



MEMORANDUM

TO: John V. Corra, Director, Department of Environmental Quality (DEQ) 

FROM: Donald R. McKenzie, Administrator, Land Quality Division (LQD) 

DATE: June 10, 2008

RE: History and Documentation for the Bond Forfeiture Recommendation for Nicholls & Lewis Inc., 813ET

Introduction

Nicholls and Lewis Inc. did not fulfill the reclamation requirements for this mine. The company no longer exists and forfeited a bond for LQD Permit 639(s) in 2003. The landowners, Paul Fritsch and Lynn Pappas of Florida requested bond forfeiture to reclaim the mining disturbance. Paul Lewis, an officer of Nicholls and Lewis signed a voluntary bond forfeiture agreement as "express" on April 26, 2004. A NOV and Order were issued for this limited mining operation on September 15, 2004. The NOV was not accepted.

Documentation Leading to the Recommendation for Bond Forfeiture

Information that documents the events that have led to this recommendation for bond forfeiture include the following as outlined in LQD Instruction Memorandum 34:

- 1) Notice of Violation (NOV) that forms the basis for the forfeiture: A NOV has been issued for failure to reclaim the mine site pursuant to WS 35-11-401(e) (iii). A copy of the NOV is attached.
- 2) Brief history of the operation leading up to the Voluntary Forfeiture: A memo dated June 10, 2008 outlining the Chronology of Events is attached.
- 3) Explanation of why forfeiture is necessary: The company is no longer in business.
- 4) Documentation of attempts to get the operator to reclaim the site: LQD met with Mr. Paul Lewis in April 2004 to obtain a voluntary bond forfeiture agreement. LQD received a signed voluntary forfeiture agreement from Mr. Lewis on April 28, 2004. This document is attached.
- 5) Information submitted by the operator relevant to the forfeiture: The voluntary forfeiture agreement from Mr. Lewis is attached.
- 6) Status of Operator: Nicholls and Lewis is no longer in business. The status from the Wyoming Secretary of State (SOS) for Nicholls and Lewis is inactive (administratively dissolved-tax). A print out from the SOS website is attached.

- 7) Land ownership and legal description: The Form 10 from the approved application lists the landowner as Dennis Gifford. The land was later sold to Mr. Paul Fritsch and Ms. Lynn Pappas. The mine is located in the NE/4 and the SE/4 of the NE/4 in Section 26, Township 54 North, Range 94 West, of Big Horn County.
 - 8) Number of acres disturbed and reclaimed: A Global Positioning Survey (GPS) was conducted by LQD on April 16, 2004, indicating a total disturbance of 14 acres.
 - 9) Information on the Reclamation Performance Bond: A surety bond of \$3,000 from Employers Mutual Casualty Company is available for forfeiture.
 - 10) Reclamation that is needed and the adequacy of the bond: LQD estimates an additional reclamation amount of \$9000 is necessary to reclaim the mine site. The total amount of monies needed is \$12,000.
 - 11) Memos from the WDEQ Director to the Attorney General's office requesting initiation of the bond forfeiture process:
 - Attached is a memorandum from Don McKenzie, LQD Administrator, to John Burbridge, Assistant Attorney General, requesting initiation of the bond forfeiture process (Memo dated June 10, 2008).
 - Attached is a draft memo from the WDEQ Director to the EQC requesting approval to initiate bond forfeiture
- c: Mark Moxley > Brian Wood

MEMORANDUM

TO: 813ET, Nicholls & Lewis, Inc., Limited Mining Operation, Big Horn County
FROM: Donald R. McKenzie, Administrator, Land Quality Division
DATE: June 10, 2008
RE: **Bond Forfeiture Chronology**

May 15, 1991 A Limited Mining Operation was issued to Nicholls & Lewis, Inc.

May 18, 1998 Last annual report for the mine was received.

April 16, 2004 LQD inspects mine with landowner, Mr. Paul Fritsch. Landowner had conducted some work to stabilize the Big Horn River bank. At least four acres needs to be regarded, topsoil spread and seeded.

April 28, 2004 LQD receives voluntary bond forfeiture agreement from Mr. Paul Lewis, former Nicholls & Lewis Inc. officer, signed on April 26, 2004.

September 15, 2004 LQD issues NOV and Order to Nicholls and Lewis in Lovell. The NOV was not accepted.



The State
of Wyoming



Department of Environmental Quality

Dave Freudenthal, Governor

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002

ADMIN/OUTREACH (307) 777-7758 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7368 FAX 777-6937	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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September 15, 2004

CERTIFIED MAIL RETURN RECEIPT REQUESTED 7003 1680 0007 0433 9003

Nicholls & Lewis, Inc.
Attn: Mr. Mike Lewis
P.O. Box 456
Lovell, Wyoming 82431

RE: Notice of Violation and Order, Docket No. 3588-04

Dear Mr. Lewis:


Enclosed you will find a Notice of Violation (NOV) and Order issued under the provisions of Wyoming Statute (W.S.) § 35-11-701(c) of the Wyoming Environmental Quality Act. The Notice of Violation and Order is based on the inspection conducted by Ms. Deb Phenicie (please see attached) of Limited Mining Operation 813ET on April 16, 2004. The Order outlines the specific actions required to correct the violations.

The Land Quality Division (LQD) notes that Nicholls & Lewis, Inc. is a defunct company. Mr. Paul Lewis, an officer of the defunct company, has signed a "Voluntary Bond Forfeiture Agreement" (copy attached).


The LQD is attempting to resolve this issue without further enforcement action and requests a response from you within twenty (20) days from the receipt of this letter. Should LQD not receive the information outlined in the attached Order, the LQD will move forward with bond forfeiture proceedings.

If you should have any questions, please contact Mr. Mark Moxley or Ms. Deb Phenicie of the Land Quality Division District II Office at 307-332-3047.

Respectfully,



John V. Corra
Director
Department of Environmental Quality



Richard A. Chancellor
Administrator
Land Quality Division

813ET, Nicholls & Lewis, Inc.
NOV & Order, Docket No. 3588-04
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Enclosure: Notice of Violation and Order
Annual Inspection Report
Voluntary Bond Forfeiture Agreement

cc: Mark Moxley, LQD, District II
John Burbridge, Assistant Attorney General
Georgia Cash Hoenig, LQD
Carol Bilbrough, LQD
Laura Laughlin, WDEQ
813ET
Paul Lewis, Lewis Holding Company, 150 West 11th Street, Space 27, Sheridan,
Wyoming, 82801