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 Pinedale, WY 82941

FILED
 MAR 23 2009
 Jim Ruby, Executive Secretary
 Environmental Quality Council

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

**IN THE MATTER OF THE APPEAL OF
 SUBLETTE COUNTY FROM THE
 FINAL DETERMINATION FOR
 REQUIREMENT OF AN ENGINEERED
 CONTAINMENT SYSTEM
 MARBLETON #2 LANDFILL**

Docket No: *09-5601*

**PETITION FOR REVIEW OF FINAL DETERMINATION AND REQUEST FOR
 HEARING**

THE SUBLETTE BOARD OF COUNTY COMMISSIONERS, pursuant to WYO. STAT. ANN. § 35-11-112 (a)(iv) (LexisNexis 2007) and THE RULES OF PRACTICE AND PROCEDURE OF THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY, ch. 1, § 16, petition the Environmental Quality Council of the State of Wyoming as follows:

1. Name and Address of Petitioners and Petitioners' Attorney.

The names and addresses of the Protestants are:

- a) The Sublette Board of County Commissioners (Sublette County), P.O. Box 250, Pinedale, WY 82941.

The name of the Petitioners' attorney is Anthony Reyes, Sublette County Attorney's Office, P.O. Box 1010, Pinedale, WY 82941.

2. Action Upon Which Hearing Is Requested.

This is an appeal from a Final Determination Letter issued on January 14, 2008, by the Administrator of the Department of Wyoming Environmental Quality, Solid and Hazardous Waste Division, entitled The Final Determination for Requirement of an Engineered Containment System at Marbleton #2 landfill, SHWD File #10.561.

3. Statement of Facts.

- a) Sublette County is the operator of the Marbleton #2 Landfill.
- b) On January 14, 2009, the Wyoming Department of Environmental Quality (WDEQ) with the approval of the Administrator of WDEQ, Solid and Hazardous Waste Division, issued a letter requiring all future disposal areas to be constructed with an approved Engineered Containment System.
- c) Sublette County alleges that it rendered its decision, requiring all future disposal areas to be constructed with an approved Engineered Containment System, prior to a fourth

individual sampling occurring contrary to THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY SOLID WASTE RULES, ch. 2, § 6(b)(i)(D)(II).

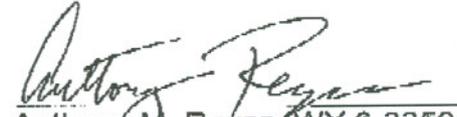
- d) Sublette County further alleges that the WDEQ did not consider the volume, physical and chemical characteristics of the leachate, as required in 40 C.F.R. 258.40(c)(3), prior to making its determination to require Engineered Containment System in future disposal areas of Marbleton #2 Landfill.
- e) Furthermore, Sublette County alleges that its was not given the opportunity to demonstrate to the administrator that it meets the conditions of THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY SOLID WASTE RULES, ch. 2, § 4(j)(i)(A)-(D).
- f) Despite the fact that the decision was reached on January 14, 2009, the letter was not mailed from the WDEQ office until January 26, 2009, and as such, this appeal should not be considered untimely under the THE RULES OF PRACTICE AND PROCEDURE OF THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY, ch. 1, § 16; or the WYO. R. CIV. P. 6.

4. Request for Hearing.

The Sublette Board Of County Commissioners request a hearing before the Environmental Quality Council and request that the Council reverse the decision to require an Engineered Containment System at Marbleton #2 landfill for all future disposal areas and grant Petitioners such other relief which the Council deems just and proper.

RESPECTFULLY SUBMITTED this ^{23rd} day of March, 2009.

By:


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Prosecuting Attorney
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307-367-2300

CERTIFICATE OF SERVICE

I hereby certify that on the ___ day of March, 2009, a true and correct copy of the foregoing was served to and via the following method of service:

Chairman Environmental Quality Council
122 West 25th Street
Herschler Building, Room 1714
Cheyenne, WY 82002

- U.S. Mail
- Federal Express
- Facsimile
- Hand Delivery

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

- U.S. Mail
- Federal Express
- Facsimile
- Hand Delivery

Mike Barrash
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002

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- Hand Delivery



 SUBLETTE COUNTY ATTORNEY'S OFFICE