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BOARD OF COUNTY COMMISSIONERS

AUG 23 2004

COUNTY OF SUBLETTE

P.O. BOX 250

PINEDALE, WY 82941

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Terri A. Lorenzon, Director
Environmental Quality Council

Wyoming Environmental Quality Council
Room 1714 Herschler Building 1st Floor West
122 West 5th Street
Cheyenne, Wyoming 82002

04-158
August 19, 2004

Re: Notice of Violation-Docket No. 3591-04

Attn: Council Chairman

Mr. Chairman and Council Members:

Sublette County is in receipt of the Notice of Violation referenced above. This letter is intended to serve as a formal appeal of the Order. The following information is provided to support this appeal and petition:

1. It has always been Sublette County's policy to abide by the rules and regulations promulgated by the Environmental Quality Council and/or the Wyoming Department of Environmental Quality-Solid and Hazardous Waste Division. This is documented by the fact that the Marbleton #2 Site has always been operated and continues to be operated under a valid operating permit issued in November 21, 2002.
2. It is the general consensus of individuals and entities involved that implementing a baling facility at the Marbleton #2 Site is an improvement both environmentally and economically in the following ways:
 - Mitigation of the daily on-site and off-site litter problems
 - Mitigation of precipitation infiltration into loose refuse
 - Reduces exposure of birds and other disease vectors to open and loose garbage
 - Provides for better screening of illegal wastes deposited by generators
 - Increases longevity of current landfill site
 - Probably decreases potential of leachate generation and future contamination of groundwater
 - Enhances the prospects of the Marbleton #2 Site becoming a regional repository for Municipal Solid Waste
3. Informal discussions were held with Patrick Troxel of WDEQ-SHWD January 30, 2003 regarding Sublette County's intent to pursue implementing a baling facility at the Marbleton #2 Landfill Site
4. In the spring and summer of 2003, WDEQ-SHWD was verbally informed of Sublette County's desire to 'pilot test' an innovative type of solid waste baler in July-August 2003 period. The proposal was formalized in a letter dated June 3, 2003., and a letter of

authorization was requested to vary daily cover during the test. That letter of authorization was received, and signed by Patrick Troxel of WDEQ-SHWD June 19, 2003.

5. Prior to the conduct of the pilot test, WDEQ-SHWD personnel were invited to observe the operation of the baling facility.

6. Subsequent to the pilot testing Sublette County, through their engineer prepared conceptual plans of a proposed project. Those plans were presented and reviewed with Patrick Troxel and Kathy Brown at the WDEQ office in Lander Wyoming on November 20, 2003. General topics of discussion during that meeting were:

- Design features to be incorporated into the proposed facility
- Permitting requirements for the project
- The County's schedule of implementation-construction during 2004, with the facility going operational at the end of 2004 or very early in 2005.

At that time it was undecided by WDEQ-SHWD as to whether a baling facility would constitute a Major or Minor Amendment to the Operating Permit. The focus and emphasis of WDEQ-SHWD's concern was with the disposal part of the project not the baling facility itself. The specific question was asked whether a Permit to Construct was needed to build the Baling Building and related improvements. The response was that a Permit to Construct was not required but that an amendment would be required for design and operation of the bale filling process. The County's solid waste manager and engineers perception of the required process as a result of the meeting was:

- Move forward with design and construction of the baling building and related facilities
- Submit application for an amendment to the operating permit during 2004, but prior to operation of the system.

Based on their recommendation, the County Commissioners moved forward with the project.

7. When the Letter of Violation (LOV) dated June 28, 2004 was received by Sublette County, the following commitments had already been made:

- A prepayment of \$137,037.50 had been made for a solid waste baler scheduled for delivery in December 2004; subsequent payments were committed to
- A prepayment of \$126,700 had been made on the steel building to prevent incurring a large cost increase due to the escalating steel market; delivery was scheduled for September 1, 2004.
- Contract had been entered into with a construction contractor in the amount of \$1,625,747.20. The contractor was on site and working.

Suspending work on the project would have posed serious financial ramifications to Sublette County and delayed completion by an estimated 15-18 months.

8. With the LOV dated June 28, 2004, it was first learned the WDEQ-SHWD had recently decided a baling facility constituted a Major Amendment revision to the Operating Permit.

With regard to the Order section of the Notice of Violation:

A. Cease construction-Suspending construction work at this time would delay completion of the project by at least a year and result in significant financial consequences, including but not limited to:

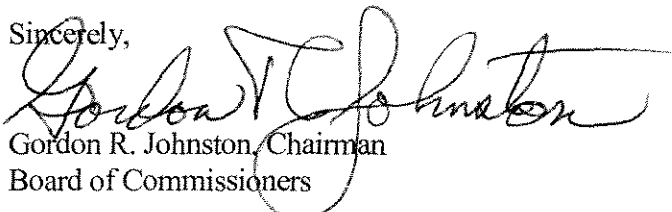
- Costs to demobilize the contractor and weather proof the job site to endure winter weather including covering all stored materials
- Inflationary increases in materials and labor during the shut down
- Cost to re-mobilize the Contractor sometime in 2005
- Possible demurrage charges for storing the baler between the fabrication and eventual shipping date

B. Submission of a Solid Waste Permit Application in compliance with the provisions of SWRR, Chapter 6, Section 2.b. It has always been the County's intent to submit an amendment to the Operating Permit for approval in connection with the project. The application can be submitted within the 60 days, that is October 12, 2004 provided in the Order. The amendment will address the required provisions and respond to outstanding issues in connection with the current permit.

In summary, the County advanced the project in a logical sequence with an interchange of information with WDEQ-SHWD personnel and consequently feels that this is a valid appeal.

Please contact us with further requirements.

Sincerely,


Gordon R. Johnston, Chairman
Board of Commissioners

cc John V. Corra, Director
WDEQ
Herschler Building 4th Floor West
122 West 25th St
Cheyenne, Wyoming 82002.