

FILED

MAY 21 2013

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

Jim Ruby, Executive Secretary
Environmental Quality Council

**IN THE MATTER OF THE BOND)
FORFEITURE PROCEEDINGS)
AGAINST THE BOND OF) Docket No. 12-4502
BALD BUTTE QUARRY, LP)
SMALL MINING PERMIT 551(S))**

MOTION FOR BOND FORFEITURE

The Department of Environmental Quality, Land Quality Division, through the Office of the Attorney General, hereby moves the Environmental Quality Council for an order forfeiting Bald Butte Quarry, LP's reclamation performance surety bond and as grounds for this motion states the following:

1. Bald Butte holds permit 551(S), authorizing it to operate a small mining operation in a portion of Section 31, T31N, R63W and a portion of Section 6, T30N, R63W, which includes areas in both Niobrara and Goshen Counties, Wyoming. *See Exhibit A.*
2. Bald Butte posted a reclamation performance surety bond for the purpose of assuring reclamation of the mining site in the amount of \$193,874.00, with Fidelity and Deposit Company of Maryland as Surety. *See Exhibit B.*
3. Bald Butte has failed to demonstrate active mining status and no site-reclamation activity has been observed or reported.

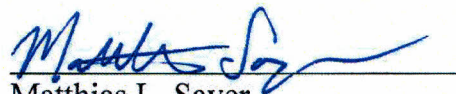
4. Bald Butte failed to respond to numerous communications from DEQ requesting information regarding the status of Bald Butte's small mining operation.
5. The DEQ issued Notice of Violation (NOV) No. 5067-12 to Bald Butte on October 8, 2012, due to Bald Butte's failure to reclaim the mining site and to post an adequate reclamation bond. *See Exhibit C.*
6. Based on these facts, the DEQ determined Bald Butte's reclamation performance surety bond should be forfeited.
7. The Council approved the DEQ's request to initiate bond forfeiture proceedings against Bald Butte on January 10, 2013. *See Exhibit D.*
8. The DEQ then requested that the Office of the Attorney General begin this proceeding.
9. On April 2, 2013, the Office of the Attorney General sent notice to Bald Butte and Fidelity and Deposit Company of Maryland by certified mail that the Council would enter an order forfeiting Bald Butte's reclamation performance surety bond unless Bald Butte demanded a hearing before the Council within thirty (30) days. *See Exhibit E.*
10. Bald Butte received the notice on or about April 8, 2013. *See Exhibit F.*
11. Neither the Office of the Attorney General nor the Council has a record of a request for a hearing before the Council from Bald Butte.

12. WYO. STAT. ANN. § 35-11-421(b) states that if no demand is made by the operator within thirty (30) days of receipt of the notice, then the Council shall order the bond forfeited.
13. Based on the foregoing facts, the DEQ and the Attorney General's Office have satisfied all statutory prerequisites to the forfeiture of Bald Butte's reclamation performance surety bond, and the Council should order Bald Butte's bond forfeited.

WHEREFORE, the DEQ respectfully requests that the Council enter an order forfeiting Bald Butte's \$193,874.00 reclamation performance surety bond to the DEQ to be used to reclaim those lands affected by Bald Butte's activities under permit number 551(S).

DATED this 21st day of May, 2013.

FOR THE DEPARTMENT OF
ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION



Matthias L. Sayer
Assistant Attorney General
123 Capitol Building
Cheyenne, Wyoming 82002
(307) 777-6946

CERTIFICATE OF SERVICE

I, hereby certify that on this 21st day of May, 2013, I served a true copy of the foregoing Motion and draft Order for Bond Forfeiture as follows:

Bald Butte Quarry, LP
709 Kansas Ave., Room 200
Topeka, KS 66603

U.S. Mail, postage prepaid
 Facsimile
 Hand Delivery

