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February 6, 2014

Wyoming Department of Environmental Quality

Att: Mr. Luke Esch

122 W. 25th Street, Herschler Building
Cheyenne, WY 82002

RE: Comments Regarding Proposed Rules: Chapter 17, Municipal Solid Waste Landfill Remediation Program

Dear Mr. Esch:

In accordance with the Notice of Intent to Adopt Rules dated December 27, 2013, please find below comments to the above referenced proposed rules generated by the Campbell County Solid Waste Committee.

1. Chapter 17, Section 3, Eligibility (a) (iii) (C) and Section 6

The enabling legislation for the proposed rules allows for the crediting of costs incurred between July 1, 2006 through December 31, 2012 toward the 25% funding requirement and the rules establish the procedure with a maximum of 4 million dollars for all chosen/approved costs statewide and project costs that are eligible for reimbursement from the Municipal Solid Waste Landfill Remediation Account. To be eligible for reimbursement from this account, the rules provide that it must be a project/facility "pursuant to Section 3". Section 3 requires and envisions new projects for which an agreement has been entered into under the rules. Until the rules are finalized, this process has not yet been initiated, therefore, resulting in a time period from December 31, 2012 to present for which no funding is available under the program seriously penalizing operators who have been proactive and have already begun remediation activity.

In addition, the rules provide no guidance as to how the determination will be made on processing requests for the 4 million dollars for costs incurred by operators dating July 1, 2006 through December 31, 2012. Presumably, the legislature's intention was to have these rules address this issue. The law simply provides for the reimbursement of such costs up to an amount of 4 million. The reason to implement rules is to determine the specifics of how this will be accomplished. The proposed rules do not speak to this issue.

2. Chapter 17, Section 3, Eligibility (a) (iii) (A)

RE: Preliminary Presumptive Remedy

In the actual administration of this section, it will be impractical and unrealistic for an operator to identify a definitive presumptive remedy at this initial stage in the process. Campbell County has discussed this with our consultant and understands that the general process of remediation will likely include the following or similar:

- **Installation of monitoring wells.** Presumably, this is a step which has already been initiated across the state.
- **Assessment monitoring stage.** The frequency of measurements in the monitoring wells increases due to the detection of constituents at levels that cause possible concern. Again, it is presumed this activity is currently ongoing throughout the state.

- **Remedial Investigation.** Due to the past assumption that groundwater issues would not exist in Wyoming due to the arid climate, reliable baseline information is not available. As a result, there is currently information being gathered to establish such background parameters. It is likely that this process will take 1.5 to 2.5 years to complete.
- **Assessment of Corrective Measures/Feasibility Study.** Engineering reports evaluating remedial actions from economical and technical feasibility perspectives are required. It is common for cleanup standards to be defined in this step which is likely to take 1 to 2 years to complete.
- **Remedial Design.** Plans, specifications, engineering reports and a permit submittal follow which is likely to take 1 to 2 years to complete.
- **Remedy Implementation.** The remedial project is constructed. (It is likely for this to take 1 to 1.5 years considering Wyoming construction season and the construction quality assurance reporting process.)
- **Operation and Compliance Monitoring.** Continued monitoring is required under the program in order to confirm the remedy is working and the environment is improving. Should this not be the case, the process is likely to start over at the Assessment of Corrective Measures and thus, future engineering and construction costs can occur.

Although the above process may be shortened in some cases, it may be lengthened in others. Requiring an operator to define a presumptive remedy at this early stage will likely result in the remedy being inaccurate. This incorrectly identified remedy will require multiple agreement amendments and time line adjustments which will add both time and cost to the project.

The process will need to be flexible such that the resulting agreements can be made in segmented steps to best serve the public needs both economically and environmentally. It would be prudent to have flexibility to shorten or lengthen the process described above to best suit the particular landfill. Doing so will provide a more realistic project development for all parties.

3. Chapter 17, Section 4 (f)

This section provides for funding eligibility for “(10) years after the implementation of the final selected remedy”. Starting the 10 year period for eligibility when the final selected remedy is implemented will cause undue risk to the operator. Following implementation of a selected remedy, compliance monitoring will be used to ensure the remedy is working and the environment is improving. It is also prudent to monitor this into the future to make sure the initial statistical results hold true for the long term.

We recommend that the 10 year period not start until initial statistical analysis indicates the remedy is working and the environment is improving. The rules should also allow the extension of the 10 year period of eligibility if historical results indicate the initial statistical analysis was in error for up to 5 years following initial and subsequent statistical analyses.

Should you have any questions or if we can be of assistance with regard to this matter, please do not hesitate to contact us.

Sincerely,



Mark Christensen, Chairman
Board of Campbell County Commissioners