

MEMORANDUM

TO: John V. Corra, Director, Wyoming Department of Environmental Quality

THROUGH: Donald McKenzie, Administrator, Land Quality Division *DK*
7/29/08

FROM: Lowell Spackman

DATE: July 25, 2008

SUBJECT: **Background Information and Chronology for Bond Forfeiture Action 591s, Watts & Wagner**

- 1) *Copy of NOV which forms the basis of forfeiture*
A copy of NOV Docket No. 4199-07 is attached to this Memorandum.
- 2) *Brief History of the operation*
The authorization for this Small Mining Operation was issued to Reuben Watts & Herman Wagner on October 14, 1986. This operation has not been active since the late 1980's.
- 3) *Explanation of why forfeiture is necessary*
Both Mr. Wagner and Mr. Watts have passed on and Mrs. Wagner and Ms. McLain, Mr. Wagner's daughter, have not responded to LQD correspondence that required reclamation to be completed and Annual Reports to be filed. The files indicate that the operators had a poor history of not submitting Annual Reports and not meeting LQD regulatory requirements.
- 4) *Documentation of attempts to get operator to reclaim.*
All inspection reports since the year 2000 have noted compliance issues that have not been addressed by the operator. Certified mailing to Mr. Wagner, his wife, and daughter have been ignored or not accepted. Recent legal documents have been served by the Adams County Sheriff in Colorado and still no response.
- 5) *All information submitted by the operator relevant to the forfeiture.*
Prior to his death, Mr. Herman Wagner responded to LQD letters of October 24, 2001 with his letters dated September 3, 2002, March 31, 2003 and November 3, 2003. Mr. Wagner's letter dated September 3, 2002 states that Mr. Watts had installed the explosive magazines, had constructed a settling pond for the State Engineers Office and that he would install the permit identification sign the next spring. Mr. Wagner's letter dated March 31, 2003 states that the 591s permit can be canceled as the only disturbance is the discover hole and disturbance 130 feet below the surface of the road. Mr. Wagner's letter dated November 3, 2003 states that there is no disturbance under the road but way down the bank of the river which is quite a distance from the road.

- 6) *Status of the operator.*
Mr. Watts and Mr. Wagner have passed away. They were never registered with the Secretary of State. It is unknown whether they have taken bankruptcy.

- 7) *Land Ownership and location including a complete legal description and general location.*
The surface and mineral ownership is private, patented claims, but with the death of Mr. Watts and Mr. Wagner the exact ownership is not known. The permitted area is surrounded by Forest Service lands. This operation is located 2.5 miles south of State Highway 130. USFS roads 338 and 307 are used as access roads. The legal description of the operation is Section 8, Township 15N, Range 78W in Albany County.

- 8) *Acres disturbed and reclaimed based on recent field inspection.*
The site was last inspected by the LQD on July 16, 2007. The 591s permit was mined prior to the Environmental Quality Act and LQD has never been able to establish what disturbances that Mr. Watts & Wagner had created and were responsible for. Much of the older disturbance has re-vegetated naturally.

- 9) *The bond amount and type including issuing company and number.*
LQD holds a \$200.00 cash bond for the reclamation of the 41.32 acre permit area.

- 10) *A brief discussion of the type of reclamation necessary and the adequacy of the bond to finance that work.*
The bond is not adequate to reclaim the disturbance. The reclamation will require the removal of the explosive magazines and other trash mining equipment that remains on site. If the shafts are ever found, as previously discussed are located, they also would require remedial work. Assuming a shaft is present the cost of reclamation may run as high as \$100,000.00.

11. *A draft memorandum for the Director's signature to the EQC requesting approval to initiate bond forfeiture proceedings.*
The memorandum is attached.

Chronology of Events

October 24, 2001. John Wagner's letter detailing the correction actions that are required to bring the license to explore into compliance.

December 15, 2001. A phone conversation with Shelly McLain indicated that she had hired an attorney, Mr. Earl Madsen, to handle the compliance issues. Mr. Madsen was to contact LQD concerning the compliance issues. LQD never was contacted by Mr. Madsen.

March 19, 2002. LQD letter to Shelly Sandoval stating that LQD had not heard from Mr. Madsen, she had not responded to the October 24, 2001 LQD letter and reclamation had not been completed.

July 13, 2007 After phone conversations with Ms. Shelly C. McLain concerning voluntary bond forfeiture, LQD mailed forms for her and Ms. Wagner to consider. The certified mailing was signed by Ms. Wilma Wagner on July 14, 2007. No response was received from Ms. McLain.

September 13, 2007. After a phone conversation with Ms. McLain where she stated that she had not received the July 13, 2007 correspondence, the material was again mailed to her. No response was received.

December 28, 2007. LQD issued a Notice of Violation, Docket No. 4199-07 for failure to reclaim and failure to file Annual Reports. Ms. Wagner and Ms. McLain never scheduled the settlement agreement meeting.

March 28, 2008. LQD again mailed the voluntary bond forfeiture to Ms, Mclain after receiving a phone call from Ms. McLain. No response was received.

MEMORANDUM

TO: John V. Corra, Director, Wyoming Department of Environmental Quality

THROUGH: Donald McKenzie, Administrator, Land Quality Division *DKL 7/20/08*

FROM: Lowell Spackman

DATE: June 20, 2008

SUBJECT: **Background Information and Chronology for Bond Forfeiture Action 591s, Watts & Wagner**

HISTORY

The authorization for this Small Mining Operation was issued to Reuben Watts & Herman Wagner on October 14, 1986. Both Mr. Wagner and Mr. Watts have passed on and Mrs. Wagner and Ms. McLain, Mr. Wagner's daughter, have not responded to LQD correspondence that required reclamation to be completed and Annual Reports to be filed.

Mr. Watts and Mr. Wagner were never registered with the Secretary of State. It is unknown whether they have taken bankruptcy. This operation has not been active since the late 1980's. The files indicate that the operators had poor history of not submitting Annual Reports and not meeting LQD regulatory requirements.

Prior to his death, Mr. Herman Wagner responded to LQD letters of October 24, 2001 with his letters dated September 3, 2002, March 31, 2003 and November 3, 2003. Mr. Wagner's letter dated September 3, 2002 states that Mr. Watts had installed the explosive magazines, had constructed a settling pond for the State Engineers Office and that he would install the permit identification sign the next spring. Mr. Wagner's letter dated March 31, 2003 states that the 591s permit can be canceled as the only disturbance is the discover hole and disturbance 130 feet below the surface of the road. Mr. Wagner's letter dated November 3, 2003 states that there is no disturbance under the road but way down the bank of the river which is quite a distance from the road.

The site was last inspected by the LQD on August 22, 2006. This operation is located 2.5 miles south of State Highway 130. USFS roads 338 and 307 are used as access roads. The legal description of the operation is Section 8, Township 15N, Range 78W in Albany County. The surface and mineral ownership is private, patented claims, but with the death of Mr. Watts and Mr. Wagner the exact ownership is not known. The permitted area is surrounded by Forest Service lands.

LQD holds a \$200.00 cash bond for the reclamation of the 41.32 acre permit area. The bond is not adequate to reclaim the disturbance. The reclamation will require the removal of the

MEMORANDUM

TO: John Burbridge, Assistant Attorney General
FROM: Donald R. McKenzie, LQD Administrator
DATE: June 20, 2008
RE: Bond Forfeiture for Watts & Wagner, 591s


Mr. Watts and Mr. Wagner failed to complete the reclamation of this Small Mining Operation prior to their passing. The Operators, Mr. Watts & Mr. Wagner and their survivors, have not reclaimed the disturbance after seven years of LQD's requests. Because of the survivors inability to complete the reclamation, this Bond Forfeiture is requested.

The LQD inspection on July 16, 2007, confirmed that the reclamation had not been started. It is formally request that the Department proceed with the forfeiture for the reclamation bonds of \$200 held for 591s.

c: Lowell Spackman > Pam Rothwell > Bill Hogg

MEMORANDUM

TO: Environmental Quality Council

FROM: John Corra, Director Environmental Quality Division 

DATE: July 3, 2008

RE: Bond Forfeiture for Watts & Wagner, 591s

Attached is the information relating to the failure of Mr. Watts & Mr. Wagner to complete the reclamation of this Small Mining Operation. The Operator, Mr. Watts & Mr. Wagner, have passed on and Mrs. Wagner and Ms. McLain, Mr. Wagner's daughter, have not responded to LQD correspondence that required reclamation to be completed and Annual Reports to be filed. Because they have not completed the reclamation, this Bond Forfeiture is requested.

I have determined that the bond for Permit 591s, Watts & Wagner operation should be forfeited. I therefore seek your approval to request that the Attorney General begin bond forfeiture proceedings.

Should you have any questions, please contact the LQD Administrator.

xc: DEQ/LQD - Lowell Spackman
DEQ/Director - John Corra
EQC Administrator Aid

Attachment

Date

Approved
Chairman, Environmental Quality Council



Department of Environ

To protect, conserve and enhance the environment for the benefit of current a

Dave Freudenthal, Governor

December 28, 2007

**CERTIFIED MAIL # 7005 1820 0005 1478 8651
RETURN RECEIPT REQUESTED**

Mrs. Wilma Wagner and Ms. Shelly McLain
Wagner & Watts
15700 Jamaica Dr
Brighton, CO 80602-7416

RE: Notice of Violation, Permit No, 591s, Docket No. 4199-07

Dear Mrs. Wagner and Ms. McLain:

Enclosed you will find a Notice of Violation under the provisions of Wyoming Statute § 35-11-701(c). The Notice of Violation is based on the inspection conducted by Bill Hogg on July 16, 2007. The violation is for failure to submit Annual Reports and failure to reclaim the mining disturbance.

Recent attempts to resolve these issues through voluntary forfeiture have failed. This Notice of Violation is the first step toward the Land Quality Division (LQD) recommendation to the Environmental Quality Council that the performance bond be forfeited to ensure that the site is reclaimed.

In an effort to resolve this matter without further legal action, the LQD is requesting you contact Mr. Lowell Spackman, LQD District I Supervisor at 307-777-7052 or at lspack@state.wy.us within fifteen (15) days of receipt of this letter to discuss resolution of this enforcement action.

If you should have any questions regarding this letter, please contact Mr. Spackman at the above noted telephone number. Thank you in advance for your cooperation in this matter.

Respectfully,

Carol Bilbrough
Donald R. McKenzie
Administrator
Land Quality Division

John V. Corra
John V. Corra
Director
Department of Environmental Quality

cc: Lowell Spackman, LQD, District I
Carol Bilbrough, LQD
Permit 591s

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OFFICIAL US

Postage	\$
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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Sent To
Wilma Wagner & Shelly McLain
Street, Apt. No., or PO Box No.
City, State, ZIP+4

PS Form 3800, June 2002 See Reverse for

7005 1820 0005 1478 8651