2021 - The NOV documents sent to Mr. Muller via certified mail were returned undelivered.