

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

FILED

JAN 16 2009

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE BOND )  
FORFEITURE PROCEEDINGS )  
AGAINST THE BOND OF ) DOCKET NO. 08-4502  
NICHOLLS AND LEWIS, INC. )  
PERMIT NO. 813ET )

***BOND FORFEITURE ORDER***

This matter comes before the Environmental Quality Council (Council) on a Motion for Bond Forfeiture filed by the Department of Environmental Quality, Land Quality Division (Division). The Council, having considered this Motion, the April 26, 2004, Voluntary Bond Forfeiture Agreement, and having been otherwise fully informed in the premises, finds and concludes as follows:

FINDINGS OF FACT

1. Nicholls & Lewis, Inc. holds permit 813ET, authorizing it to operate a limited mining operation located in the NE $\frac{1}{4}$  and the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  in Section 26, Township54North, Range94West, in Big Horn County, Wyoming.
2. Nicholls and Lewis, Inc. posted a performance bond for the purpose of reclamation of the mine site in the amount of three-thousand (\$3,000.00) dollars. The bond is a surety bond, number S150685, issued by Employers Mutual Casualty Company.
3. The Division issued Notice of Violation No. 3588-04 to Nicholls and Lewis, Inc. on September 15, 2004, because Nicholls and Lewis failed to file annual reports and failure to reclaim after mining operations ceased.
4. All operations have ceased at the Nicholls & Lewis, Inc.'s mine site.

5. On October 10, 2008, the Office of the Attorney General sent notice to Nicholls and Lewis, Inc. and Robert L. Cox, Attorney in Fact by certified mail that the Council would enter an order forfeiting its bond unless the company demanded a hearing before the Council within thirty days. Ken Vines, State Insurance Commissioner was hand delivered on the same date. Employers Mutual Casualty Company was served with notice of these proceedings by the Insurance Commissioner.
6. Notice sent to Nicholls & Lewis, Inc. and Robert Cox was returned to the Office of the Attorney General on October 14, 2008, as "unable to forward."
7. Second notice was sent to Nicholls & Lewis, Inc. and Robert Cox on October 23, 2008. Notice to Nicholls & Lewis, Inc. was returned to the Office of the Attorney General on 28, 2008 as "unable to forward." Notice to Robert Cox was received by him on or about October 28, 2008.
8. Nicholls & Lewis, Inc. has voluntarily agreed to forfeit its bond associated with permit number 813ET as evidenced by the April 26, 2004, Voluntary Bond Forfeiture Agreement which is incorporated herein by this reference.
9. Nicholls & Lewis, Inc. voluntarily agreed to waive its right to a hearing on the above captioned matter as evidenced by the April 26, 2004, Voluntary Bond Forfeiture Agreement.
10. The record in this matter establishes that the Division has satisfied all requirements for bond forfeiture pursuant to WYO. STAT. ANN. § 35-11-421, for Surety Bond number S150685, issued by Employers Mutual Casualty Company.

CONCLUSIONS OF LAW

1. The Council has jurisdiction over this matter and the parties hereto pursuant to WYO. STAT. ANN. § 35-11-421(c).
2. Nicholls & Lewis, Inc. has waived its right to a hearing in this matter and voluntarily forfeits its bond.
3. Any funds remaining after reclamation and payment of other claims shall be returned to Nicholls & Lewis, Inc., if it can be found.

THEREFORE, it is hereby ORDERED that the cash bond in the amount of three-thousand (\$3,000.00) dollars held by the Department of Environmental Quality pursuant to the terms and conditions of permit number 813ET is FORFEITED with the proceeds of the same to be used for the purpose of reclaiming Nicholls & Lewis, Inc.'s mine site located in the NE¼ and the SE¼ of the NE¼ in Section 26, Township54North, Range94West, in Big Horn County, Wyoming.

IT IS FURTHER ORDERED that any remaining proceeds shall be subject to any claim by the people of the State of Wyoming.

IT IS FURTHER ORDERED that any funds remaining after reclamation and payment of other claims shall be returned to Nicholls & Lewis, Inc., Inc., if it can be found.

DATED this 15 day of January, 2009

FOR THE ENVIRONMENTAL QUALITY COUNCIL

  
Chairman

**CERTIFICATE OF SERVICE**

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 16<sup>th</sup> day of January, 2009, I served a copy of the foregoing **ORDER OF BOND FORFEITURE** by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Mr. Paul Lewis  
Nicholls and Lewis, Inc.  
1887 U.S. Highway 310  
Lovell, WY 82431-9611

Rudda Krummins  
Employers Mutual Casualty Company  
717 Mulberry Street  
Des Moines, IA 50309

also to the following persons via electronic mail:

John S. Burbridge  
Sr. Assistant Attorney General  
[Jburbl@state.wy.us](mailto:Jburbl@state.wy.us)

Don McKenzie  
Dept. Of Environmental Quality  
Land Quality Division  
[dmcken@wyo.gov](mailto:dmcken@wyo.gov)

John Corra, Director  
Department of Environmental Quality  
[jcorra@wyo.gov](mailto:jcorra@wyo.gov)

  
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