

FILED

NOV 10 2011

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

UPON REFERRAL FROM THE
WYOMING ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF OBJECTION TO)
THE PROPOSED RENEWAL PERMIT) EQC DOCKET NO. 11-5602
SAND DRAW LANDFILL,) OAH DOCKET NO. 12-034-220
SHWD FILE #10.195)

PREHEARING CONFERENCE ORDER

THIS MATTER came before the Office of Administrative Hearings (Office) for a prehearing conference on November 10, 2011, pursuant to the State of Wyoming Environmental Quality Council's (EQC) September 9, 2011, Order of Schedule. The Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ) appeared by and through counsel, Jeremiah I. Williamson, Assistant Attorney General, and Luke J. Esch, Assistant Attorney General. Fremont County Solid Waste Disposal District (FCSWDD) appeared telephonically by and through counsel, Rick L. Sollars. DEQ's November 9, 2011, Prehearing Memorandum and FCSWDD's November 8, 2011, Prehearing Memorandum were admitted into evidence.

IT IS THEREFORE ORDERED that:

1. DEQ listed three (3) issues to be determined at the scheduled hearing on November 16 and November 17, 2011, in Lander, Wyoming. There being no objection, the three (3) issues listed by DEQ will be considered by EQC.
2. DEQ listed two (2) will call and one (1) may call witnesses. There being no objection all witnesses will be allowed to testify at the scheduled hearing.

3. DEQ offered Exhibits DEQ-1 through DEQ-64. Counsel for FCSWDD stipulated to the admission of Exhibits DEQ-1 through DEQ-46. FCSWDD's counsel was unable to review Exhibits DEQ-47 through DEQ-64 and requested time to review those exhibits. Exhibits DEQ-1 through DEQ-46 are admitted into evidence. Admissibility of Exhibits DEQ-47 through DEQ-64 will be addressed at the scheduled hearing.

4. DEQ listed nineteen (19) Uncontested Facts. FCSWDD objected to Uncontested Fact 19 and DEQ withdrew this proposed fact. Uncontested Facts 1 through 18 will be admitted into evidence.

5. FCSWDD listed ten (10) issues to be considered at the scheduled hearing. DEQ objected to issues six (6) through nine (9) because they are not properly before EQC. FCSWDD's issues one (1) through (5) and ten (10) will be considered by EQC at the scheduled hearing. FCSWDD's issues six (6) through nine (9) will not be considered by EQC as they are not properly before EQC. However, FCSWDD is not prohibited from presenting evidence on these issues provided the evidence also pertains to the other issues properly before EQC.

6. FCSWDD listed four (4) will call and two (2) may call witnesses. During discussion FCSWDD listed a third may call witness. DEQ objected to two (2) will call witnesses, Donald I. Siegel, Ph.D. and James Fink, on the basis of relevancy. All witness will be allowed to testify at the scheduled hearing and the relevancy and weight of any testimony from any witness, including Dr. Siegel and Mr. Fink, will be determined by ECQ.

7. FCSWDD offered Exhibits 1 through 46 in its Prehearing Memorandum. DEQ objected to Exhibit 28 on the basis of foundation. FCSWDD also offered Exhibit 47 at the prehearing conference. FCSWDD Exhibits 1 through 27 and 29 through 47 are admitted into evidence. Exhibit 28 may be offered by FCSWDD at hearing subject to proper foundation.

8. Each party will be allowed ten minutes for opening statements. Whether closing argument will be made orally or written will be determined by EQC. If EQC desires oral closing argument, the length will be determined at the hearing.

9. This matter remains set for contested case evidentiary hearing to take place at 9:00 o'clock a.m., on November 16 and November 17, 2011, in Lander, Wyoming.

DONE this 10th day of November, 2011.



Wayne F. Flagg, Hearing Examiner
State of Wyoming
OFFICE OF ADMINISTRATIVE HEARINGS
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CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing document was served upon the Environmental Quality Council and a true and correct copy was served upon the parties by mailing same, postage prepaid, on the 10th day of November, 2011, addressed to the following:

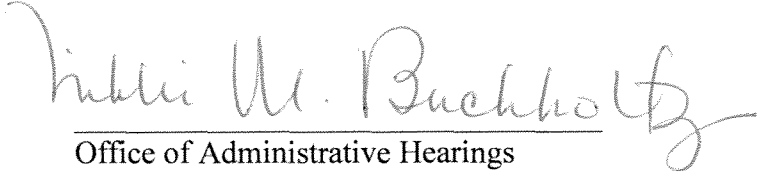
Wyoming Environmental Quality Council - (ORIGINAL)

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