

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

APR 18 2014

**IN RE ANCHOR ENVIRONMENTAL.  
50.022**

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**DOCKET NO. 13-5802**  
**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER.**

Jim Ruby, Executive Secretary  
Environmental Quality Council

On the 25th day of February, 2014 at 1:00 pm the above entitled matter came on for final hearing in Casper, Wyoming. The Hearing Officer was Dr. David Bagley. Council members present in person were Councilman Rich Fairservis, Councilman Dr. David Bagley and Councilwoman Meghan Lally. Present via telephone were Councilman Andy Schwartz, Vice-Chairman David Searle, and Councilman Tim Flitner. Chairman Tom Coverdale was absent. Staff present were Joe Girardin, John Knepper and Jim Ruby.

Representing the Department of Environmental Quality (DEQ) were Mike Barash and Jeremy Gross Asst. Attorney General. Representing Anchor Environmental was Jim Skovgard. Representing the Town of Mills was Robert J. Hand Jr. Petitioner Lisa Whetstone appeared pro se. JoAnn and Dennis Kenyon appeared but withdrew from participation in the hearing. Jim and Diane Siri, Dennis Herrick, and Jonathan Phillips failed to appear and were dismissed from the case.

Present and testifying on behalf of the DEQ was Patrick Troxel from the Solid and Hazardous Waste Division of the DEQ. The Town of Mills called Kevin O'Hearn. Lisa Whetstone testified on her own behalf. The following Exhibits were offered and received. DEQ 1a,1b,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31, 32,33 and 34. Anchor Environmental 1, 2, 3, 4 and 5. Town of Mills 1, 2, 2.1, 2.2, 2.3, 3, 4, 5, 6, 7, 8

and 10. The Town of Mills offered Exhibits 9a, 9b, 9c and 9d prior to the commencement of the evidentiary portion of the hearing. The DEQ objected to these Exhibits and they were not received prior to the hearing. During the hearing the Town of Mills did not reoffer these Exhibits so they were not received or considered by the Council.

### **FINDINGS OF FACT**

1. Anchor Environmental filed an application with the Solid Waste Division of the Wyoming Department of Environmental Quality (DEQ) for a Solid Waste Chapter 6 permit for a solid waste management facility called the Anchor Environmental Treatment, Transfer and Recycling Facility. **DEQ Exhibit 1**
2. Public notice of the DEQ's intent to issue a permit to operate to the Company was published in the Casper Star-Tribune on November 11, 2013 and November 19, 2013 and public comment ran through December 18, 2013. **DEQ Exhibit 27**. Objections were filed by the Town of Mills, Lisa Whetstone, Jonathan Phillips, Jo Ann and Donnie Kenyon, Jim and Diane Siri, And Dennis Herrick
3. Anchor mailed public notice to the Mayors and County Commissions within 50 miles of the transfer station. The letter to the Mayor of Mills was mailed to the post office box of the Town of Mills. While it was not specifically addressed to the Mayor it was mailed to the location where a reasonable person would mail such correspondence to the Town. **DEQ Exhibit 26 and 27**
4. Anchor also mailed public notice to all other parties required by law. **DEQ Exhibit 26 and 27**
5. Ms. Whetstone's objections involved, potential for ground contamination, and safety on the road used for access to the facility. There wasn't any credible evidence submitted to

substantiate these allegations. All of the waste transported to the facility will be contained in either a building with a concrete floor and a leak detection system or in tanks which are inside the building or outside. Those outside are also surrounded by a secondary containment system designed to hold any liquids that escape from the tanks. **Transcript at Page 59 line 8- 15 and lines 20-24 and Page 69 lines11-23, page 88 lines 14-25, page 89 lines 1-24, Page 91 lines 17-22.**

6. The Town of Mills objections centered around the notice to the Mayor of the Town of Mills, whether the project should be considered a disposal facility, the lack of a life of the facility in the notice, protection of the public health, and the lack of training for the onsite operational manager and the lack of two signatures on the application.

7. The evidence demonstrated that there would not be any solid or hazardous waste disposed of on the property of the applicant. All disposal of any waste would be performed off site at a third party licensed facility. **Transcript at page 48 lines 10-13 and page 63 lines 19 -25, page 76 lines 14-18.**

8. All waste brought onto the permitted property will be contained within an enclosed building. It will not be stockpiled outside and will not be open to the elements. **Transcript at Page 59 line 8- 15 and lines 20-24 and Page 69 lines11-23 and page 85 lines 18-25 and page 86 lines 1-8.**

9. The permit does allow for one open top container to be located outside. However the container must be covered with netting to prevent animals and birds from getting trapped inside of the container. **Transcript at page 60 line 25 and page 89 lines 19-24.**

10. The DEQ does not have any minimum standard training requirements for the on-site operational manager of this type of facility. The waste to be recycled and the products that are

to be resold after the recycling are not hazardous wastes and do not require any special handling which would necessitate special training. The processes as described are the simple separating of one product, water from other products such as oil and soils. **TRANSCRIPT at Page 45 Lines 19-20, Page 98 lines 4-25, Page 99 lines 1-25, Page 100 lines 25 and Page 101 lines 1-19.**

11. The application for the permit was only signed by Mr. Skovgard. The statutory requirement requiring two signatures for a corporation was not complied with. Mr. Skovgard is the sole incorporator, sole shareholder, sole officer and sole member of the board of directors of the company. No one was prejudiced because of the lack of the signature. **Anchor Exhibit 4, Transcript Page 102 lines 1-11.**

12. Anchor did not have anyone available to act as a second signatory. The signature by Mr. Skovgard was the only one available and it acted as the signature of the president, treasurer and secretary. The lack of the signature does not impact the public health or safety nor does it create any risk to the environment.

13. There was not any credible evidence offered that demonstrated that the permit was not protective of the environment, the public health and safety. There was not any evidence presented that demonstrated the actions of the DEQ were arbitrary or capricious.

15. The sworn testimony and exhibits showed substantial evidence in support of the DEQ actions.

#### **CONCLUSIONS OF LAW**

13. The EQC has jurisdiction over the parties and the subject matter of this proceeding pursuant to W.S. 35-11-112(a)(iv) and 406(k) .

14. All notice requirements have been met. **DEQ EXHIBIT 26 and 27**

15. Anchor's application meets all statutory and regulatory requirements. **DEQ EXHIBIT 1.**
16. The Petitioner bears the burden of proof to show that the Department actions were not supported by substantial evidence or were arbitrary and capricious or contrary to law. **Beri Newman vs. State of Wyoming** 49 P.3d 163 (Wyo. 2002).
17. The burden of proof is preponderance of the evidence.
18. The exhibits and testimony of the witnesses clearly show that the actions of the DEQ are supported by substantial evidence.
19. One (1) or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the secretary of state for filing. **W.S. 17-16-201.**
20. Wyo. Rev. Stat. Section 35-11-506 (1989) requires the signature of at least two principal officers if the application is a corporation.
21. The DEQ substantially complied with the statute. "Substantial compliance requires compliance with all material provisions of a statute. The principle of substantial compliance exists to allow for irregularities that do not affect any substantive principles." **See generally State v. Dobbs,** 70 Wyo. 26, 35, 244 P.2d 280, 282-83 (Wyo.1952). It was not arbitrary or capricious for the DEQ to grant the permit to Anchor which was otherwise protective of the public health and safety and protective of the environment even though the application contained only the one signature of the one person who is the president, treasurer and secretary of the corporation.
20. The Petitioner has failed to show that there was not substantial evidence to support the DEQ's actions or that the actions were arbitrary or capricious.
21. Anchor's application is complete. The application complies with all statutory and regulatory requirements.

**ORDER**

WHEREFORE, it is HEREBY ORDERED that the permit be issued by the DEQ to Anchor Environmental.

**DATED** this 14th day of April, 2014.



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David M. Bagley, Presiding Officer  
Environmental Quality Council

## CERTIFICATE OF SERVICE

I, Tyffanne Mobley, certify that at Cheyenne, Wyoming, on the 21<sup>st</sup> day of April, 2014, I served a copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** by electronic mail and by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to the following:

Dennis Herrick  
5210 Westside Place  
Mills, WY 82604  
[drh66flh@gmail.com](mailto:drh66flh@gmail.com)

Jonathan Phillips  
144 N. 7<sup>th</sup>  
Mills, WY 82604  
[ejpwy@hotmail.com](mailto:ejpwy@hotmail.com)

and by electronic mail to the following:

Jim Skovgard  
Anchor Environmental, Inc.  
[jim.skovgard@anchor-inc.com](mailto:jim.skovgard@anchor-inc.com)

Town of Mills and Lisa Whetstone  
c/o Lisa Whetstone, Mills Town Clerk  
[lwhetstone@millswy.com](mailto:lwhetstone@millswy.com)

Mike Barrash  
Asst. Attorney General  
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Todd Parfitt  
Director, DEQ  
[Todd.Parfitt@wyo.gov](mailto: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 Donnie Kenyon  
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Casper, WY 82604

  
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