

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

FEB 13 2014

IN THE MATTER OF OBJECTIONS TO)
ANCHOR ENVIRONMENTAL, INC.'s) DOCKET NO. 13-5802
WDEQ/SHWD PERMIT APPLICATION)
FILE NO. 50.022)

Jim Ruby, Executive Secretary
Environmental Quality Council

RESPONDENT WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S
MEMORANDUM OF LAW REGARDING COMPLIANCE WITH
ZONING-BASED LOCATION STANDARDS

Respondent Wyoming Department of Environmental Quality (DEQ), pursuant to the Wyoming Environmental Quality Council's (EQC) December 30, 2013, scheduling ORDER, submits this Memorandum of Law Regarding Compliance with Zoning-Based Location Standards in the above-captioned case to show that these issues are not properly before the EQC.

FACTS

Anchor Environmental, Inc. (Anchor) applied to the DEQ, Solid & Hazardous Waste Division for a permit to construct and operate a transfer, treatment, and storage facility in Natrona County nearby, but outside, the Town of Mills. The proposed facility would process used drilling fluids from oil and gas exploration activities and shop sump wastes indoors for recycling or offsite disposal. See Attachment A ("Application Summary" & "General Facility Description" from Anchor's October, 2013 final permit application).

In its first review of Anchor's initial permit application, DEQ stated that it could not issue the requested permit because the proposed facility did not fall within Natrona County's existing zoning use restrictions for that location, as required under applicable DEQ Solid Waste Rules. See Attachment B (DEQ's September 17, 2012 Solid Waste Permit Application Review Form, §2.1.1, Page 4 of 17 ("*First Review Comments*")). Anchor then sought and obtained a zoning change for the location from Urban Mixed Residential to Light Industrial (LI) and a Conditional Use Permit for its facility from the Natrona County Board of County Commissioners in June, 2012. See Attachments C & D (Resolution No. 32-12 (ZC 12-0002) dated June 5, 2012 and Resolution No. 31-12 (CUP 12-0006) dated June 6, 2012, respectively). Both of the resulting Resolutions state that due notice of the public hearing was provided. See Attachments C & D.

Don Kenyon attended this public hearing and spoke against the Conditional Use Permit. None of the other objectors in this case spoke against either action at the County Commission's public hearing. See **Attachment E** (Board of County Commissioners Minutes of Proceedings, June 5, 2012, Public Hearing agenda items E & F). Accordingly, in its subsequent review of Anchor's second permit application, DEQ found the location standard requiring compliance with local zoning restrictions to be satisfied. See **Attachment B** (DEQ's September 17, 2012 Solid Waste Permit Application Review Form, §2.1.1, Page 4 of 17 ("**Second Review Comments**")).

After a series of additional reviews by DEQ and revisions by Anchor, DEQ determined Anchor's application to be complete and technically adequate, and it was put out for public notice and comment / objection. See **Attachment F** (Public Notice). During the public comment / objection period, the Town of Mills and some individuals filed written objection letters, which initiated this contested case. All of the letters contained objections to the proposed facility location. For example, the Town of Mills' November 22, 2013, objection letter states that:

It was brought to our attention that this type of plant wanted to open its doors on the edge of our Town last July. We were against it then and we still don't want the waste treatment plant in Mills. We expressed our concerns to the county commissioners then and we have the same objections now.

See **Attachment G**.

In subsequent pleadings, the Town has expressed objections to the facility location that are essentially zoning issues. In fact, the "Town of Mills' Preliminary Statement of Issues" dated January 10, 2014 (filed January 16, 2014), includes the following two issues:

4. To what extent should the interests of the Town of Mills be considered in objecting to the introduction of a new petroleum contaminated, solid/liquid waste *disposal*¹ site being established less than one-half mile *outside* the Town's projected growth boundaries? (italics added)

8. Did applicant comply with all lawful requirements, including public notice prior to the re-zoning of the subject property to "light industrial use"?

See **Attachment H**.

¹ The final Anchor permit application and the Public Notice only describe or propose to authorize a transfer / treatment / storage / recycling facility, and do not describe or propose to authorize "disposal" of wastes at that facility. See **Attachments A & F**. Chapter 1, Section 1(e) of the DEQ Solid Waste Rules defines "treatment" to include recycling.

Objections based on county zoning decisions are not properly before the EQC.

DISCUSSION

Authority to regulate and restrict the location and use of buildings and the use of lands for various purposes in unincorporated areas of the county is vested in the board of county commissioners. Wyo. Stat. Ann. § 18-5-201. It is unlawful to locate or use any building or use any land within any area included in a zoning resolution without first obtaining a zoning certificate from the board of county commissioners. Wyo. Stat. Ann. § 18-5-203. No zoning certificate shall be issued unless the plans for the proposed building or use of land fully comply with the zoning regulations in effect. *Id.* The board shall grant certificates when the proposed use complies with the zoning requirements. *Id.* The county zoning statutes require prior public notice and a public hearing for zoning decisions by the board of county commissioners. Wyo. Stat. Ann. § 18-5-202(c); *Hoke v. Moyer*, 865 P.2d 624, 630-31 (Wyo. 1993). These zoning decisions by the board of county commissioners may be appealed to the district court. Wyo. Stat. Ann. §§ 18-5-203 & 15-1-609; *Swift v. Sublette Cnty Bd. of Cnty Comm'rs*, 40 P.3d 1235, 2002 WY 32 (Wyo. 2002) (on appeal by neighbors of a gravel pit, the Wyoming Supreme Court reversed the Sublette County Board of County Commissioners' issuance of a conditional use permit to operate a batch plant in conjunction with the existing gravel pit).

The permit requirements that apply to Anchor's proposed transfer, treatment, and storage facility are contained mainly in Chapter 6 of the DEQ Solid Waste Rules. The applicable location standards require compliance with existing county zoning regulations for location of solid waste transfer, treatment, and storage facilities. Chapter 6, Section 3(a)(i). The EQC reviews DEQ solid waste permit decisions for compliance with DEQ Solid Waste Rules, which in fact are promulgated by the EQC. Wyo. Stat. Ann. §§ 35-11-112(a)(i) & 35-11-503(a)(i). The powers and duties of the EQC do not include reviewing zoning decisions made by boards of county commissioners. Wyo. Stat. Ann. § 35-11-112. To the extent that the Town of Mills or other parties in this case object to the location of the proposed Anchor facility on grounds involving zoning decisions vested in the board of county commissioners pursuant to Wyo. Stat. Ann. §§ 18-5-201 & 18-5-203, those objections should have been appealed to the district court under Wyo. Stat. Ann. § 18-5-203, and are outside the scope of this case before the EQC.

Similarly, if the Town disputed the board of county commissioners' compliance with Wyo. Stat. Ann. § 18-5-202(c) requiring "public notice prior to the re-zoning" in this matter, the Town should have appealed that issue to the district court as well. *Hoke v. Moyer*, 865 P.2d 624 at 627, 630-31 (on appeal by objector, the state district court and Wyoming Supreme Court reversed a Teton County Board of County Commissioners' zoning decision for failure to comply with the public notice and hearing requirement in Wyo. Stat. Ann. § 18-5-202(c)). The issue of compliance with public notice and hearing requirements for county zoning actions is also outside the scope of this case before the EQC.

CONCLUSION

For the reasons discussed above, zoning-based objections to the location of the proposed Anchor facility are not proper issues in this contested case before the EQC under the Wyoming Environmental Quality Act. The county zoning statutes provide the remedy for those objections.

DATED this 13th day of February, 2014.



Mike Barrash (WSB #5-2310)
Jeremy Gross (WSB #7-5110)
Wyoming Attorney General's Office
123 State Capitol Building
Cheyenne, Wyoming 82002
(307-777-6946)

CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing RESPONDENT WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S MEMORANDUM OF LAW REGARDING COMPLIANCE WITH ZONING-BASED LOCATION STANDARDS were served this 13th day of February, 2014 by United States mail, first class postage pre-paid, and/or by email, addressed as follows:

Robert J. Hand Jr.
Hand & Hand
152 N. Durbin, Suite 300
Casper, WY 82601
robh@vcn.com

Town of Mills and Lisa Whetstone
c/o Lisa Whetstone, Mills Town Clerk
lwhetstone@millswy.com

Jo Ann and Donnie Kenyon
4215 S. Skyline Road
Casper, WY 82604

Jonathan Phillips
144 N. 7th
Mills, WY 82604
ejpwy@hotmail.com

Dennis Herrick
5210 Westside Place
Mills, WY 82604
drh66flh@gmail.com

Jim Skovgard
Anchor Environmental, Inc.
jim.skovgard@anchor-inc.com



Wyoming Attorney General's Office

Wyoming Department of Environmental Quality
Solid & Hazardous Waste Division

SOLID WASTE PERMIT APPLICATION

**Anchor Environmental
Transfer, Storage and Treatment Facility**

APPLICATION SUMMARY

In accordance with the Wyoming Department of Environmental Quality – Solid and Hazardous Waste Division (WDEQ-SHWD) Chapter 6, Sanitary Landfill Regulations, the Anchor Environmental Treatment, Transfer, Storage and Drilling Fluid Recycling facility permit application and supporting information is being submitted for approval. This facility will be accepting used drilling fluids from oil and gas exploration activities for recycling and shop sump waste for mechanical drying and recycling or disposal at either the City of Casper landfill or the TDS landfill near Torrington Wyoming. Exhibits are included in this permit application.

1.0 GENERAL INFORMATION

1.1 Application Form	Section 2.b.I-II
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The completed Solid Waste Permit Application Form is included as pages 2 and 3 of this application.

1.2 Operator Information	Section 2.b.III.A
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The operator of the Anchor Environmental – Transfer Storage and Treatment Facility
Jim Skovgard
Anchor Environmental, Inc.
P.O. Box 2513
Mills; Wyoming 82644
307-265-4047

Anchor Environmental, knows of no administrative order, civil, or administrative penalty assessment, bond forfeiture, civil, misdemeanor or felony conviction or court proceeding for any local, state, or Federal law occurring within a minimum of five (5) years relating to environmental quality or criminal racketeering of the manager, operator, partners, and/or executive officers.

Wyoming Department of Environmental Quality
Solid & Hazardous Waste Division

SOLID WASTE PERMIT APPLICATION REVIEW FORM
(Version 4/2/99)

Facility Name : Anchor Environmental
Soil Drying Beds,
Mills, Wyoming

SHWD Facility File # : # 50.022

Type of Application : Transfer/Treatment/Storage
Solid Waste Chapter 6

SHWD Reviewer : Patrick Troxel, District #2 Supervisor

Application Date : January 9, 2012
August 13, 2012 (revised)

Application Received : January 13, 2012
August 17, 2012

Review Completed : March 8, 2012
September 28, 2012 - Complete

REVIEW COMMENTS

The applicable permit application requirements are outlined below. Each requirement is followed by a summary of the application standard, a description of the type of information required, and the applicable technical standards which must be met. The reader is referred to the rules and regulations for a full description of each standard.

All sections of the application must be determined to be complete before the application may be deemed complete. Likewise, all sections of the application describing the design, construction and operation, monitoring and closure of the facility and the financial assurance mechanism must be determined to be technically adequate before a draft permit can be issued. The reviewer may propose permit conditions in order to insure that a particular section of the application is technically adequate. The following terms are used to describe the reviewer's comments regarding completeness and technical adequacy determinations:

- "Complete" This term indicates that the application contains a comprehensive and accurate discussion of the particular subject. All required information is provided.
- "Incomplete" This term indicates that the application *does not contain* a comprehensive and accurate discussion of the particular subject. Additional information is required.
- "Adequate" This term indicates that the information provided demonstrates that the facility will be able to comply with the applicable technical standard(s).
- "Inadequate" This term indicates that the information provided *falls to demonstrate* that the facility will

be able to comply with the applicable technical standard(s). Additional or revised information is required.

"N/A" This term indicates that the particular section or standard is *Not Applicable*. When this determination is made, a comment is provided to justify this determination.

"N/E" This term indicates that the particular section or standard was *Not Evaluated* because it was previously approved and there is no obvious reason (e.g., modification, change in circumstances) to warrant a new review.

Specific comments may also be provided to summarize the information provided in the application or to explain why a particular section has been determined to be complete, incomplete, adequate, inadequate or not applicable. Where appropriate, suggestions are provided for addressing deficiencies or improving the application.

Closure application requirements are described in SWRR Chapter 6, Section 2(f). The portions of this application review form which apply to closure applications are identified by two (2) asterisks (e.g., "1.1 Application Form**") and identify the applicable closure application cross-reference.

1.0 GENERAL INFORMATION

1.1 Application Form**	Section 2(b)(i-ii)
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- Must use double-sided form provided by the department (see Solid Waste Guideline #3)
- Must be signed, dated and stamped by Wyoming P.E.
- Must be signed and dated by landowner (if not the same as applicant)
- Must be signed and dated by applicant (ranking elected official, 2 principal officers, or proprietor/general partner)
- Applicant signature(s) must be notarized
- NOTE: All sections of the application which require geological services or work must be stamped, signed, and dated by a professional geologist (see W.S. § 33-41-115). As an alternative to stamping, signing and dating individual sections of the application, the applicant may attach a page to the permit application form which identifies those sections of the application which were prepared by or under the supervision of a professional geologist (see Solid Waste Guideline #3)
- **Closure application cross-reference: Section 2(f)(i)(A)

Comments... Complete

1.2 Operator Information	Section 2(b)(iii)(A)
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- Must identify name, address, telephone number
- Must provide summary of any administrative order, civil or administrative penalty assessment, bond forfeiture, civil, misdemeanor or felony conviction or court proceeding for any local, state or federal law occurring within a minimum of 5 years relating to environmental quality or criminal racketeering of the manager, operator, partners and/or executive officers

Comments... Complete

1.3 Manager Information	Section 2(b)(III)(B)
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- Must identify name, address, telephone number
- Must identify basic training requirements and examination courses, including length and frequency of each requirement or course
- Must specify schedule for training and examination of new managers
- Must identify location of training and examination records
- Section 5(a)(i) -- Training & examination records must be available for SHWD review, manager must have working knowledge of plan within 6 months

Comments... Complete

1.4 Legal Description	Section 2(b)(III)(C)
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- Must include a plat with monumented corners and a metes and bounds description
- Plat must be stamped, signed and dated by a Wyoming PLS (see W.S. § 33-29-111)

Comments... Complete

1.5 General Facility Description	Section 2(b)(III)(D)
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- Must identify size of facility (acres)
- Must identify type of management method (e.g., transfer, treatment, storage) for each waste type
- Must include a detailed description of each waste management method
- Must identify type of wastes managed, service area and acceptance rate for each type of waste, and maximum capacity for each type of waste

Comments... Complete

1.6 Surface & Mineral Ownership	Section 2(b)(III)(E)
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- Must identify surface ownership of the site
- Must identify surface ownership of all land adjacent to the facility boundary

Comments... Complete

Additional information submitted on February 29, 2012 (via email) indicates that Mr. Jim Skovard is the current owner. This section of the application must be changed to reflect current ownership information.

2.0 LOCATION STANDARDS

- Facilities which began receiving wastes after September 1, 1989 are subject to the location standards for *new facilities*, as described in SWRR Chapter 6, Section 3(a)
- *New outdoor facilities* are subject to additional location standards if the waste management activity is not being conducted in an enclosed building, tank or container, as described in SWRR Chapter 6, Section 3(a)(v)
- *New incinerators* are subject to additional location standards, as described in SWRR Chapter 6, Section 3(a)(vi)
- Compliance with location standards must be demonstrated by providing supporting documentation

2.1.1 Local Land Use and Zoning

Section 2(b)(iii)(F)

- Section 3(a)(i) -- Must comply with local land use and zoning requirements

Second Review Comments... Complete

First Review Comments... Incomplete

According to information from Natrona County planning (attached) the proposed facility is zoned Urban Mixed Residential (UMR). According to the 2000 Natrona County zoning resolution (Updated August 2, 2011 (Resolution 40-11)), and the Natrona County planning Department the use of this facility for the treatment of industrial waste does not fall within the zoning use restrictions. Therefore, the application is incomplete and the Department cannot issue a permit for the proposed use.

The Department understands the land owner may pursue having the facility re-zoned to "Light Industrial". The Department will complete a second completeness review upon submittal of information documenting the proposed waste management facility meets the local zoning requirements.

2.1.2 Areas Susceptible to Groundwater or Surface Water Impacts

Section 2(b)(iii)(F)

- Section 3(a)(ii) -- May not be located in areas where there is reasonable probability that the facility will have detrimental effect on surface water or groundwater quality

Comments... Complete

2.1.3 100-Year Floodplain

Section 2(b)(iii)(F)

- Section 3(a)(iii) -- May not be located in a 100-year floodplain

Comments... Complete

2.1.4 Areas Susceptible to Dust, Odor or Nuisance Problems
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Section 2(b)(iii)(F)

- Section 3(a)(iv) -- May not be located in areas where there is a potential, as determined by the SHWD, for the facility to present a dust, odor or public nuisance problem, unless the operating plans specifically address appropriate control measures

Comments... Complete

RESOLUTION NO. 32-12
2 C 12 -0002

A RESOLUTION TO AMEND THE 2000 Zoning Resolution of Natrona County, Wyoming, Chapter X, Section 1, for a Zone Change from Urban Mixed Residential (UMR) zoning to Light Industrial (LI) zoning, affecting a 5.767 acre tract, located in a portion of the S/2 of the SE/4 of Section 2, Township 33 North, Range 80 West of the 6th Principal Meridian, Natrona County, Wyoming and being more particularly described by metes and bounds as follows:

Beginning at the northwest boundary of the SE/4 of the SE/4 of Section 2, thence N, 89° 53' E., 100 feet along the north boundary of the SW/4 of the SE/4 of Section 2 to the true point of beginning; thence S. 1° 00' E., 330 feet; thence S. 89° 53' W., 760 feet; thence N. 1° 00' W., 330 feet to a point on the north boundary of the SW/4 of the SE/4 of Section 2; thence N. 89° 53' E., 760 feet on the north boundary of the SW/4 of the SE/4 to the point of beginning; and

WHEREAS, the Natrona County Planning and Zoning Commission, pursuant to Section 18-5-202 (b) W.S. 1977, held a public hearing on May 8, 2012, due notice of which was provided, to consider the same and forwarded a failed recommendation to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners, pursuant to Section 18-5-202 (c), W.S. 1977, held a public hearing on June 5, 2012, due notice of which was provided, on this matter in compliance with the Wyoming State Statutes; and

WHEREAS, the zone change, in the opinion of the Board of County Commissioners, is in compliance with the 1998 Natrona County Development Plan and the Zoning Resolution of Natrona County, Wyoming, for the applicable section of Natrona County and does not adversely affect the public health, safety and general welfare of Natrona County. The Board of County Commissioners hereby makes the finding of facts as listed below in regards to this zone change:

- a) The owner of record has signed the application.
- b) No County services will be required for the zone change.
- c) The earlier residential zoning has given way to creation of a larger Light Industrial (LI) zoning district to the south and east of the area.
- d) The 1998 Natrona County Development Plan addresses the general Hanly/Zero Road area, recommending industrial infill, new commercial and new industrial; residential recognized as already non-conforming.

NOW, THEREFORE, be it resolved by the Board of County Commissioners, Natrona County, Wyoming, declares that Resolution No. 38-1A-80 Natrona County, Wyoming, is hereby amended as follows:

- 1) Change the zoning district classification being in the property described above from the Urban Mixed Residential (UMR) zoning district to the Light Industrial (LI) zoning district.
- 2) The official zoning map of Natrona County shall be changed to reflect this Resolution.

THIS AGREEMENT shall be binding upon and shall inure to the benefit of all parties hereto, their successors and assigns.



NATRONA COUNTY CLERK, WY
Renee Vitto Recorded: CR
Jun 13, 2012 09:32:19 AM
Pages: 2 Fee: \$0.00
NATRONA COUNTY COMMISSIONERS

PASSED, APPROVED AND ADOPTED this 5th day of June, 2012.



ATTEST:

Renea Vitto
Renea Vitto, County Clerk

My term of office expires
January 6, 2015

BOARD OF COUNTY COMMISSIONERS
Natrona County, Wyoming

[Signature]
Ed Opella, Chairman

APPROVED AS TO FORM:

WPK
William P. Knight Jr., County Attorney

RESOLUTION NO. 31-12
C1212-2006

WHEREAS, the Board of County Commissioners received an application from Jimmy Skovgard, owner of Anchor Environmental, for a Conditional Use Permit to allow soil treatment, transfer and storage facility, utilizing hydro-vac technology to remove sediment and liquids from ponds, sumps, oil field related equipment and reservoirs. Zoning is Light Industrial (LI), affecting two parcels with a total of 9.507 acres located in portions of the N/2 of the NE/4 of the SW/4 of the SE/4 and in portions of the SE/4 of the SW/4 of the NW/4 of the SE/4 of Section 2, Township 33 North, Range 80 West of the 6th Principal Meridian, Natrona County, Wyoming and more particularly described by metes and bounds as follows:

Lot 1 - beginning at the southwesterly corner of the parcel being described and also a point in the southerly line of said NW/4 of the SW/4, Section 2 and from which point the southwesterly corner thereof bears S 89° 53' West, 324.71 feet; thence along the westerly line of said parcel and into said NW/4 of the SE/4, of Section 2, north 23° 28' East, 155.05 feet to a point; thence North 25° 42' 12" East, 235.51 feet to a point; thence North 37° 56' 07" East, 94.11 feet to the northwesterly corner of said parcel; thence along the northerly line of said parcel, North 88° 56' 25" East, 293.42 feet to the northeasterly corner of said parcel thence along the easterly line of said parcel South 1° 04' 35" East, 343.15 feet to the southeasterly corner of said parcel and a point in and intersection with the southerly line of said NW/4 of the SE/4 of Section 2; thence along the southerly line of said parcel and NW/4 of the SE/4, Section 2, South 89° 53' West, 620.61 feet to the point of beginning. Lot 2 - beginning at the northwest boundary of the SE/4 of the SE/4 of Section 2; thence North 89° 53' East, 100 feet along the north boundary of the SW/4 of the SE/4 Section 2 to the true point of beginning; thence South 1° 00' East, 330 feet; thence South 89° 53' West, 760 feet; thence North 1° 00' West, 330 feet to a point on the north boundary of the SW/4 of the SE/4 of Section 2; thence North 89° 53' East, 760 feet on the north boundary of the SW/4 of the SE/4 to the point of beginning; and

WHEREAS, the Natrona County Planning and Zoning Commission, pursuant to Section 18-5-202 (b) W.S. 1977, held a public hearing on May 8, 2012, due notice of which was provided, to consider the same and forwarded a recommendation of approval to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners, pursuant to Section 18-5-202 (c), W.S. 1977, held a public hearing on June 5, 2012, due notice of which was provided, on this matter in compliance with the Wyoming State Statutes; and

WHEREAS, the conditional use is consistent with the provisions of the *Zoning Resolution of Natrona County*, and will not adversely affect the public health, safety and general welfare of the Natrona County citizens. The Board of County Commissioners hereby makes the following findings of fact in regards to this Conditional Use Permit:

- a) Jimmy Skovgard, owner of Anchor Environmental, has signed the application.
- b) No additional Natrona County services will be required at the transfer and treatment facility.
- c) No adverse impact on adjacent land is anticipated.
- d) The transfer and treatment facility will be in compliance with all applicable local, State and Federal Environmental standards and will not threaten the public health, safety and welfare.

NOW, THEREFORE, It is hereby resolved by the Board of County Commissioners, Natrona County, Wyoming, to approve the Conditional Use Permit to allow soil treatment, transfer and storage facility, utilizing hydro-vac technology to remove sediment and liquids from ponds, sumps, oil field related equipment and reservoirs, more particularly described above, with the following stipulations:

OBLIGATIONS OF PERMITTEE

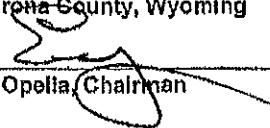
1. The Permittee shall comply with all applicable requirements of the Natrona County Health Department, the Natrona County Development Department, and the Natrona County Fire Protection District and with all applicable local, County, State, and Federal rules and regulations.
2. This Conditional Use Permit shall not become effective until all applicable permits have been obtained and shall be revocable in the event of failure to maintain continuing compliance with all permit requirements;

PASSED, APPROVED AND ADOPTED this 6th day of June, 2012.

My term of office expires
January 5, 2015




BOARD OF COUNTY COMMISSIONERS
Natrona County, Wyoming



Ed Opella, Chairman

ATTEST:



Rensea Vitto, County Clerk

APPROVED AS TO FORM:



William P. Knight Jr., County Attorney



**BOARD OF COUNTY COMMISSIONERS
MINUTES OF PROCEEDINGS
June 5, 2012**

The regular meeting of the Board of County Commissioners was brought to order at 5:30 p.m. by Chairman Ed Opella. Those in attendance were Commissioners Bill McDowell, Matt Keating, Rob Hendry, Terry Wingerter, Attorney Heather Duncan-Malone, and County Clerk Renea Vitto.

Commissioner Wingerter moved to approve the Minutes of Proceedings for May 15, 2012. The motion was seconded and carried.

Commissioner Hendry moved to approve the Minutes of Proceedings for May 29, 2012. The motion was seconded and carried.

Commissioner Wingerter moved to approve the payment of bills in the amount of \$3,246,765.47. The motion was seconded and carried.

Public Hearings:

A. Resolution 24-12 Authorizing the Transfer of County Property to the Town of Bar Nunn, WY (Bar Nunn Ranch, Lots 337-340) (Quitclaim Deed)

Attorney Malone reported four lots are being deeded to the Town of Bar Nunn for development purposes. County received property by virtue of tax deed.

Chairman Opella opened the public hearing.

Hearing no comments in favor or opposition Chairman Opella closed the public hearing.

Commissioner McDowell moved to approve the Resolution and Quitclaim Deed. The motion was seconded and carried.

B. Resolution 22-12 authorizing the Transfer of property to Steve Dunbar (Quitclaim Deed)

Attorney Malone reported the property has been sold for \$2,000. County received property by virtue of tax deed.

Chairman Opella opened the public hearing.

Hearing no comments in favor or opposition Chairman Opella closed the public hearing.

Commissioner Wingerter moved to approve the Resolution and Quitclaim Deed. The motion was seconded and carried.

C. Resolution 23-12 Authorizing the Transfer of County Property to the Child Development Center of NC (Lot 2, Highland Park Addition No. 4) (Quitclaim Deed)

Attorney Malone reported there will be no exchange of funds as the transfer is in the best interest of the public.

Chairman Opella opened the public hearing.

Hearing no comments in favor or opposition Chairman Opella closed the public hearing.

Commissioner Hendry moved to approve the Resolution and Quitclaim Deed. The motion was seconded and carried.

D. Adoption of NC Park Rules & Regulations

Attorney Malone reported the updated rules have minor topographical changes. Forty five day notice has been given to the public; to date only one comment has been received regarding ATV's.

Chairman Opella opened the public hearing.

Hearing no comments in favor or opposition Chairman Opella closed the public hearing.

Commissioner Wingerter moved for adoption of the NC Parks Rules & Regulations with the OHV or ORV amendment to change all mention of vehicles. The motion was seconded and carried.

E. ZC12-0002

Gene Wallace, Development reported this is a request by Thad Hunter, representing Anchor Environmental for a zone change from the existing Urban Mixed Residential (UMR) zoning district to Light Industrial (LI) zoning district affecting a 5.757-acre tract, located in a portion of the N/2 of the NE/4 of the SW/4 of the SE/4 of Section 2, Township 33 North, Range 80 West of the 6th Principal Meridian, Natrona County, Wyoming.

Chairman Opella opened the public hearing.

Speaking in favor: Jim Skovard, Anchor Environmental

Speaking in opposition: none

Hearing no further comments Chairman Opella closed the public hearing.

Commissioner Wingerter moved to approve the Zone Change incorporating the Development Department's proposed finding of facts and motion of recommendation. The motion was seconded and approved.

F. CUP12-0006

Gene Wallace, Development reported this is a request by Thad Hunter, representing Anchor Environmental for a conditional use permit to allow a transfer and treatment facility for waste soils from the oil and gas industry, local sump tanks on general construction projects, which waste soils require drying before being disposed of. The requested facility would be located in the Light Industrial (LI) zoning district, affecting a 5.76-acre tract. The property is accessed from Hanly and Gehring Streets.

Chairman Opella opened the public hearing.

Speaking in favor: Jim Skovard, Anchor Environmental, Thad Hunter, Inberg Miller Engineer, and Eric Graney, Project Geologist.

Speaking in opposition: Mills Residence/Property Owners Bruce Burgess, Gene Corson, Don Kenyon.

Hearing no further comments Chairman Opella closed the public hearing.

Commissioner McDowell moved to approve the Conditional Use Permit incorporating the Development Department's proposed finding of facts and motion of recommendation pending full approval of DEQ permit process. Commissioner Hendry was opposed.

Commissioner Hendry supports the concept, but feels the location is too close to town. The motion was seconded and approved.

Contracts, Agreements, Resolutions:

A. Resolution 25-12 Appointing Mike Haigler as Authorized Representative of BOCC to Act on Matter Regarding Crimson Dawn Stock Reservoirs

Mike Haigler, R & B Superintendent reported the reservoirs consist of two dormant ponds with no future plans to activate.

Commissioner McDowell moved to approve the Resolution. The motion was seconded and approved.

B. Ratification of MOU between NC, WY BOCC & the BLM Regarding Sage-Grouse Policy RMP Amendments

Attorney Malone reported the MOU grants cooperating agency status allowing other expertise and comments to be added. MOU was approved as to form by county legal.

Commissioner Hendry moved to approve the Ratification. The motion was seconded and approved.

C. Ratification of Interagency Agreement between the WY DFS & NC BOCC

Attorney Malone reported this two year agreement provides funding for Child Support Enforcement. This is a two year agreement. Agreement was approved as to form by county legal.

Commissioner Wingerter moved to approve the Ratification. The motion was seconded and approved.

D. Ratification of WY State Forestry Division NC Interagency Cooperative Fire Management Agreement

Commissioner Keating moved to approve the Ratification. The motion was seconded and approved.

E. Contract between NC BOCC & Community Education Centers (Community Alternative of Casper, INC) Agreement for Misdemeanant Inmate Funding

Attorney Malone reported this is a yearly agreement with no changes. Agreement has been approved as to form by county legal.

Commissioner McDowell moved to approve the Contract. The motion was seconded and approved.

F. Provider Agreement between the NC BOCC, NC Sheriff & City Of Casper- Juvenile Detention Program

Attorney Malone reported this is a yearly agreement with no changes to provide services for juveniles charged in municipal court. Agreement has been approved as to form by county legal.

Commissioner Wingerter moved to approve the Contract. The motion was seconded and approved.

G. Centurylink ISDN PRS, DSS or UAS Individual Case Basis ("ICB") Rate Plan Agreement

Attorney Malone reported the term of the contract is for five years at a lower fee. Agreement has been approved as to form by county legal.

PUBLIC NOTICE

In accordance with the provisions of the Wyoming Environmental Quality Act and Chapter 1, Section 1(f) of the Solid Waste Rules and Regulations, Anchor Environmental has submitted a SW Chapter 6 permit application for a new solid waste management facility called the Anchor Environmental Treatment, Transfer and Recycling Facility.

The facility is located in Natrona County just west of the City of Mills, Wyoming. More specifically, this facility is located in Section 2, T33N, R80W 6th PM, Natrona County, Wyoming. The facility provides for the transfer/treatment/recycling of used drilling fluid and sump wastes which have been generated within Wyoming, Colorado, Montana, Idaho, Nebraska, North Dakota and South Dakota. The total volumetric capacity of this facility is estimated to be approximately 84,000 gallons of liquid waste and 8,600 cubic yards of solids.

The Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ) has reviewed the application and determined that it is generally complete and suitable for publication. The DEQ's solid waste rules, in Chapter 1, Section 2 (b)(ii), require that the applicant must provide public notice that a proposed permit has been issued and inform the public that there is an opportunity to file comments on the proposed permit before it is issued in final form. The notice is also required to indicate that the public may file formal written objections to issuance of a final permit. This publication provides notice of those opportunities.

Copies of the permit application, the DEQ's reviews of the application, and the proposed permit can be viewed at DEQ's Casper office (125 N. Durbin, Suite 100), at the Natrona County Public Library (307 East 2nd St, Casper, WY), or the Natrona County Clerk's Office (200 N. Center St, Casper, WY).

Any interested person has the right to either: provide comments on the proposed permit, which DEQ will consider prior to taking final action on the permit application, or file formal written objections to the proposed permit. The period for providing comments, or filing formal written objections to the proposed permit, shall begin on November 11, 2013 and end on December 18, 2013. Any comments or formal written objections must be received by 5:00 PM on the last day of the notice period. Comments or formal objections must be submitted in writing to the Department of Environmental Quality, Todd Parfitt, Director, 122 West 25th Street, Cheyenne, WY 82002. Formal objections must be accompanied by a statement of the facts upon which the objection is based. If substantial written objections are filed, a contested case hearing will be held by the Environmental Quality Council.

In accordance with Americans With Disabilities Act, special assistance or alternative formats will be made available upon request for individuals with disabilities.

FILED

NOV 25 2013

Jim Ruby, Executive Secretary
Environmental Quality Council

DEQ Zoning Memo EQC Doc No 13-5802
Attachment F



November 22, 2013

DEPARTMENT
OF

DEC 5 2013

ENVIRONMENTAL
QUALITY

704 Fourth Street
P.O. Box 789
Mills, Wyoming 82644
Phone: 307-234-6679
Fax: 307-234-6528

Department of Environmental Quality
122 West 25th Street
Cheyenne, WY 82002

Dear Mr. Parfitt,


The Town of Mills recently received notification of the final stages of the permit for Anchor Environmental. It was brought to our attention that this type of plant wanted to open its doors on the edge of our Town last July. We were against it then and we still don't want the waste treatment plant in Mills. We expressed our concerns to the county commissioners then and we have the same objections now.

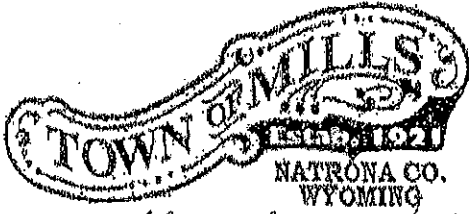
The Town of Mills is currently working with the County and City of Casper to establish our growth boundaries and this solid waste plant is not something we want anywhere close to our Town and its residences for many reasons.

The Mayor and Council would like the DEQ to take the time to come to Mills, address the council and the citizens, as this is a matter that cannot go unaddressed for many reasons.

I look forward to hearing from you so that I can get a meeting organized for our concerned citizens, council, Mayor and town employees to attend.

Regards,


Lisa Whetstone
Mills Town Clerk
lwhetstone@millswy.com
307-234-6679



704 Fourth Street
P.O. Box 789
Mills, Wyoming 82644
Phone: 307-234-6679
Fax: 307-234-6526

Marilyn Wilson 11-27-13

Mayor - Marilyn Wilson Date

Wanda Coedill 12/3/2013

Councilman - Wanda Coedill Date

Ruth Pitts 11-27-13

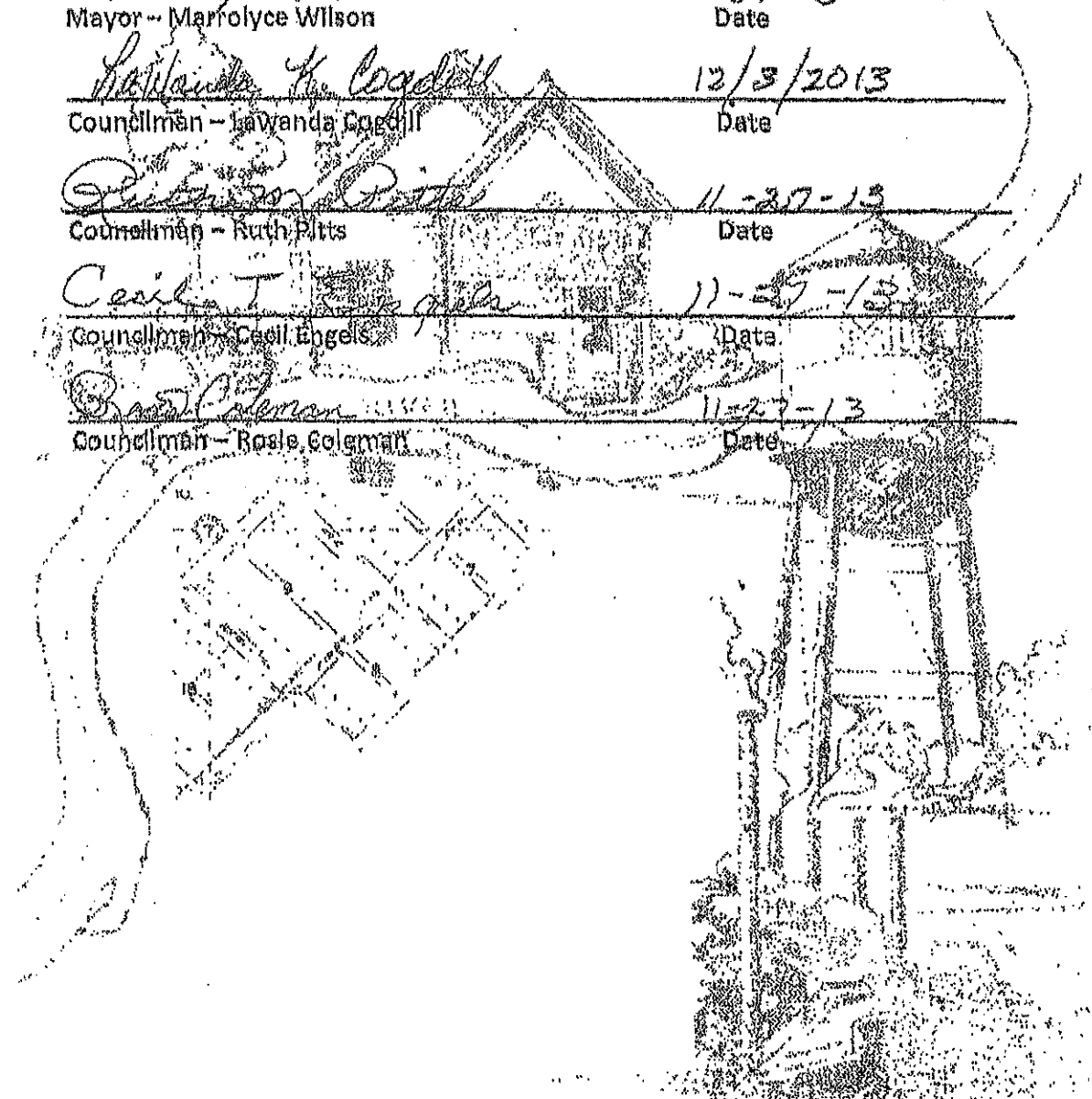
Councilman - Ruth Pitts Date

Cecil Engels 11-27-13

Councilman - Cecil Engels Date

Rosie Coleman 11-27-13

Councilman - Rosie Coleman Date



FILED

JAN 16 2014

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

**DEPARTMENT
OF**

JAN 16 2014

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF OBJECTIONS TO ANCHOR)
ENVIRONMENTAL, INC'S WDEQ/SHWD PERMIT)
APPLICATION FILE NO. 50.022)

DOCKET 13-5802 ENVIRONMENTAL
QUALITY

TOWN OF MILLS' PRELIMINARY STATEMENT OF ISSUES

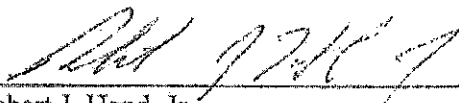
1. Is the proposed facility intended for the transfer, treatment, processing, storage or disposal of solid waste as defined by W.S. §35-11-103?
2. Is the proposed facility exempt from the location requirements of W.S. §35-11-502 which require a variance granted by the director upon recommendation of the administrator after public hearing and upon written findings that the variance will not injure or threaten to injure the public health, safety or welfare of:
 - (1) Residents of an incorporated Town, the boundaries of which are less than one mile from the proposed facility?
3. To what extent have Applicant and Wyoming Environmental Quality Council considered whether this new facility is cost effective as defined by Chapter 1 General Provisions, Section 1 (e) (I) in determining the "minimum standards" have been met for the issuance of this permit; taking into consideration of the total short-term and long-term costs, including the costs of operation and maintenance for the entire activity, the presence of naturally occurring hazardous or toxic substances and current or potential uses of the natural resources impacted?
4. To what extent should the interests of the Town of Mills be considered in objecting to the introduction of a new petroleum contaminated, solid/liquid waste disposal site being established less than one-half mile outside the Town's projected growth boundaries?
5. On January 8, 2014, Applicant represented to the Mills Town Council that there is presently no specific permit authorized by DEQ for the proposed facility. Given the absence of any precedence for this type of waste management facility along with no clearly defined permit requirements, should the application be stayed pending further investigation, public hearing and adoption of specific regulations to protect the health, safety and well being of the residents of the Town of Mills and surrounding communities?
6. Applicant represented in a notice published in a newspaper of general circulation that it will be accepting used recycling and drilling fluids from seven states, including Wyoming, Colorado, Montana, Idaho, Nebraska, North Dakota and South Dakota. Has

Applicant demonstrated sufficient profile screening protocols to protect the public health, safety and well being from potential toxic and incompatible wastes being accepted by this new facility?

7. On January 8, 2014, Applicant represented to the Mills Town Council that it has not yet determined the minimum qualifications for the on site operational manager who will be processing and mixing various solid and liquid wastes into common mechanical separation and storage devices and containers. Should this Application be denied until such minimum qualifications are established to the satisfaction of Mills or at least the DEQ?
8. Did applicant comply with all lawful the requirements, including public notice prior to the re-zoning of the subject property to "light industrial use"?
9. Has applicant met all lawful requirements including but not limited to providing sufficient publication of notice along with notices to landowners as required by law to meet the minimum standards for consideration of this new facility?
10. Does the proposed new facility comply with all other applicable local, state and federal laws and regulations?
11. The Town of Mills reserves the right to amend and supplement this list with additional issues as may arise through the discovery of additional evidence.

Dated this 10th day of January 2014

Town of Mills, Wyoming



Robert J. Hand, Jr.
Town Attorney (WSB 5-2753)
152 N. Durbin, Suite 300
Casper, WY 82601
(307) 234-3566
robh@vcn.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 10th day of January 2014, a true and correct copy of the above Town of Mills Designation of Witnesses was served upon the following by electronic

mail and by depositing the same in the United States Mail, postage prepaid, and addressed as follows:

Dennis Herrick
5210 Westside Place
Mills, WY 82604
drh66flb@gmail.com

Jonathan Phillips
144 N. 7th
Mills, WY 82644
ejpwy@hotmail.com

and by electronic mail to the following:

Jim Skovgard
Anchor Environmental
jim.skovgard@anchor-inc.com

Town of Mills and Lisa Whetstone
c/o Lisa Whetstone
lwhetstone@millswy.com

Mike Barrash
Asst. Attorney General
mike.barrash@wyo.gov

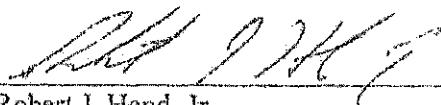
Jeremy Gross
Attorney General's Office
jeremy.gross@wyo.gov

Alan Edwards
SHWD Administrator
alan.edwards@wyo.gov

Todd Parfitt
DEQ Director
Todd.Parfitt@wyo.gov

and by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Jo Ann and Dennis Kenyon
4215 Skyline Road
Casper, WY 82604



Robert J. Hand, Jr
Mills Town Attorney