

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

FILED

APR 12 2012

*Jim Ruby, Executive Secretary
Environmental Quality Council*

**IN THE MATTER OF THE BOND)
FORFEITURE PROCEEDINGS)
AGAINST THE BOND OF)
:MELVIN-EDWARD: GUSTIN.)
SMALL MINE PERMIT 310S)**

DOCKET NO. 11-4502

NOTICE OF WITHDRAWAL OF NOTICE OF VIOLATION

The Department of Environmental Quality, Land Quality Division (DEQ), through the Office of the Attorney General, hereby withdraws Notice of Violation (NOV) No. 4908-11 which is the basis for the current proceedings involving the request for forfeiture of the bond of :Melvin-Edward: Gustin., and as grounds for this withdrawal, states the following:

1. Mr. Gustin was issued Small Mine Permit 310S on April 18, 1975, which authorized Mr. Gustin to conduct feldspar mining operations on Forest Service land located west of the East Fork River in northwestern Fremont County, Wyoming.
2. Mr. Gustin posted a performance bond for the purpose of assuring reclamation of the mining site in the form of Certificate of Deposit No. 3660, dated August 16, 1973, issued by First National Bank of Lander, now Bank of the West, in the amount of \$200.00.
3. In April of 2006, Mr. Gustin contacted DEQ to discuss the termination of permit 310S and release of the bond. Mark Moxley (DEQ) informed Mr. Gustin that the

Forest Service would have to concur with the decision to release the bond and terminate the permit because the mine was located on Forest Service land.

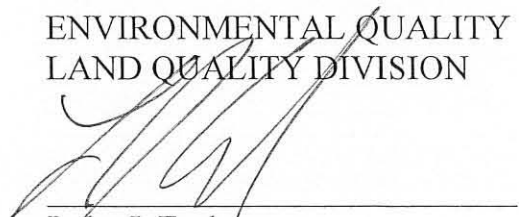
4. In August of 2007, DEQ received a letter from the Forest Service which stated it had conducted an inspection of the mine site and determined that the mine site had been reclaimed but the access road to the mine site required reclamation.
5. Several correspondence sent to Mr. Gustin regarding the additional reclamation work were refused and returned to DEQ. Mr. Gustin also did not contact DEQ regarding any future plans to conduct additional mining at the mine site, which led DEQ to believe that mining at the site had ceased.
6. On September 23, 2011, DEQ conducted a joint inspection of the mine site with Forest Service personnel and found the site in the same condition as was observed during the 2007 inspection by the Forest Service.
7. Based on these facts, DEQ determined that Mr. Gustin had abandoned the mine site and issued the NOV to Mr. Gustin alleging that he was in violation of his reclamation plan and his bond should be forfeited.
8. The Council approved DEQ's request to initiate bond forfeiture proceedings against Mr. Gustin on November 17, 2011.
9. DEQ then requested that the Office of the Attorney General begin this proceeding.
10. On February 9, 2012, the Office of the Attorney General sent notice to Mr. Gustin, by certified mail, that the Council would enter an order forfeiting his bond unless he demand a hearing before the Council within thirty days. The Attorney General also sent Bank of the West a copy of the notice to Mr. Gustin by certified mail.

11. On March 14, 2012, Mr. Gustin filed his appeal of the violations alleged in the NOV with the Council.
12. Subsequent to Mr. Gustin's appeal of the NOV, the Office of the Attorney General had discussions with Mr. Gustin and became aware that Mr. Gustin does not wish to terminate Small Mine Permit 310S and plans to continue mining the site in the future. The Office of the Attorney General informed Mr. Gustin that he would be required to submit additional documentation prior to the initiation of future mining operations, as required by the Environmental Quality Act and Land Quality Rules and Regulations.
13. Based on these discussions, DEQ determined that pursuing forfeiture of the performance bond when additional mining is contemplated by the operator is premature and the NOV should be withdrawn and the bond should remain payable to DEQ until final reclamation is completed.
14. The withdrawal of the NOV by DEQ is not and shall not be construed to be a permit or permit modification issued pursuant to any federal, state, or local statute, ordinance or regulation. Mr. Gustin shall remain solely responsible for compliance with the terms of all permits, and all applicable federal, state and local laws and regulations.
15. The withdrawal of the NOV by DEQ does not relieve Mr. Gustin of his duty to comply with the Wyoming Environmental Quality Act, Wyoming Land Quality Rules and Regulations, and all applicable permit requirements for his future mining operations at the mine site.

THEREFORE, based on Mr. Gustin's stated intentions to continue mining the Small Mine Permit 310S mine site, the NOV for failure to reclaim in accordance with the approved reclamation plan is hereby withdrawn and the DEQ respectfully requests that the Council enter an order dismissing this case without prejudice.

DATED this 12th day of April, 2012.

FOR THE DEPARTMENT OF
ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION



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CERTIFICATE OF SERVICE

I, hereby certify that on this 1st day of April, 2012, I served a true copy of the foregoing NOTICE OF WITHDRAWAL OF NOTICE OF VIOLATION by United States Mail, postage prepaid, addressed as follows:

:Melvin-Edward: Gustin
P.O. Box 468
Riverton, WY 82501
agustin@wyoming.com

Bank of the West
123 East Main Street
Riverton, WY 82501

A handwritten signature in black ink, appearing to be 'MEG', is written over a horizontal line. The signature is stylized and cursive.