

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

**IN THE MATTER OF THE BOND )  
FORFEITURE PROCEEDINGS )  
AGAINST THE BOND OF )  
HETTINGER LLC )  
LIMITED MINING OPERATION )  
NO. 1412(ET) )**

**Docket No. 13-4502**

**FILED**

**JAN 22 2014**

**MOTION FOR BOND FORFEITURE**

*Jim Ruby, Executive Secretary  
Environmental Quality Council*

The Department of Environmental Quality, Land Quality Division (DEQ), through the Office of the Attorney General, hereby moves the Environmental Quality Council for an order forfeiting Hettinger LLC's reclamation performance surety bond and as grounds for this motion states the following:

1. Hettinger LLC (Hettinger) holds Limited Mining Operation No. 1412(ET), authorizing it to mine scoria over a ten (10) acre area.
2. Hettinger posted a cash reclamation performance surety bond for the purpose of assuring reclamation of the mining site in the amount of ten thousand dollars (\$10,000.00) via US Bank Check No. 508964277.
3. Hettinger's authorization to operate was suspended on May 10, 2010, for failure to pay taxes.
4. Hettinger filed Chapter 7 bankruptcy on March 7, 2012, in the United States Bankruptcy Court for the District of Delaware, Case Number 1:12-bk-10823.

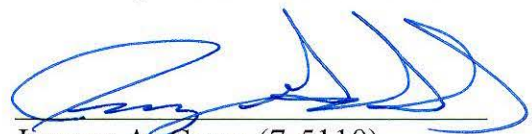
5. Hettinger has failed to demonstrate active mining status and no site-reclamation activity has been observed or reported.
6. Hettinger failed to respond to numerous communications from DEQ requesting information regarding the status of Hettinger's operation.
7. The DEQ issued Notice of Violation (NOV) No. 5156-13 to Hettinger on May 3, 2013, due to Hettinger's failure to reclaim the mining site. *See Exhibit A.*
8. Based on these facts, the DEQ determined Hettinger's reclamation performance surety bond should be forfeited.
9. The Council approved the DEQ's request to initiate bond forfeiture proceedings against Hettinger on September 12, 2013. *See Exhibit B.*
10. On October 14, 2013, DEQ requested that the Office of the Attorney General begin this forfeiture proceeding. *See Exhibit C.*
11. On December 4, 2013, the Office of the Attorney General sent notice to Hettinger by certified mail that the Council would enter an order forfeiting Hettinger's reclamation performance surety bond unless Hettinger demanded a hearing before the Council within thirty (30) days. *See Exhibit D.*
12. The Office of the Attorney General received the notice sent to Hettinger on December 17, 2013, marked by the Post Office as "return to sender." *See Exhibit E.*
13. There is currently no other known addresses at which notice may be served to Hettinger.

14. Neither the Office of the Attorney General nor the Council has a record of a request for a hearing before the Council from Hettinger.
15. 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.
16. Based on the foregoing facts, the DEQ and the Attorney General's Office have satisfied all statutory prerequisites to the forfeiture of Hettinger's reclamation performance surety bond, and the Council should order Hettinger's cash bond forfeited.

WHEREFORE, the DEQ respectfully requests that the Council enter an order forfeiting Hettinger's ten thousand dollar (\$10,000.00) reclamation performance surety bond to the DEQ to be used to reclaim those lands affected by Hettinger's activities under permit number 1412(ET).

DATED this 22 day of January 2014.

FOR THE DEPARTMENT OF  
ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION



Jeremy A. Gross (7-5110)  
Assistant Attorney General  
123 State Capitol  
Cheyenne, Wyoming 82002  
(307) 777-6946

CERTIFICATE OF SERVICE

I, hereby certify that on this 22 day of January, 2014, I served a true copy of the foregoing Motion and draft Order for Bond Forfeiture as follows:

Hettinger LLC  
12596 W. Bayaud Ave.  
Lakewood, CO 80228

U.S. Mail, postage prepaid  
 Facsimile  
 Hand Delivery

  
\_\_\_\_\_  
Wyoming Attorney General's Office



DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO )  
HETTINGER LLC ) DOCKET NO. 5156-13  
PMB 512 )  
12081 WEST ALAMDEDA PARKWAY #512 )  
LAKEWOOD, CO 80228-2701 )  
1412ET – LIMITED MINING OPERATION )

NOTICE

NOTICE IS HEREBY GIVEN THAT:

1. Notice of Violation (NOV) is being sent to you pursuant to Wyoming Statute §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. The Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 10, Section 5(a) states that "After mining operations have ceased or within thirty (30) days after the abandonment of the mining operation, the operator shall notify the Administrator of such fact and commence reclamation and restoration."
3. During his inspection performed on January 24, 2013, Mr. Kurt King documented that the operation has been abandoned for at least 1 ½ years. The former landowner, Mr. Robert Brug, and the current landowner, Mr. Craig Means, confirmed the site is abandoned.
4. Wyoming Statute §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 hereunder 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 THE NOTICE shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

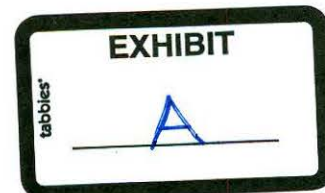
SIGNED this 3<sup>rd</sup> day of May, 2013

  
\_\_\_\_\_  
Todd Parfitt  
Director,  
Department of Environmental Quality

  
\_\_\_\_\_  
Nancy Natbrock  
Deputy Director,  
Department of Environmental Quality  
Administrator, Land Quality Division

Please direct all inquiries regarding this Notice of Violation to Mr. Mark Rogaczewski, District III Supervisor, Wyoming Department of Environmental Quality/Land Quality Division, 2100 West 5<sup>th</sup> Street, Sheridan, WY, 82801

cc: Mark Rogaczewski, LQD  
file, 1412ET



MEMORANDUM

LQD

**TO:** Environmental Quality Council  
**FROM:** Todd Parfitt – DEQ Director *TPH*  
**DATE:** July 31, 2013  
**RE:** Bond Forfeiture Recommendation – Hettinger LLC, Limited Mining Operation No. 1412ET

AUG 5 2013

RECEIVED

Attached is information relating to the failure of Hettinger LLC to reclaim lands affected by mining under the above-referenced Limited Mining Operation Notification.

I have determined that the bond for this Limited Mining Operation should be forfeited. Since this is a voluntary forfeiture, it is requested that the Council approve this request as a final action.

Should you have any questions, please contact Kurt King, LQD District III.

xc: Nancy Nuttbrock – LQD Administrator  
Mark Rogaczewski – LQD District III Supervisor

Attachments: Notice of Violation, Docket No. 5156-13

9/12/13  
Date

*Richard King*  
Approved  
Chairman, Environmental Quality Council

**FILED**

SEP 12 2013

Jim Ruby, Executive Secretary  
Environmental Quality Council





Matthew H. Mead, Governor

# Department of Environmental Quality

*To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.*



Todd Parfitt, Director

## MEMORANDUM

**TO:** Attorney General's Office

**FROM:** Todd Parfitt, Director – Department of Environmental Quality

**DATE:** October 14, 2013

**SUBJECT:** Bond Forfeiture – Hettinger LLC, Limited Mining Operation No. 1412ET

On September 12, 2013, the Environmental Quality Council gave its approval for the Director to make formal request of the attorney general to begin bond forfeiture proceedings for Limited Mining Operation 1412ET.

This memorandum serves as that formal request. Please begin forfeiture proceedings of the bond for Limited Mining Operation 1412ET in accordance with Wyo. Stat. Ann. § 35-11-421(b).

If you have any questions, please contact Mark Rogaczewski, Land Quality Division, Sheridan office.

Todd Parfitt  
 Director  
 Wyoming Department of Environmental Quality

cc: District III







# *Office of the Attorney General*

**Governor**  
Matthew H. Mead

**Attorney General**  
Peter K. Michael

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

**Chief Deputy Attorney General**  
John G. Knepper

**Division Deputy**  
Jay A. Jerde

December 4, 2013

**CERTIFIED MAIL # 7005-3110-0001-8313-6061**  
**RETURN RECEIPT REQUESTED**

Hettinger LLC  
12596 W. Bayaud Ave.  
Suite 100  
Lakewood, CO 80228

**RE: Notice of Proposed Bond Forfeiture for Permits 1412ET and 711(s); Notice of Violation No. 5156-13 & 5157-13**

To Whom It May Regard:

On May 3, 2013, the Wyoming Department of Environmental Quality, Land Quality Division (DEQ) issued Notices of Violation Nos. 5156-13 and 5157-13 to Hettinger, LLC (Hettinger) alleging that Hettinger 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) and 35-11-415(b)(ix). On September 12, 2013, DEQ requested and received the Wyoming Environmental Quality Council's (EQC) approval to proceed with bond forfeiture for Permit 1412ET. Likewise, DEQ obtained EQC approval for bond forfeiture on Permit 711(a) on November 15, 2013. Both memoranda are attached to this notice. On November 22, 2013, DEQ requested that the Attorney General's Office initiate bond forfeiture proceedings pursuant to WYO. STAT. ANN. § 35-11-421(a).






DEQ now seeks an order from the EQC to forfeit Hettinger's reclamation performance bonds for both Permits: for Permit 1412ET, U.S. Bank Cashier's Check No. 508964277 in the amount of ten thousand dollars (\$10,000); and for Permit 711(s), both Hettinger, LLC company check No. 5142 in the amount of twenty-five thousand one hundred five dollars (\$25,105) and U.S. Bank Cashier's Check No. 789500789 in the amount of eighteen thousand ninety-five dollars (\$18,095). If the bond becomes forfeit, DEQ will use the proceeds to reclaim the affected mine sites in Wyoming.

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

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

Sincerely,



Jeremy A. Gross  
Assistant Attorney General

cc: Nancy Nuttbrock  
file

7005 3110 0001 8313 6061

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

12-4-13

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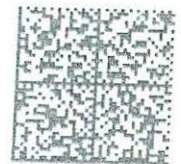
Sent To Hettinger LLC  
 Street, Apt. No.,  
 or PO Box No. 12596 W. Bayaud Ave Ste 100  
 City, State, ZIP+4  
Lakewood, CO 80228  
 PS Form 3800, June 2002 See Reverse for Instructions

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

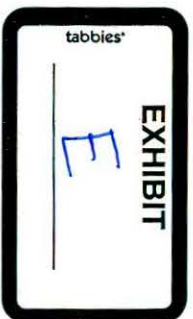
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U.S. POSTAGE PITNEY BOWES  
ZIP 82001 \$ 006.11<sup>0</sup>  
02 1W  
0001376965 DEC 04 2013



**RECEIVED**  
DEC 17 2013  
WYOMING ATTORNEY  
GENERAL OFFICE, WNR

Hettinger LLC  
12596 W. Bayaud Ave.  
Suite 100  
Lakewood,

NIXIE 802 DE 1009 0012/12/13

RETURN TO SENDER  
ATTEMPTED - NOT KNOWN  
UNABLE TO FORWARD

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