

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE PERMIT)
APPLICATION FOR LANDFILL NO. II)
AT MOORCROFT, WYOMING)

FILED

MAY 07 1986

Terri A. Lorenzon, Adm. Aide
Environmental Quality Council

FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

Pursuant to notice given to all parties interested, this matter came on for hearing on the 10th day of February 10, 1986, at 10:00 a.m. in Pioneer Rooms 1 and 2, Campbell County Public Library, Gillette, Wyoming, Mr. John Schiffer, a member of the Environmental Quality Council presiding as hearing officer. Ms. Terri Lorenzon, Administrative Aide to the Council was also present.

The Protestant, Mary Ann Moore appeared and was represented by Dan Price, Morgan, Broby, Price and Roberts, Attorneys at Law, Gillette, Wyoming, the Department of Environmental Quality appeared and was represented by Mr. Mike Barrash, Assistant Attorney General, and the Applicant, the Town of Moorcroft appeared and was represented by Mark L. Hughes, Hughes and Dumbrill, Attorneys at Law, Sundance, Wyoming.

With all parties participating in the hearing, the Environmental Quality Council having taken this matter under advisement and having been fully advised and having considered all the testimony and evidence submitted by the parties, now makes its Findings of Fact and Conclusions of Law and Order.

FINDINGS OF FACT

1. On July 31, 1985, the Town of Moorcroft (Town) filed with the Solid Waste Management Division of the Wyoming Department of Environmental Quality (DEQ) an application for a Type II municipal, solid waste disposal facility to be located in the N½SE¼SE¼ of Section 1, Township 49 North, Range 68 West, 6th P. M. The application was filed pursuant to Section 7.b.(2) of the Rules and Regulations for Solid Waste Management, 1975.

2. Notice of the Town's application for a landfill construction permit was published in accordance with Section 9. of the Solid Waste Management Rules and Regulations on August 8, 1985, and a copy of the plans for the proposed facility was placed on file for public review at the Crook County Clerk's Office in Sundance, Wyoming.

3. On August 20, 1985, Mary Ann Moore (the Protestant), among others, protested the proposed landfill on the basis that it would create a health hazard, attract pests, and create a fire hazard.

4. The DEQ, held a public hearing in Moorcroft on September 17, 1985, for the purpose of receiving public comments regarding environmental concerns about the proposed landfill.

5. The DEQ notified the Town on October 3, 1985 that approval of the construction permit was denied based on the application as submitted. Further geotechnical testing and revisions in the plan were requested to insure compliance with Wyoming Statutes and Regulations.

6. The DEQ approved a revised landfill construction plan submitted by the Town on October 28, 1985.

7. On November 20, 1985, Mary Ann Moore by and through the law firm of Badley and Rasmussen, filed a formal protest to the design and construction of the proposed Moorcroft landfill.

8. The construction plan submitted by the Town contained that information required by Section 8. of the Solid Waste Management Rules and Regulations including a legal description of the property to be used by this facility, a map showing land use and zoning within one-half mile of the solid waste site, a map showing residences, industrial buildings, water wells, water courses, roads, the general topography of the area, a plot plan of the site showing the dimensions, the location of the three soil borings, the proposed trenches, the fill areas, the stockpiles, the fencing, and the fill elevations.

9. The application includes a written report which contains the information required by Section 8.a.(4) and the topography maps

required by 8.a.(5) of the Solid Waste Management Rules and Regulations, 1975.

10. Evidence at the hearing demonstrated that groundwater will be protected from leachate contamination by the impermeable soils in the landfill site. Soil borings revealed that the soil underlying the proposed landfill site is composed of low permeability CL and CH soils. Information from the soil borings was confirmed by data available through the Soil Conservation Service.

11. The groundwater will be monitored by use of the soil borings as monitoring wells.

12. Evidence at the hearing demonstrated that the DEQ considered logs from three water wells in the area of the landfill site, including information on one of protestant's water wells. The evidence further demonstrated that the water table is at least fifteen (15) feet below the proposed excavations at the landfill site.

13. The moisture content of the soil, as indicated by the three soil borings, was low, and reflects that the water table was significantly below the depths of the borings.

14. Surface water in the area of the landfill site will be protected from contamination by the diversion of the surface water away from the trenches, the construction of the trench bottoms at an angle which will slope away from the wastes in the trench, and the reclamation of each trench as soon as it is filled and covered.

15. Sufficient fire protection will be provided for the landfill by the Town's fire department with water supplied by tank trucks and a fire lane which will be constructed around the landfill area.

16. An agreement between the Town and the operator of a gas pipe line, McCulloch Gas and Transportation, Inc., will protect the gas pipe line in the area of the proposed facility.

17. The DEQ made the on-site inspection required by Section 7.b.(2).

18. Although the landfill is located within one thousand feet (1,000) of a public road, residence, water way or water well, it will not create a nuisance or detriment to the public health as adequate precautions have been taken in the construction plans to prevent a nuisance from being created by odor, small rodents, animals, wind blown debris, and fire.

19. Windblown debris can be controlled at the landfill site by the planned placement of the trenches perpendicular to the prevailing wind direction, the fencing around the landfill site, the high fencing around each trench as it is being used, the once per week cover of the refuse, and the clean-up of the area by the operator.

20. Concerns raised that the ineffective operation of the landfill will result in the landfill becoming a nuisance can only be addressed when the DEQ considers authorization to operate the landfill, and are not the proper subject of the construction permit.

CONCLUSIONS OF LAW

1. The Environmental Quality Council has jurisdiction over this matter pursuant to the Wyoming Environmental Quality Act, Sections 35-11-101 through 35-11-1207 Wyoming Statutes 1977 as amended.

2. Due and proper notice as required by law was provided to all parties.

3. The application as approved by the Department complies with all requirements of the Rules and Regulations of the Solid Waste Management Division of the Department of Environmental Quality, 1975.

4. The Town of Moorcroft landfill, a Type II landfill, will not create a nuisance or detriment to the environment or public health.

5. The Town has met its burden of proving that its application for a Type II landfill meets all statutory and regulatory requirements.

ORDER

IT IS HEREBY ORDERED THAT:

A decision of the Director of the Department of Environmental Quality and the Supervisor of the Solid Waste Management Program approving the Town of Moorcroft's plan for construction of a new Type II municipal, solid waste disposal facility in Crook County, Wyoming, is affirmed.

DATED THIS 29 day of April, 1986.



John C. Schiffer
Hearing Examiner

CERTIFICATE OF SERVICE

I, Terri A. Lorenzon, certify that at Cheyenne, Wyoming, on the 7th day of May, 1986, I served a copy of the foregoing Findings of Fact, Conclusions of Law and Order, by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Mary Ann Moore
and
Lyon A. Moore
Box 241
Moorcroft, WY 82721

Dan Price
Attorney at Law
P. O. Box 1237
Gillette, WY 82716

Mark L. Hughes
Moorcroft City Attorney
P. O. 456
Sundance, WY 82729


and by interoffice mail of the same date to:

Randolph Wood, Director
Department of Environmental Quality
122 W 25th Street, Herschler Building
Cheyenne, WY 82002

Charles A. Porter, Supervisor
Solid Waste Management
Department of Environmental Quality
122 W 25th Street, Herschler Building
Cheyenne, WY 82002

Mike Barrash
Assistant Attorney General
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002

Steven R. Shanahan
Senior Assistant Attorney General
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002



Terri A. Lorenzon
Administrative Aide
Environmental Quality Council
Emerson Building, Room 304
2001 Capitol Avenue
Cheyenne, WY 82002
Tel: (307)777-7170