

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

In the Matter of the Appeal of Notice of)
Violation and Order #4824-11 Issued to:)
Envirotank, Inc. (51.031)) Docket No. 11-5208A
P.O. Box 302)
Ft. Lupton, CO 80621)

ORDER APPROVING JOINT STIPULATION FOR DISPOSITION OF CASE

This case is before the Wyoming Environmental Quality Council (EQC) on Petitioner Envirotank, Inc.'s (Envirotank) appeal of Notice of Violation (NOV) & Order No. 4824-11 issued by Respondent Wyoming Department of Environmental Quality (DEQ) dated April 18, 2011. The contested NOV alleged violation of Envirotank's solid waste operating permit for its scrap tire processing facility on Clarkelen Road in Campbell County involving Envirotank's placement of whole scrap tires and certain tire parts for use as five (5) livestock windbreaks and/or corrals on property owned by Sandra Kay Lange, Mildred Rae Broyles and Peggy A. Sullivan (the Landowners) on Bell Road in Campbell County. The contested Order called for Envirotank to remove all whole scrap tires and certain tire parts from the Landowners' property to an authorized facility.

The Landowners moved to intervene and that motion was granted. The EQC held a contested case hearing in Cheyenne on March 8-9, 2012, pursuant to W.S. 35-11-112(a)(iii) and 35-11-701(c)(ii). Petitioner Envirotank, Respondent DEQ, and Intervenor Landowners, the only three parties in this case, appeared at the hearing, were represented by counsel, and presented evidence and argument. At the close of the evidentiary hearing, the five (5) EQC members present began deliberations, during which there appeared to be consensus for modifying the contested Order by approving Envirotank's offer to drill holes in all whole tires and removing the "fifth" windbreak in lieu of removing all whole tires. Tr. pp.449, 457-459. The EQC has authority to modify contested Orders under W.S. 35-11-112(c)(iii) and W.S. 35-11-701(c)(iii). Before the EQC made a decision, deliberations were tabled until the May meeting in Sheridan to give counsel for the parties an opportunity to brief certain questions of law.

On May ____, 2012, the three Parties filed with the EQC a Joint Stipulation for Disposition of Case in this matter. Chapter I, Section 11 of the DEQ Rules of Practice & Procedure provides for disposition of contested cases by stipulation of the parties upon approval by the EQC. The EQC having considered the Parties' Joint Stipulation and finding its terms for disposition of this case to be reasonable and appropriate:



IT IS HEREBY ORDERED that:

1. The Parties' Joint Stipulation for Disposition of Case is approved, incorporated herein, and shall be binding upon them.

2. This Order shall be deemed the EQC's final action in the contested case for this matter, provided however, that the EQC retains jurisdiction only to resolve any disputes between Parties that may arise under this Joint Stipulation.

DATED this 4th day of may, 2012.

APPROVED AS TO FORM:

FOR PETITIONER ENVIROTANK, INC.:

FOR INTERVENOR LANDOWNERS:

Mary A. Thorne
Tom J. Westbrook

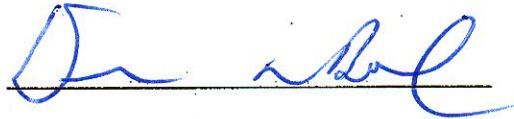
FOR RESPONDENT WYOMING DEP'T.
OF ENVIRONMENTAL QUALITY:

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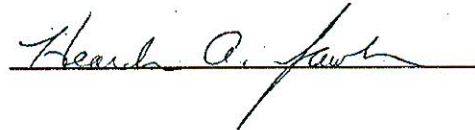
DATED this 9 day of May, 2012.



APPROVED AS TO FORM:

FOR PETITIONER ENVIROTANK, INC.:

FOR INTERVENOR LANDOWNERS:



FOR RESPONDENT WYOMING DEP'T.
OF ENVIRONMENTAL QUALITY:

CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 16th day of May, 2012, I served a copy of the foregoing **ORDER APPROVING JOINT STIPULATION FOR DISPOSITION OF CASE** by electronic mail to the following:

John Corra
Director, DEQ
john.corra@wyo.gov

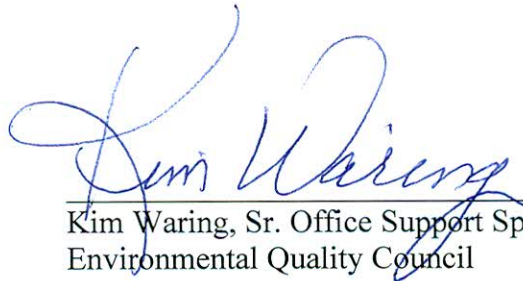
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Mary Throne
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Asst. Attorney General
Mike Barrash
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also by depositing the same in the United States mail addressed to:

Heather A. Jacobson
Jacobson Law Office, LLC
1839 Madora Ave.
Douglas, WY 82633



Kim Waring, Sr. Office Support Spec.
Environmental Quality Council