

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

APR 28 2011

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE
REVIEW OF APPLICATION FOR
RENEWAL OF PERMIT
ISSUED TO:

MIKE MCDONALD, CHAIRMAN)
FREMONT COUNTY SOLID WASTE)
DISPOSAL DISTRICT (SWDD))
SAND DRAW LANDFILL (10.195))
P.O. BOX 1400)
LANDER, WY 82520)

DOCKET NO. 11-5601

PETITION FOR REVIEW OF REVIEW DETERMINATION
FOR APPLICATION FOR RENEWAL OR PERMIT
AND
REQUEST FOR HEARING

COMES NOW Petitioner, Fremont County Solid Waste Disposal District, hereinafter FCSWDD, and hereby files this Petition for Review of the Decision of the Wyoming Department of Environmental Quality as contained in its review of Petitioner's application for renewal of permit and hereby moves the State of Wyoming Environmental Quality Council to set a date and time to hold a hearing to review the decision of the Wyoming Department of Environmental Quality issued therein. In support Petitioner would state to the Court as follows:

1. On December 23, 2010 Petitioner submitted an application for renewal of its permit at its Sand Draw Facility (10.195) located in Fremont County, Wyoming.
2. Section 4.4 of the application sought a permit amendment to increase the facilities capacity and design life on the currently permitted 80 acre site to extend to the year 2037 through vertical expansion.
3. On March 28, 2011 the Wyoming Department of Environmental Quality issued its review of the application, which review letter and documentation was received by Petitioner on March 30, 2011. A copy of the review letter and comments is attached hereto as Exhibit 1 and incorporated herein for all purposes.
4. On page 9 of 31 the Wyoming Department of Environmental Quality commented that the submission was complete and technically adequate with comments.
5. The comments then proceeded to recite certain dates and discussions that had occurred in previous renewal applications and concluded that Petitioner had committed to ceasing disposal in the original 80 acres by December 31, 2018.
6. The decision further indicated that the renewal application included a permit amendment to extend the life of the 80 acre area to 2037 by adding "a new cell/unit vertically above the current disposal cell/unit".
7. The comment further indicated that a capacity expansion beyond December 31, 2018 constitutes "a new landfill cell/unit".
8. The comment further indicated that "new landfill cells/units must be constructed with an engineered containment system of the operator must submit a performance based design which ensures that the concentration values for pollutants listed in the National Primary Drinking Water Regulations, 40 CFR Part 141, will not be exceeded in the uppermost aquifer at the relevant point of compliance"
9. Petitioner disputes the assertion of the Wyoming Department of Environmental Quality that vertical expansion over an existing permitted area constitutes a "new cell/unit".
10. The comments in response to the permit application issued by the Wyoming Department of Environmental Quality is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law, and unsupported by substantial evidence.

EXHIBIT
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11. The determination of the Wyoming Department of Environmental Quality that a vertical expansion constitutes a new cell/unit that must submit a performance based design which ensures that the concentration values for pollutants listed in the National Primary Drinking Water Regulations, 40 CFR Part 141, will not be exceeded in the uppermost aquifer at the relevant point of compliance, is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law, and unsupported by substantial evidence.

WHEREFORE, the Fremont County Solid Waste Disposal District, respectfully requests that a hearing be set in this matter to take testimony and review the permit application review filed in this matter, and following the hearing that the Environmental Quality Council issue a decision that vertical expansion over an existing waste area does not constitute a new cell/unit that must submit a performance based design which ensures that the concentration values for pollutants listed in the National Primary Drinking Water Regulations, 40 CFR Part 141, will not be exceeded in the uppermost aquifer at the relevant point of compliance, issue an order directing the Wyoming Department of Environmental Quality to review the Permit Renewal Application of Petitioner in light of that decision, and for such other and further relief as the Environmental Quality Council deems just and proper in the premises.

DATED this 27th day of April, 2011.

Fremont County Solid Waste Disposal
District, Petitioner

BY:



Rick L. Sollars, WSB #5-2394
Attorney for Petitioner
Western Law Associates, P.C.
277 Lincoln Street
Lander, WY 82520
(307) 332-4331

CERTIFICATE OF SERVICE

I certify that on the 27th day of April, 2011, a true and correct copy of the foregoing Petition for Review of renewal determination for application for renewal permit and Request for Hearing was served upon the following by depositing the same in the United States mail, postage prepaid, address to:

John Corra, Director
Wyoming Department of Environmental Quality
Herschler Building, 4th Floor
122 West 25th Street
Cheyenne, WY 82002

Lucas J. Esch
Wyoming Attorney General's Office
2424 Pioneer Avenue
123 Capitol Building
Cheyenne, WY 82002



Rick L. Sollars

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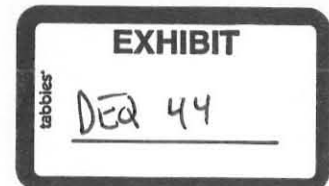
ORDER OF DISMISSAL FOR MOOTNESS

THIS MATTER having come on pursuant to the Motion to Dismiss for Mootness filed by the DEQ, the Petitioner having filed a response concurring that the matter before the Council in this matter is now moot, and being otherwise fully informed in the premises;

IT IS HEREBY ORDERED that the above captioned matter shall be and hereby is dismissed as being moot.

DATED this 6th day of June, 2011.


Tom Coverdale, Vice Chairman
Environmental Quality Council
122 West 25th, Room 1714
Herschler Building
Cheyenne, Wyoming 82002



CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 7th day of June, 2011, I served a copy of the foregoing **ORDER OF DISMISSAL FOR MOOTNESS** by electronic mail to the following:

John Corra
Director, DEQ
jcorra@wyo.gov
307-777-7937

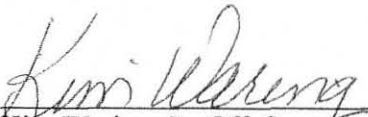
Luke Esch
Asst. Attorney General
lesch@state.wy.us
307-777-6946

Jeremiah Williamson
Asst. Attorney General
jwilli2@state.wy.us
307-777-6946

Carl Anderson
Solid & Hazardous Waste Division
cander@wyo.gov
307-777-7753

also by depositing the same in the United States mail addressed to:

Rick L. Sollars
Western Law Associates, P.C.
Attorney at Law
277 Lincoln Street
Lander, WY 82520



Kim Waring, Sr. Off. Support Spec.
Environmental Quality Council
122 W. 25th, Rm. 1714
Herschler Bldg.
Cheyenne, WY 82002
Phone: 307-777-7170
FAX: 307-777-6134