

**BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

FILED
FEB 15 2012

Jim Ruby, Executive Secretary
Environmental Quality Council

**IN THE MATTER OF THE BOND)
FORFEITURE PROCEEDINGS)
AGAINST THE BOND OF)
CARBON ENERGY)
PERMIT NO. 578ET)**

DOCKET NO. 11-4501

MOTION FOR BOND FORFEITURE

The Department of Environmental Quality, Land Quality Division (DEQ), through the Office of the Attorney General, hereby moves the Environmental Quality Council (Council) for an order forfeiting the bond of Carbon Energy Corporation (Carbon Energy), and as grounds for this motion, states the following:

1. Carbon Energy holds permit 578ET, authorizing it to operate a scoria, sand and gravel mining operation located in the SE1/4 SW1/4 of Section 36, Township 34N, Range 94W in Fremont County, Wyoming. *See Exhibit A.*
2. Carbon Energy posted a performance bond for the purpose of assuring reclamation of the mining site in the amount of one thousand dollars (\$1,000.00). The bond is a Certificate of Deposit No. 3004408 - dated 05-13-1985, issued by the United Savings Bank of Wyoming, now U.S. Bank. *See Exhibit B.*
3. There has been no activity or reclamation at this site since September of 1997.
4. The DEQ issued Notice of Violation No. 4275-08 to Carbon Energy on June 16, 2008, alleging that Carbon Energy had failed to reclaim the mining disturbance after mining operations ceased. *See Exhibit C.*

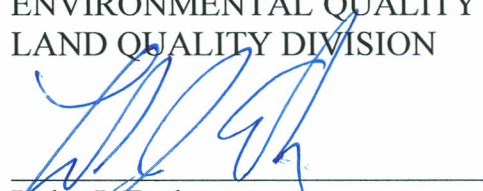
5. Based on these facts, the DEQ determined Carbon Energy's reclamation bond should be forfeited.
6. The Council approved the DEQ's request to initiate bond forfeiture proceedings against Carbon Energy on May 11, 2011. *See* Exhibit D.
7. The DEQ then requested that the Office of the Attorney General begin this proceeding.
8. On November 14, 2011, the Office of the Attorney General sent notice to Carbon Energy by certified mail that the Council would enter an order forfeiting its bond unless it demanded a hearing before the Council within thirty days. U.S. Bank was also sent a copy of the notice to Carbon Energy by certified mail. *See* Exhibit E.
9. Notice sent to Carbon Energy was returned to the Office of the Attorney General on November 23, 2011, as "unable to forward." U.S. Bank received notice on or about November 15, 2011. *See* Exhibit F.
10. Neither the Office of the Attorney General nor the Council has a record of a request for a hearing before the Council from Carbon Energy or U.S. Bank.
11. WYO. STAT. ANN. § 35-11-421(b) states that if no demand is made by the operator within thirty days of his receipt of the notice, then the Council shall order the bond forfeited.

12. The DEQ and the Attorney General's Office have satisfied all of the statutory prerequisites to this bond forfeiture, and the Council should order the bond forfeited.

WHEREFORE, the DEQ respectfully requests that the Council enter an order requiring Carbon Energy, to forfeit its reclamation performance bond to the DEQ to be used to reclaim those lands affected by Carbon Energy's activities under permit number 578ET.

DATED this 15th day of February, 2012.

FOR THE DEPARTMENT OF
ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION



Luke J. Esch
Senior Assistant Attorney General
123 Capitol Building
Cheyenne, Wyoming 82002
(307) 777-6946

CERTIFICATE OF SERVICE

I, hereby certify that on this 15th day of February, 2012, I served a true copy of the foregoing Motion and Order for Bond Forfeiture by United States Mail, postage prepaid, addressed as follows:

Mr. Jean Baker
Carbon Energy Corporation
503 East Washington
Riverton, WY 82501

U.S. Bank
215 Broadway Ave.
Riverton, WY 82501

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be the initials 'J.B.' followed by a flourish.

Exhibit A

LIMITED MINING OPERATIONS
NOTIFICATION OF OPERATOR
AND
CONSENT OF SURFACE OWNER AND LESSEE

NOTE: Use typewriter
or print neatly with
black ink

This form shall be used only in filing for the removal of sand, gravel, scoria, limestone, dolomite, shale, ballast, or feldspar from an area of 10 acres or less of affected land as provided by W.S. 35-11-401(e) (vi).

1. The undersigned owner and lessee, if any, of the surface of the following described lands to be mined:

SE 1/4 SW 1/4, Section 36, T. 34 N., R. 94 W., ¹⁰40 Acres ^{per phone with S. 5/26/85}
_____, Section _____, T. _____ N., R. _____ W., _____ Acres
_____, Section _____, T. _____ N., R. _____ W., _____ Acres
_____, Section _____, T. _____ N., R. _____ W., _____ Acres

Fremont County, WY Total ¹⁰40 Acres
hereby consent to, and agree to allow, (Operator name, address, and telephone number, Agent name, address, and telephone number, if company)
Carbon Energy Corp., P. O. Box 468, Riverton, WY 82501 (307) 856-4010
H. Jean Baker, 503 East Washington, Riverton, WY 82501 (307) 856-0477
to remove the following mineral scoria
from the above described lands for a period of time beginning on May 27, 1985
and ending on May 27, 1986. The premining use of the land is grazing.

2. The above mentioned operator hereby notifies the Land Quality Division that he (it) will mine the above mineral from the above described lands for the period of time described above.

(a) The method(s) of mining consists of scoria outcrop to be mined by backhoe and frontend loader. Haulage to Riverton, WY by 12 yd truck. On site sizing screens and vibrators to sort size (portable).

and the maximum depth to which mining will occur is estimated to be 16 feet
(b) The depth to ground water in the mine area is estimated to be 110'
(c) The total number of acres to be affected is 2.4 acres
(d) The proposed post-mining use of the land is grazing
(e) A reclamation bond in the amount of \$ 1,000.00 is attached and identified as bond number C.D. #005-3004408

3. Mineral Ownership (Federal, State, Private) State Lease #SG 1639

4. Under penalties of perjury, we declare that we have examined this notification and consent; and the information contained herein, and to the best of our knowledge and belief it is true, correct and complete; and that the location of the proposed operation is accurately shown on the original U.S.G.S. quadrangle map accompanying this consent. Further, it is agreed that the reclamation of the lands affected by the mining operation shall be in compliance with the Rules and Regulations of the Land Quality Division.

Dated this 13th day of May, 1985.

See attached copy of State Lease
Signature of Surface Owner

H. Jean Baker
Signature of Operator

State of Wyoming
Printed or Typed Name of Surface Owner

H. Jean Baker, Agent
Printed or Typed Name
CARBON ENERGY CORP.

N/A
Signature of Surface Lessee (Omit for State Lands)

Howard M. Baker
Printed or Typed Name of Surface Lessor

FOR LQD use only:
Temp. Filing No. 15/385
Permit No. 578ET
District II



Approved: Roger Shaffer Acting
Roger Shaffer Administrator
Date: 5/23/85

Exhibit B

Exhibit C

11-4501

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO)
RICHARD D. HOVANDER)
CARBON ENERGY CO., INC.)
2325 WEST MAIN ST.)
RIVERTON, WY 82501)
Re: Limited Mining Operation 578ET)

DOCKET NO. 4275-08

FILED

APR 18 2011

Jim Ruby, Executive Secretary
Environmental Quality Council


NOTICE


NOTICE IS HEREBY GIVEN THAT:

1. This Notice of Violation is being sent to you pursuant to W.S. §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. On September 10, 2007 an inspection of Carbon Energy's scoria pit operated under the Limited Mining Operation (LMO) No. 578ET was conducted by Steve Platt of the Land Quality Division, District 2 Office. The LMO was issued on May 23, 1985 and the pit is located in SE1/4SW1/4 of Section 36, T34N, R94W, 6th Principal Meridian in Fremont County east of Riverton.
3. The September 10, 2007 inspection conducted by Steve Platt revealed that there has been no mining or reclamation activity since the previous inspection conducted on July 8, 1997. In addition, no activity has occurred at the pit since at least 1991.
4. Land Quality Division Non-Coal Rules and Regulations, Chapter 10, Section 5(a)(i)(B) states that an operation will be considered to be abandoned if no further mining or reclamation work has been done for one annual report to the next.
5. Failure to commence reclamation after mining operations have ceased or within 30 days after the abandonment of the mining operation is a violation of Land Quality Division Non-Coal Rules and Regulations, Chapter 10, Section 5(a).
6. The violation has not been corrected or remedied, nor has the operator provided any information to the Land Quality Division concerning the violation.
7. W.S. § 35-11-901(a) provides that any person who violates any provision of the Environmental Quality Act or any rule, standard, permit, license or variance adopted there under is liable to a penalty of ten thousand dollars (\$10,000.00) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming.

NOTHING IN THIS NOTICE shall be interpreted to in any way, limit or contravene any other remedy available under the Environmental Quality Act, nor shall this Order be interpreted as being a condition precedent to any other enforcement action.

SIGNED this 16th day of June, 2008


John V. Corra
Director
Department of Environmental Quality


Donald R. McKenzie
Administrator
Land Quality Division

Please direct all inquiries regarding this Notice of Violation to Mr. Steve Platt or Mr. Mark Moxley, 510 Meadowview Dr., Lander, WY 82520. Telephone No. (307) 777-7823.

CERTIFIED MAIL, RETURN RECEIPT REQUESTED #7007 1490 0001 0736 2344
DOCKET NO. 4275-08

Cc: LQD District 2 Supervisor - Lander
LQD - Cheyenne

Exhibit D

FILED

MAY 12 2011

11-4501

Jim Ruby, Executive Secretary
Environmental Quality Council

LQD

APR 08 11

RECEIVED

MEMORANDUM

TO : Environmental Quality Council
FROM : John Corra - DEQ Director *J. Corra*
DATE : April 6, 2011
RE : Bond Forfeiture Recommendation for Carbon Energy, Abandoned Limited Mining Operation No. 578ET

Attached is information relating to the failure of Carbon Energy to reclaim lands affected by scoria mining under Limited Mining Operation No. 578ET.

The operator, Gene Baker dba Carbon Energy, is deceased. I have therefore determined that the \$1000 reclamation performance bond posted by Carbon Energy should be forfeited at this time.

Should you have any questions, please contact Alan Edwards, Acting LQD Administrator.

xc: Carol Bilbrough - LQD Program Manager
John Erickson - LQD District II
Jim Ruby - EQC Executive Secretary

Attachments: John Corra Memo and Chronology

5/11/11
Date

Tim Kletny
Approved
Chairman, Environmental Quality Council

Exhibit E



Office of the Attorney General

Governor
Matthew H. Mead

Attorney General
Gregory A. Phillips

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
Peter K. Michael

Division Deputy
Jay A. Jerde

November 14, 2011

CERTIFIED MAIL # 7008-1830-0000-9283-5376
RETURN RECEIPT REQUESTED

Mr. Jean Baker
Carbon Energy Corporation
503 East Washington
Riverton, WY 82501

U.S. Bank
215 Broadway Ave.
Riverton, WY 82501

RE: Notice of Proposed Bond Forfeiture for Limited Mining Operation No. 578ET; Notice of Violation No. 4909-11

Dear Mr. Baker:

On June 16, 2008, the Department of Environmental Quality, Land Quality Division (DEQ) issued Notice of Violation (NOV) No. 4275-08 to Carbon Energy Company Inc. (Carbon Energy) alleging that Carbon Energy had abandoned its mining operations without completing reclamation in violation of the Land Quality Rules and Regulations and WYO. STAT. ANN. § 35-11-401(e)(viii). On May 15, 2011, DEQ received the Wyoming Environmental Quality Council's (EQC) approval to request that the Attorney General's Office initiate bond forfeiture proceedings pursuant to WYO. STAT. ANN. § 35-11-421(a). After DEQ received approval to initiate bond forfeiture proceedings, it was determined that the original NOV was sent to the wrong address. On October 11, 2011, an additional NOV was sent to Carbon Energy alleging the same violations as those contained in the June 16, 2008, NOV.

DEQ now seeks an order from the EQC to forfeit Carbon Energy's reclamation bond, Certificate of Deposit, dated May 13, 1985, issued by United Savings Bank, now U.S. Bank, 215 Broadway Avenue, Riverton, Wyoming 82501, in the amount of \$1,000.00. If the bond is

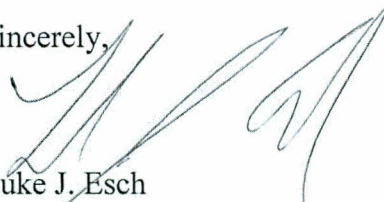
Mr. Jean Baker
Nov. 14, 2011
Page 2 of 2

forfeited, the DEQ will use the proceeds to reclaim the mine site located in Fremont County, Wyoming.

Pursuant to WYO. STAT. ANN. § 35-11-421(b), the Wyoming Attorney General's Office is hereby notifying you that the EQC will order the bond forfeited unless you make a written demand for a hearing to the EQC within thirty (30) days after receiving this notice.

If you have any questions concerning these proceedings, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Esch', written over a light blue horizontal line.

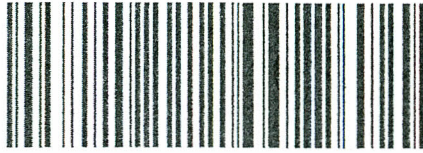
Luke J. Esch
Assistant Attorney General

cc: Nancy Nuttbrock
file

Exhibit F

STATE OF WYOMING
ATTORNEY GENERAL
123 STATE CAPITOL
HEYENNE, WYOMING 82002

CERTIFIED MAIL™ 825014448 0009 8744*10528



7008 1830 0000 9283 5376



RECEIVED
NOV 23 2011
WYOMING ATTORNEY
GENERAL OFFICE, WNR

Mr. Jean Baker
Carbon Energy Corporation
503 East Wa
Riverton, W



STATE OF WYOMING
ATTORNEY GENERAL
123 STATE CAPITOL
HEYENNE, WYOMING 82002
RETURN TO: SENDER
UNABLE TO FORWARD
NOT DELIVERABLE TO ADDRESSEE
NEXIE 902 DE 1
00 11/21/11
20028 : 08
1888 0111 0891

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

U.S. Bank
215 Broadway Ave.
Riverton, WY 82501

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Handwritten Signature]*

- Agent
- Addressee

B. Received by (*Printed Name*)

C. Date of Delivery

11/15

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (*Extra Fee*) Yes

2. Article Number

(*Transfer from service label*)

7008 1830 0000 9283 5383