

**FILED**

**APR 18 1994**

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

IN THE MATTER OF A VARIANCE )  
REQUESTED BY THE TOWN OF ) Docket No. 2374-92  
SUNDANCE FOR ITS LANDFILL )

Terri A. Lorenzon, Attorney  
Environmental Quality Council

MOTION TO SUPPLEMENT RECORD

The Wyoming Department of Environmental Quality ("DEQ"), by and through the Wyoming Attorney General's Office, pursuant to Chapter II, §4.a.(10), moves the Council to supplement the record in this matter as follows:

1. W.S. 35-11-502(c) prescribes location standards for solid waste disposal facilities and requires a variance for facilities which neither meet those location standards nor obtain written consent from certain property owners.

2. The Town of Sundance proposes to expand its existing landfill into an area which does not meet some of the location standards under W.S. 35-11-502(c).

3. The Town has not obtained written consent from each of the necessary property owners and consequently has applied for a variance.

4. W.S. 35-11-502(c) provides that the Council may grant a variance "after public hearing and upon written findings."

5. Advance notice of the public hearing was published in the Sundance Times and the Gillette News-Record, but the non-consenting property owners were not directly notified of the hearing.

6. The hearing was held in Sundance on April 5, 1994, with no parties appearing to object.

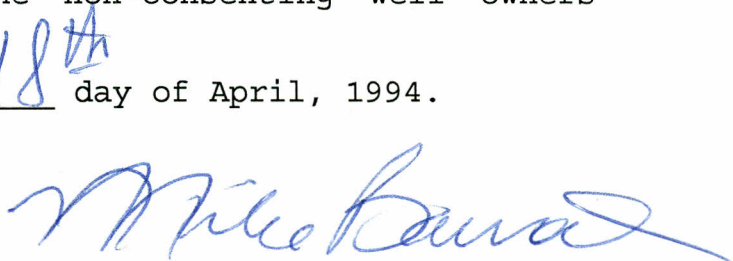
7. Subsequent to the hearing, the Town's consultant informed the Council that 8 of 31 "affected homeowners" whose consent was requested had not responded to the request letters, and that certified return receipts for those letters have not been found. Copy of 5 April 1994 letter from Bearlodge Ltd., Inc. (with list) is attached hereto as **EXHIBIT "A"**.

8. In its FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in Docket No. 1813-87 (Mountain States Solid Waste Management), the Council expressed concern about "the spirit of the public notice provisions."

9. Since the effect of a variance is to override a lack of those consents required under W.S. 35-11-502(c), the spirit of public notice would seem to call for assuring that non-consenting property owners receive adequate notice of the variance hearing.

Accordingly, the DEQ moves that the Council supplement the record in this matter to include written comments or objections received by May 20, 1994 from the non-consenting homeowners identified in EXHIBIT "A" or the non-consenting well owners identified during the hearing.

RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of April, 1994.



Mike Barrash  
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing MOTION TO SUPPLEMENT RECORD (Docket No. 2374-92) was served this 18<sup>th</sup> day of April, 1994 by telefax and by U.S. mail, first class postage prepaid, addressed as follows:

Mr. Mark L. Hughes  
Sundance Town Attorney  
Post Office Box 456  
Sundance, WY 82729-0456



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Mike Barrash  
Sr. Assistant Attorney General