



# 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

Chairperson Steve Lenz  
Wyoming Environmental Quality Council  
2300 Capitol Avenue  
Hathaway Building 1<sup>st</sup>, Room 136  
Cheyenne, WY 82002

**RE: Bond Forfeiture Recommendation – Quality Landscape & Nursery, Inc., Stevens Mine, Limited Mining Operation, ET1496**

Dear Mr. Lenz:

Attached is supporting information related to the failure of Quality Landscape & Nursery, Inc. (Mr. Randy Stevens, Agent) to cure the required items of Settlement Agreement Docket No 5970-19.

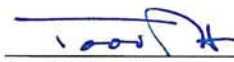
I have reviewed the supporting information in the attached File Memorandum and have determined that the following performance bond for ET1496 should be forfeited:

- \$1,000.00 Cash Deposit, issued by Rawlins National Bank, Rawlins, Wyoming (Bond No. 73880)
- \$65,000.00 Letter of Credit, issued by RNB State Bank (Bond No. 202001)

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.

Should you have any questions, please contact Kyle Wendtland, WDEQ/LQD Administrator.

Sincerely,

  
\_\_\_\_\_  
Todd Parfitt  
Director, WDEQ

Date: 11/30/22

Attachments: LMO ET1496 File Memorandum, EQC Letter of Approval

cc: Kyle Wendtland, DEQ/LQD, Administrator  
Robin Jones, DEQ/LQD, District 1 Supervisor  
Jim Ruby, EQC, Executive Officer



Mark Gordon, Governor

# Department of Environmental Quality

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



Todd Parfitt, Director

## MEMORANDUM

**TO:** Todd Parfitt, WDEQ Director *OK JP 11/28/22*

**THROUGH:** Kyle Wendtland, WDEQ/LQD Administrator 11/22/2022 *[Signature]*  
Robin Jones, WDEQ/LQD District 1 Supervisor

**FROM:** Brian Goodnough, Permit Coordinator, LQD District 1

**DATE:** November 22, 2022

**SUBJECT:** **Bond Forfeiture Recommendation, Quality Landscape & Nursery, Inc., Stevens Mine, Limited Mining Operation, ET1496**

### Authorization mining background:

The Limited Mining Operation (LMO) was originally authorized as LMO ET1421 (please reference the chronology below for additional detail). The LMO ET1421 was terminated on July 30, 2008. There is no report of any material being mined when the LMO notification was identified as ET1421. The LMO notification ET1496 was applied for by Quality Landscape & Nursery, Inc. (Quality Landscape) and was issued on July 22, 2010. The annual reports indicate that approximately 12,995 yd<sup>3</sup> of mineral was extracted from the site during the 2014 to 2018 production period. Since 2018, no produced material has been reported to come from the site.

### Recent Land Quality Division (LQD) Notice of Violation No. 6176-22 activity:

On September 20, 2019, the LQD issued Notice of Violation (NOV), Docket No. 5970-19 to Quality Landscape for mining outside the legal boundary description of the LMO. This mining resulted in material damage outside the authorized boundary of the LMO. Additionally, this NOV also indicated a failure to salvage and conserve topsoil for final reclamation. The Settlement Agreement (SA) for NOV Docket No. 5970-19 was signed by Mr. Stevens July 8, 2020, and placed a two-year timeline to complete SA requirements for repurposing the site. The SA deadline to provide LQD with a plan approved by the Town of Saratoga expired on July 29, 2022.

On August 12, 2022, the LQD issued NOV Docket No. 6176-22 to Quality Landscape for failure to fulfil the terms of the SA for Docket No. 5970-19 by the July 29, 2022 deadline. The LQD provided Quality Landscape a 45-day time period to cure the enforcement actions, as required by the SA. Quality Landscape failed to provide DEQ with the required materials, and the cure period lapsed on October 3, 2022.

The LQD conducted a conference call with Quality Landscape on October 3, 2022, at which time an extension was requested of the cure deadline to October 7, 2022. This one-time deadline extension was granted and Quality Landscape had five days to respond to the NOV Docket No. 6176-22 and

meet the requirements of the executed SA for Docket No. 5970-19. Quality Landscape failed to provide the required information to LQD and cure the enforcement action on October 7, 2022. On October 17, 2022, the LQD issued NOV Docket 6183-22 to Quality Landscape for the failure to address NOV Docket No. 6176-22. As of the time of this memo, Quality Landscape has not provided the required information to LQD, and the \$1,000 daily penalty under the SA is in force.

**Current Reclamation Bonding:**

Currently, the LQD holds a reclamation performance bond for this site that is a total aggregate of \$66,000. The cost of this site reclamation work has been conservatively estimated to be \$147,000.

**Bond Forfeiture Recommendation:**

The LQD is recommending bond forfeiture of this LMO due to issued NOVs and the operator's failure to fulfill the requirements of the executed SA.

**Chronological History:**

Below is a chronology of pertinent events for LMO ET1421 & ET1496, with accompanying dates:

- 01/22/2008 The LQD assigned Temporary File Number (TFN) 5 2/007 to the LMO application submitted by Quality Landscape.
- 01/24/2008 The LQD LMO Application Memo for TFN 5 2/007 states that Mr. Stevens contacted the Town of Saratoga and has their approval for this operation within the city limits.
- 02/07/2008 The LQD approved TFN 5 2/007 LMO application and assigned LMO ET1421.
- 02/19/2008 The LQD conducted a pre-mining inspection of LMO ET1421 on February 19, 2008. A Memorandum was prepared by Mr. Bill Hogg on February 22, 2008. It indicated no mining has occurred at the time of inspection, some snow removal had been done, and a track hoe had done some trenching.
- 04/07/2008 The LQD conducted an annual inspection of LMO ET1421. Inspection report noted the LMO operation was looking more like a storage or facility area rather than a mining operation. The Compliance Assessment of this inspection report listed several issues that the operator must address as follows: 1) Quality Landscape must install a LMO identification sign at the entrance of the mining operation; and 2) the operator must prevent sediment from leaving the site.
- 04/24/2008 The LQD received correspondence from Mr. Stevens, Quality Landscape in regards to the April 7, 2008 site inspection and the 2008 Annual Inspection Report. The cover letter stated this property will not be used as an LMO. It will only be used as a storage and parking area for equipment. Also, no dirt will be removed from site or sold. The Town of Saratoga has changed the zoning to commercial use for building of a business and the site will not be mined.
- 05/22/2008 Email from Bill Hogg indicated a meeting was conducted on May 8, 2008, with the Town of Saratoga officials. The meeting concluded that city zoning prohibits mining

within the city limits. As part of the LMO approval, LQD required Mr. Stevens to contact the City of Saratoga prior to mining. LQD issued a NOV on May 15, 2008, for mining within the city limits without approval from the Town of Saratoga. The record reflects the NOV was issued but neither the NOV or SA has been located in the LQD record archives.

- 05/22/2008 The LQD received a letter from Mr. Chuck Bartlett, Town of Saratoga, Engineer, stating that mining is not allowed within the city limits. He requested that Quality Landscape's LMO ET1421 slopes be compacted and erosion control measures be installed when conditions allow.
- 07/30/2008 The LQD terminated and released the bond in the amount of \$1,000.00 for the LMO ET1421.
- 03/11/2010 Mr. Stevens contacted LQD to give notice of a District Court decision allowing him to mine the property. The LQD requested a copy of the Judge's Order.
- 06/16/2010 The LQD received the District Court's decision for the Town of Saratoga vs. Randy W. Stevens Civil Action No. CV-09-284 Consent Decree that states the following:
- The Town recognizes that the Landowner may be required to obtain a temporary mining permit from the LQD for the removal and disposal of soil from the subject property for the sole purpose of the Project pursuant to this Agreement.
  - At no time is the Town authorizing the Landowner, or any other person, permission to mine within the boundaries of the Town.
  - The Town shall cooperate with the Landowner as necessary to obtain any approvals or permission as may be required by the LQD including the execution of any documents, and shall undertake any actions which may be necessary or appropriate for the temporary permitting of the Landowner's removal and disposal of soil from the subject property for the sole purpose of the Project pursuant to this Agreement.
  - Landowner shall make application with the Town for an excavation permit for the construction of the access/driveway from River Street to subject property in accordance with Section 12.08.040 of the Town Municipal Code and comply with all requirements of the permitting process.
  - Upon approval of the Landowner's site plan a final agreement upon construction time table, and issuance of the grading permit by the Town to the Landowner, the Landowner shall be authorized to remove soil as approved by grading permit and in accordance with the final approved site plan, the proposed finished contours or grades as to the alleyway, the final agreed upon approved construction time table and the grading permit issued by the Town.
  - The final approved site plan and construction time table, the proposed finished contour or grade as to the alleyway, and the grading permit issued by the Town shall all be incorporated and made a part of this agreement.

LQD interpreted the Consent Decree as providing Mr. Stevens with a Town of Saratoga permit to remove soil from the property.

- 06/22/2010 The LQD received a letter from Mr. Stevens in regards to the Town of Saratoga vs. Randy W. Stevens Civil Action No. CV-09-284 Consent Decree. Mr. Stevens requested the LQD to allow him to remove and mine soil per the CV-09-284 SA.
- 07/12/2010 The LQD assigned TFN 5 1/179 to the LMO application submitted by Quality Landscape.

### **LMO ET1496**

- 07/22/2010 The LQD approved TFN 5 1/179 for the Quality Landscape LMO ET1496 and accepted the \$1,000.00 reclamation performance bond for one acre of disturbance.
- 06/22/2011 The Town of Saratoga was granted a Permanent Restraining Order against Mr. Stevens and Quality Landscape. The District Court found that the Town of Saratoga would be harmed by Mr. Stevens' trespass and his removal of soil would cause damage to the alleyway. The District Court prohibited Mr. Stevens from removing soil located near, in, or under the alleyway located near the property located at 600 River Street. In addition, Mr. Stevens is prohibited to remove soil located near, in, or under the Saratoga Encampment Rawlins Conservation District building.
- 10/28/2011 The Town of Saratoga contracted Reiman Corp. to install a sheet pile retaining wall to stabilize the soil and slope above and adjacent to LMO ET1496 Quality Landscape's property. The steel retaining wall was installed within the alleyway approximately 2 feet outside of LMO ET1496 boundary.
- 02/18/2016 The LQD 2013-2014-2015 Annual Inspection Reports indicated potential concerns of mining outside the notification boundary. The LQD reviewed the Carbon County Assessors website to determine if mining had occurred outside the LMO boundary. The LQD was unable to definitively determine if mining occurred outside the LMO boundary due to the website error of 40 feet The LQD abided by the District Courts decision on the legal disputes and choose to make a determination on mining outside the LMO boundary at a later time.
- 03/23/2018 The LQD received a verbal complaint from Mr. Steve Wilcoxson in regards to the site safety of LMO ET1496. He was specifically concerned with the integrity of the sheet pile retaining wall and the steepness of the dirt highwall to the east of the wall. A meeting was arranged between the LQD, Mr. Dan Ferrin, Mr. Wilcoxson, and Mr. Stevens to address these concerns on March 27, 2018.
- 03/27/2018 The LQD, Mr. Dan Ferrin, Mr. Wilcoxson, and Mr. Stevens met at the Quality Landscape LMO ET1496 site. The site visit was focused on the sheet pile retaining wall and safety of the adjacent properties. The participants disagreed over who is

responsible for the stability and safety of the wall. Each of the participants referred to the lawsuit and the amendments to the consent decree. The site visit concluded with no clear resolution to the stability or safety of the sheet pile retaining wall.

- 04/19/2018 The LQD received a Memo from Mr. Terry Adcock, State Inspector of Mines to address the Safety Concerns at the Saratoga Mine on April 19, 2018. The memo included the citizen's complaint fielded by Mr. Adcock on March 28, 2018. The citizen's complaint pertained to LMO ET1496 and specifically the safety of the eastern highwall and the stability of the steel retaining wall. Mr. Adcock conducted a site inspection on April 3, 2018, to investigate the citizen complaint. He made note of materials that had been dislodged from the highwall, water was piping behind the sheet pile retaining wall, and emerging at the bottom of the steel wall. There was an agreement that the sheet pile retaining wall should be more secured and a more permanent solution to the problem should be developed and implemented. Mr. Stevens noted that the sheet pile retaining wall was not on his property and he refused to perform any action on the wall. He stated he would barricade off the area to prevent anyone from entering and he would grade the area to the east of the sheet pile retaining wall. On April 9, 2018, Mr. Adcock received photographs and a telephone call after completion of the two actions.
- 06/04/2018 The LQD 2016-2017-2018 Inspection Reports indicated the operator had mined material up to the sheet pile retaining wall. The sheet pile retaining wall was installed within the alleyway approximately 2 feet outside of the LMO ET1496 boundary. The inspection report documents the acknowledgment of Mr. Steve Wilcoxon (Saratoga Town Council member) that the Town of Saratoga instructed Mr. Stevens to mine up to the sheet pile retaining wall. It was noted in the inspection report, that the LQD will not require Mr. Stevens to amend the 2 foot strip along the southern boundary into the LMO. The LQD will continue to follow the District Court's ruling and will make a determination if the 2 foot strip would be amended into the LMO.
- 06/28/2018 LMO ET1496 Complaint Phone Log. Various complaints fielded by Mr. Richard Vincent (LQD, retired).
- 01/25/2019 The LQD June and July 2018 Inspection Reports indicted the operator had mined material up to the sheet pile retaining wall. The sheet pile retaining wall was installed within the alleyway approximately 2 feet outside of LMO ET1496 boundary. It was noted in the previous inspection report, that LQD will not require Mr. Stevens to amend the 2 foot strip along the southern boundary into the LMO at this time. The LQD will follow the District Court's ruling to determine if the 2 foot strip will be amended into the LMO.
- 05/16/2019 A complaint from Mr. Steve Wilcoxon was sent to Mr. Monte Buchanan. He stated that the June and July 2018 Inspection Report dated January 1, 2019, misrepresented the facts. He identified the statement "During the March 27, 2018 Inspection, it was acknowledged by Mr. Wilcoxon (Town of Saratoga Council Member) that the Town

of Saratoga instructed you to mine up to the steel retaining wall. Since it appears the Town of Saratoga authorized you to remove material up to 2 feet inside their property line, the LQD will not pursue enforcement action (also previously noted).” Mr. Wilcoxson demanded this statement be removed from the inspection report. He added, these statements were not true and proper action must be taken for falsifying a State of Wyoming government document. Mr. Buchanan routed an email to Mr. Robin Jones and Mr. Brian Goodnough to follow up with Mr. Wilcoxson on May 16, 2019.

05/24/2019 Mr. Steve Wilcoxson met with Mr. Robin Jones and Mr. Brian Goodnough in the Cheyenne LQD Office to formally hear his complaint regarding the statement made and recorded within the June and July 2018 Inspection Report. Mr. Wilcoxson stated that he could not authorize Mr. Stevens to remove material up to the steel retaining wall. The entire Town Council would have to vote on this authorization and provide a written letter granting permission; and since there is no Town permission, this statement is untrue. The LQD indicated it would follow up on the question of mining outside the LMO boundary and conduct an onsite visit to determine the appropriate response to Mr. Wilcoxson’s complaint.

06/13/2019 The LQD conducted the 2019 Annual Inspection and the Annual Inspection Report was dated August 13, 2019. The LQD has determined that Mr. Stevens has mined outside the LMO boundary which has caused material damage to the adjacent property. It has been noted in previous inspection reports that the sheet pile retaining wall was installed within the alleyway and 2 feet outside of the LMO ET1496 boundary. Mining outside the legal boundary description resulted in material damage to the sheet pile retaining wall and removal of material from the adjacent property. The removal of material adjacent to the sheet pile retaining wall has caused stability and safety concerns with the sheet pile wall.

06/13/2019 Mr. Steve Wilcoxson provided a written formal complaint on the inspection report dated January 25, 2019. The LQD acknowledges Mr. Wilcoxson’s formal complaint and has inserted his statement into the permanent file for LMO ET1496.

06/13/2019 The LQD received a copy of the complaint from the Saratoga-Encampment-Rawlins Conservation District from the Town of Saratoga. This complaint pertained to public safety and the fifteen foot drop off from the alleyway to the LMO ET1496. There are no protective measures in place above the sheet pile retaining wall to prevent accidental entry over the highwall.

08/16/2019 Town of Saratoga filed a complaint on the safety of the sheet pile wall to the LQD. The LQD contacted the Town of Saratoga on August 20, 2019, to discuss the best path forward.

08/26/2019 The LQD contacted the Town of Saratoga in regards to Mr. Steven’s approved Site Plan to develop the LMO ET1496 property. The Town of Saratoga indicated Mr.

Stevens of Quality Landscape has not submitted or acquired an approved Site Plan for the development of the LMO ET1496 property.

09/20/2019 A NOV, Docket No. 5970-19 was issued to Quality Landscape for mining outside the legal description of the LMO and this mining resulted in material damage to the adjacent property. Additionally, the NOV indicated a failure to salvage topsoil for reclaiming the mine.

The NOV SA for Docket No. 5970-19 established a two year timeline for Quality Landscape to complete the reclamation tasks listed below for LMO ET1496. The SA Item 7.a. & Item 7.b., specified that Quality Landscape must restrict public access and fence the areas that pose public health and safety danger. The LQD provided Quality Landscape the opportunity to reclaim the site for a business development in cooperation with the town of Saratoga or reclaim the LMO. The SA Item 7.c. specified that Quality Landscape must provide a site plan for a business development or Item 7.d. an alternative plan to reclaim the LMO ET1496. These plans must be approved by the Town of Saratoga, DEQ and stamped by Wyoming Professional Engineer.

11/14/2019 The LQD and Quality Landscape conducted a meeting to resolve the enforcement actions as specified in the NOV, Docket No. 5970-19 SA. The meeting concluded without resolution or the signing of the SA for NOV, Docket No. 5970-19.

02/11/2020 Based upon site inspections, the reclamation performance bond was increase from \$1,000 to \$66,000 and the bond instrument was accepted on November 10, 2020.

04/24/2020 The LQD issued Quality Landscape with a notification of late annual report. The annual report is due on July 22 of each year.

07/29/2020 The NOV, Docket No. 5970-19, SA was executed with a two year timeline provision to complete the items listed under Section 7.a. or 7.b. The two year deadline for Quality Landscape to deliver Item 7.a. or Item 7.b. was July 29, 2022.

12/16/2020 The LQD issued NOV, Docket No. 6063-20 to Quality Landscape for the failure to submit the 2019-2020 Annual Report.

12/24/2020 The LQD received the 2019-2020 LMO ET1496 Annual Report. As of 11/22/2022 abatement of NOV' 6063-20 is in process.

07/29/2022 The SA deadline lapsed for NOV Docket No. 5970-19.

08/12/2022 LQD issued NOV Docket No. 6176-22 to Quality Landscape for violating the terms of the executed SA for Docket No. 5970-19. The SA specified under 7.c. that Quality Landscape provide a site plan (Item 7.c.) or alternative site plan (Item 7.d.) to LQD



by the July 29, 2022 deadline. LQD provided Quality Landscape 45 days to cure the enforcement actions by a deadline of October 3, 2022.

- 10/03/2022 The LQD conducted a conference call with Quality Landscape on October 3, 2022. Based on information disclosed, Quality Landscape requested to extend the deadline to October 7, 2022. The LQD reviewed the information and granted Quality Landscape a one-time deadline extension to the close of business on October 7, 2022. Quality Landscape had five additional days to respond to the NOV, Docket No. 6176-22 and meet the requirements of the executed SA for Docket No. 5970-19 or the stipulated civil penalty in the amount of \$1,000 a day would go into effect.
- 10/17/2022 The LQD issued the NOV Docket No. 6183-22 for failure to address NOV Docket No. 6176-22. The stipulated penalty of \$1,000 per day went into effect on October 24, 2022.
- 11/14/2022 The LQD recommends the forfeiture of LMO ET1496 and seeks approval from the Environmental Quality Council to initiate the process of forfeiting the reclamation performance bond. LQD holds a \$66,000 bond for the LMO ET1496.