

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

NOV 14 2011

Jim Ruby, Executive Secretary  
Environmental Quality Council

In the Matter of the Appeal of the )  
WDEQ Director's Decision to a ) Docket No. 11-5801  
Requested Variance for Sheridan )  
Landfill SHWD File # 10.526 )

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S  
RESPONSE TO PETITIONS

Respondent Wyoming Department of Environmental Quality (DEQ), pursuant to the Wyoming Environmental Quality Council's (EQC) October 13, 2011 Response Order, responds as follows to the petitions for review / requests for hearing (petitions) filed in the above-captioned matter. As of October 13, 2011, separate petitions have been filed by Suzie Puckett, Kyle & Juli Koch, Tom Balding, Dwight & Betty French, Wayne Senff, and Glenn Mooney (collectively "Petitioners"). The six separate petitions are each identical single page letters, except for the signatures. Therefore, this Response responds to all six petitions.

Chapter I, Section 3(c)(ii) of the DEQ Rules of Practice & Procedure calls for petitions to set forth the action or decision upon which the hearing is requested. The petitions request a hearing before the EQC "relative to the WDEQ Director's final decision relative to a requested variance of three conditions allowing the City of Sheridan to expand the existing landfill." The referenced decision is set forth in the DEQ Director's August 9, 2011 letter to the Mayor of Sheridan (**copy attached hereto**).

*Responses to Specific Allegations in Petitions*

a) DEQ admits that the Director's August 9, 2011 letter approves the City of Sheridan's request for a variance from three location standards in W.S. 35-11-502(c) for a proposed landfill expansion into approximately 102 acres located directly to the south of the existing landfill.

- b) DEQ admits that the three location standards in W.S. 35-11-502(c) from which Director's August 9, 2011 letter approved the requested variance are:
- (i) within one mile of the boundaries of an incorporated city or town;
  - (ii) within one mile of an occupied dwelling house;
  - (iv) within ½ mile of a water well permitted or certified for domestic or stock watering purposes.
- c) DEQ admits that a public meeting was held on February 24, 2011 in Sheridan, but denies that DEQ called, arranged or presided over the meeting. DEQ admits that, as discussed in the Director's August 9, 2011 letter, DEQ did call, arrange and preside over a public hearing in Sheridan on January 25, 2011, at which comments "focused on potential impacts to groundwater, litter, dust, vectors, odor, noise, and potential impacts to property values."
- d) DEQ denies that concerns of area landowners, residents and citizens were not considered in imposing conditions on the variance specified in the Director's August 9, 2011 letter.
- e) DEQ generally denies any other allegations in the petitions, if any.

DATED this 14 day of November, 2011.



Mike Barrash (WY Bar #5-2310)  
Sr. Assistant Attorney General  
123 State Capitol Building  
Cheyenne, Wyoming 82002  
307-777-6946

CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE TO PETITIONS were served this 14 day of November, 2011, addressed as follows:

By United States mail, first class postage prepaid, and by email or facsimile transmission:

Mary A. Throne<sup>1</sup>  
Throne Law Office, P.C.  
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Gregory Von Krosigk<sup>2</sup>  
Pence & MacMillan, LLC  
1101 Sugarview Drive, Suite 200  
P.O. Box 602  
Sheridan, WY 82801  
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<sup>1</sup>Attorney for Petitioners:  
Dwight & Betty French  
Suzie Puckett  
Tom Balding  
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Glenn Mooney  
Kyle & Juli Koch

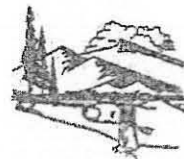
<sup>2</sup>Attorney for City of Sheridan

  
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## Department of Environmental Quality

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



Matthew H. Mead, Governor

152 N. Durbin St., Suite 100 • Casper, WY 82601 • (307) 473-3450

John Corra, Director

August 9, 2011

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mayor David Kinskey  
City of Sheridan  
55 Grinnell Plaza  
Sheridan, WY 82801

RE: Approval of requested variance, Sheridan landfill expansion, SHWD File # 10.526

Dear Mayor Kinskey:

Pursuant to W.S. 35-11-502(c), and SW Chapter 1 Section 2(i) the City of Sheridan, Wyoming (City) has requested a variance from location standards in the Wyoming Environmental Quality Act W.S. 35-11-502(c)(i),(ii),(iv), and the Wyoming Solid Waste Rules and Regulations, Chapter 2 Section 3 (a)(iii), (v), and (xvi). These location standards pertain to solid waste management disposal facilities:

- within one mile of an occupied dwelling house,
- one-half mile to a drinking water source, and
- within one mile of the boundaries of an incorporated city or town

The variance was requested for an approximately 102 acre parcel located directly south of the existing landfill facility in the South ½, Section 25 and NE ¼ of Section 36, Township 56 North, Range 84 West in Sheridan County (facility).

The City provided information related to the variance request as described in the City's December 30, 2009 variance application with amended information provided in documents dated September 8, 2010, November 9, 2010, December 30, 2010, and July 8, 2011. After completing a review of the City's request a public hearing was held on January 25, 2011 to accept written and verbal comments on the variance request. The comments received during the hearing focused on potential impacts to groundwater, litter, dust, vectors, odor, noise, and potential impacts to property values. After the hearing, in correspondence dated March 23, 2011 the Department requested additional information from the City to clarify information on potential alternative locations. The City responded with additional information in correspondence dated July 8, 2011.

After careful consideration of the technical issues raised, the Department has concluded that the proposed design and operation of the facility will minimize the threat to local

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groundwater resources. Borings have been drilled to at least the depth of groundwater at twenty-one locations in the proposed expansion area. Lithologic logs for these borings indicate the subsurface materials are a mixture of interbedded very fine to fine sands, silty and/or clayey fine sands, and silts and clays. The proposed municipal solid waste disposal area will be lined and will have a leachate collection and removal system with leak detection as necessary. An unlined CD disposal area is proposed. The City will restrict materials to be disposed in the unlined CD disposal area. These restrictions, along with a proposal to maintain at least 20 feet separation from the base of CD waste to groundwater will prevent groundwater contamination. Groundwater monitoring will be required to confirm this, and to identify any groundwater impacts should they occur.

Information provided by the City indicates issues such as dust, odor, litter, and vectors will be addressed. Several nearby property owners are not in agreement and expressed concerns with the proposed facility. In order to address concerns of nearby residents, approval of the variance request is being conditioned to address potential odor, dust, litter, vectors, and similar issues.

The Department has determined that variances from the above referenced location standards should be granted subject to compliance with the conditions listed below. This decision has been reached after analysis of all information provided the applicant and the comments provided by the public. This decision is based on the determination that the variance to location standards will not injure or threaten to injure public health, safety, or welfare. In any future solid waste disposal permit application for any portion of the proposed expansion area, this variance constitutes compliance with the location standards of Wyoming Environmental Quality Act W.S. 35-11-502(c)(i),(ii),(iv), and the Wyoming Solid Waste Rules and Regulations, Chapter 2 Section 3 (a)(iii), (v), and (xvi).

While the Department is satisfied that the proposed operation will be acceptable, several concerned citizens commented on litter, dust, odor, and vector issues during the public hearing. In order to address comments received by affected parties this variance is being granted with the following conditions:

*Variance Condition # 1*

*The City shall file a copy of this variance approval letter with the County Clerk for Sheridan County, for filing with the property deed for the facility. Documentation shall be provided to the Department upon completion.*

*Variance Condition # 2*

*The municipal solid waste disposal area shall be covered at the end of each operating day. The operator shall conduct daily visual evaluations of off-site litter, and promptly schedule off site litter collection on an as-needed basis. The operator shall collect litter that leaves the facility at least quarterly. Other than disposal of heavy construction/demolition wastes such as concrete, asphalt, etc. that do not pose a blowing litter problem, waste disposal shall cease during high wind conditions that create a potential blowing litter problem despite the screening and other control measures required by this variance and the approved operating permit for the proposed expansion area. Litter collection activities shall be recorded and maintained in the facility's*

*operating record. Details to address this variance condition shall be included in the permit application documents for the proposed expansion area.*

*Variance Condition # 3*

*The operator shall install, clean, and maintain on-site litter screens as well as litter fence(s) within and at the facility boundary at least monthly. Details to address this variance condition shall be included in the permit application documents for the proposed expansion area.*

*Variance Condition # 4*

*All permanent roads within the expansion area shall be paved, graveled, covered with rotomill asphalt, or gravel or equivalent material to control dust from vehicle traffic and shall be maintained as needed. Details to address this variance condition shall be included in the permit application documents for the proposed expansion area.*

*Variance Condition # 5*

*Areas greater than one acre in size that will remain unused for periods longer than one year shall be seeded with a temporary vegetative cover, or the surface shall be ripped or chiseled to create a roughened surface, or otherwise effectively stabilized against wind erosion using wind fences or other methods. Details to address this variance condition shall be included in the permit application documents for the proposed expansion area.*

*Variance Condition # 6*

*The operator shall routinely blade the fire lane around the waste management area (s) to allow for identification of tracks of vectors such as skunks and raccoons, or utilize similar alternative method to identify vectors. Monthly inspections shall be conducted to evaluate the presence of terrestrial vectors in waste management areas. If vectors are identified as frequenting waste disposal areas the operator shall develop vector management plans. These plans shall be developed in consultation with appropriate local game and fish and animal control personnel. Plans shall include specific steps to eliminate vectors such as raccoons and skunks. Details to address this variance condition shall be included in the permit application documents for the proposed expansion area.*

*Variance Condition # 7*

*The storm water system design and operational plan for the proposed expansion area must address the different phases of development for the facility and isolate all waste-contact storm water and prevent waste contact storm water from leaving the facility. Details to address this permit condition shall be included in the variance application documents for the proposed expansion area.*

*Variance Condition # 8*

*If odors from waste disposal operations are identified as a significant problem, the City will work with the Department to identify possible odor management options.*

*Variance Condition # 9*

*The administrator may require modifications to the design, construction, and operation of the permitted facility if litter, dust, and odor controls are insufficient.*

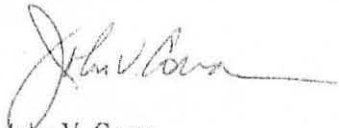
Please note that by granting this variance, the City may now submit a solid waste disposal permit application covering the facility. However, nothing in this grant of a variance entitles the City to be issued a permit for the disposal of solid wastes at the facility. The City must apply for, and receive, a solid waste disposal permit prior to placing any solid wastes at the facility.

As you are probably aware, prior to the public meeting held on January 25, 2011 a few individuals requested a hearing on this matter before the Environmental Quality Council. Dale Anderson, the Wyoming Department Environmental Quality District #3 Supervisor, Solid Waste Permitting and Corrective Action, informed them that requesting a hearing was premature at that time, and promised to notify them of the Department's decision on this matter in writing. Toward that end, we will be mailing copies of this correspondence to persons that attended the public hearing.

If, within sixty (60) days of the Department's decision on the variance request, an aggrieved party submits a written request for a hearing before the Environmental Quality Council (EQC), this decision will be stayed pending the EQC's final determination.

If you have any questions please feel free to call Carl Anderson at (307) 777-7752 or Dale Anderson at (307) 473-3472.

Sincerely,



John V. Corra  
Director  
Wyoming Department of Environmental Quality

Copy: Charles Martineau, Solid Waste Manager, City of Sheridan, P. O. Box 848, Sheridan,  
WY 82801  
Dave Fuller, Appraiser, Wyoming Office of State Lands & Investments, 122 W.25th, 3rd  
Floor, Cheyenne, Wyoming 82002  
Carl Anderson ☞ Cheyenne SHWD File # #10.526  
Tim Moe ☞ Sheridan SHWD File #10.526  
Carol Stark ☞ Dale Anderson ☞ Casper SHWD File # #10.526