

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE
NOTICE OF VIOLATION
ISSUED TO:

JIM HEDGES, CHAIRMAN
FREMONT COUNTY SOLID WASTE
DISPOSAL DISTRICT (SWDD)) DOCKET NO. #43 84 08
SAND DRAW LANDFILL (T6:195)
P. O. BOX 1400
LANDER WY 82520

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. On October 31, 1999, the Fremont County Solid Waste Disposal District (District), Sand Draw landfill permit expired. On March 8, 1999, prior to the permit expiring, the Fremont County SWDD requested a one (1) year extension of the operating permit. On May 3, 1999, the Wyoming Department of Environmental Quality (Department) issued a one (1) year permit extension until October 31, 2000.
2. On October 31, 2000, the Fremont County SWDD, Sand Draw landfill permit extension expired. On May 8, 1999 and September 14, 2000, prior to the permit extension expiring, the District requested an extension of the operating permit. On September 26, 2000, the Department granted a second permit extension from October 31, 2000 until May 31, 2001. This extension stated that this is a one-time extension.
3. On May 31, 2001, the Fremont County SWDD, Sand Draw landfill permit extension expired. On April 19, 2001, prior to the permit extension expiring, the District requested an extension of the operating permit. On May 17, 2001, the Department issued a third one (1) year permit extension until May 31, 2002. The Department advised the District that in order to renew the permit a permit application must be submitted no later than November 30, 2001.
4. On May 31, 2002, the Fremont County SWDD, Sand Draw landfill permit extension expired. On May 16, 2002, prior to the permit extension expiring, the District requested a 180 day extension of the operating permit.
5. On March 17, 2003, the District requested a two (2) year extension of the permit until May 31, 2004. On May 12, 2003, the Department requested a more aggressive schedule for submittal of the renewal permit to include a major amendment for vertical expansion, with a submittal date no later than August 1, 2003. On June 10, 2003, the Department issued a fourth extension until May 1, 2004, with the condition that a renewal application be submitted no later than August 1, 2003.
6. On September 30, 2003, the Department issued a Notice of Violation (Docket NO: 3511-03) to the District for failure to submit a permit application by August 1, 2003, as required as a condition of the June 10, 2003 permit.
7. On May 1, 2004, the permit for the Sand Draw landfill expired.
8. On May 10, 2005, the District submitted an application.
9. On February 13, 2006, the Department issued a review, in the form of a memorandum, to the District which outlined the specific barriers to issuing a renewal permit for the Sand Draw landfill. The memorandum also made recommendations for overcoming these barriers. These barriers included an inadequate groundwater monitoring system and environmental monitoring plan, the lack of a fill sequence plan, and the lack of a final cover design.

10. On September 8, 2006, the Fremont County SWDD, submitted a proposed schedule for completing all the necessary tasks outlined in the February 13, 2006, memorandum.
11. On September 18, 2007, the Department issued an application review and draft permit with conditions. The conditions included completion dates as requested by the District in the September 8, 2006, letter.
12. On October 8, 2007, the Department received a letter from the District indicating that they would not be able to meet all of the conditions in the Draft permit in the Department's correspondence dated September 18, 2007.
13. On February 19, 2008 the Department received a Report titled "High Resolution Resistivity Characterization, Sand Draw Landfill, Fremont County, Wyoming. This report recommended drilling locations for three additional monitoring wells, but did not include a work plan for their installation.
14. On January 10, 2008, the Department met with representatives of the District and Inberg Miller Engineer's (IME) at which time additional permit information was submitted. It was acknowledged during this meeting that the information being submitted was incomplete.
15. On February 27, 2008, the Department issued a letter to the District acknowledging the receipt of incomplete information at the January 10, 2008, meeting. In addition, the letter indicated that additional information related to, but not limited to, proposed final covers, seismic evaluations, and environmental monitoring plans was required and review of the permit would not begin until all the necessary information was submitted.
16. On August 1, 2008 the Department issued a review of the February 19, 2008 "High Resolution Resistivity Characterization" report which required the installation of four (4) additional monitoring wells and the replacement of two (2) existing wells. The Department requested a work plan for the installation of these wells by September 10, 2008, but to date, a work plan has not been received.
17. SWRR, Chapter 1, Section 1(D)(i), states:

(f) Permit required for new and existing facilities:

- (i) A permit or a one-time emergency disposal authorization is required for the location, construction, operation or closure of any new or existing solid waste management facility as specified by Chapter 1, Section 1, or by the applicable chapter (s) of these rules and regulations. All facilities shall be located, designed, constructed, operated and closed in accordance with the permit or disposal authorization issued by the director or administrator.

The permit extension for the Sand Draw landfill, expired on May 1, 2004, and the District, has been operating the Sand Draw landfill without a permit, and, therefore, in violation of SWRR, Chapter 1, Section 1(D)(i).

18. SWRR, Chapter 2, Section 6(b)(i)(B)(I) states:

(B) Groundwater monitoring systems:

- (I) A groundwater system must be installed which consists of a sufficient number of wells to monitor water from the uppermost aquifer which may be affected by leakage from the facility. The system must be capable of monitoring background and downgradient water quality. Well locations must be approved by the administrator, and downgradient wells shall be placed, in locations as close as possible but in no case greater than 150 meters from the disposal facility waste boundary or land owned, leased, or otherwise controlled by the operator.

The groundwater monitoring network at the Sand Draw Landfill is inadequate and the District is, therefore, in violation of SWRR, Chapter 2, Section 6(b)(i)(B)(I).

19. SWRR Chapter 2, Section 2(b)(iii)(A)(X) 4 and 5 state:

- (4.) An evaluation of the availability of cover material sufficient to properly operate the facility through the closure period;
- (5.) A detailed description of the facility liners, caps, berms, or other containment devices that will be used, along with the methods of construction and associated construction quality control program;

SWRR Chapter 2, Section 7 (d) and (d)(ii) state:

(d) Final cover: At closure, an infiltration barrier layer of subsoil, or a combination of materials as specified in the permit, a minimum of two (2) feet thick shall be constructed over the refuse or any intermediate cover already in place. This infiltration barrier layer shall be covered with a minimum of six (6) inches of topsoil and graded to prevent erosion or surface water ponding. The infiltration barrier layer shall meet the following minimum specifications:

(ii) The infiltration barrier layer in the final cover for a Type I or Type II sanitary landfill that receives wastes on or after October 9, 1991 shall have a minimum permeability less than or equal to the permeability of the bottom liner or natural subsoil's, or a permeability of 1×10^{-5} cm/sec (10 ft/yr), whichever is less, or such lower value as specified in the facility permit. The administrator may approve alternative infiltration barrier layer designs which achieve an equivalent reduction in the annual flux of infiltration through the final cover system. The administrator may require monitoring of alternative infiltration barrier layer designs to demonstrate the performance of the designs.

The permit application for the Sand Draw Landfill does not include a detailed final cover design, therefore, Fremont County SWDD is in violation of SWRR, Chapter 2, Section 2(b)(iii)(A)(X), 4 and 5, and Section 7(d) and (d)(ii).

ANY PERSON who violates any provision of the Environmental Quality Act, or any rules, standard, permit, license, or variance adopted there under is liable to a penalty of ten thousand dollars (\$10,000) for each day of violation which penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming; and

THIS NOTICE OF VIOLATION is being sent to you pursuant to Wyoming Statute 35-11-701(c) which requires that in any case of the failure to correct or remedy an alleged violation, the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

ORDER

Pursuant to W.S. 35-11-701, the Wyoming Department of Environmental Quality orders as follows:

- A. No later than January 31, 2009, District shall submit a Phase II groundwater investigation work plan, including a detailed cost estimate for construction of the additional wells, in accordance with the Department's August 8, 2008, correspondence.
- B. Within thirty (30) days of the Department's written approval of the work plan described under A., the District shall install all approved groundwater monitoring wells in accordance with the approved plan.
- C. Within thirty (30) days of the installation of the approved monitoring wells, the District shall submit a detailed well installation/groundwater investigation report. The report shall include, at a minimum, the following: boring logs, well construction records, well location map, and a groundwater potentiometric surface map. All newly installed groundwater monitor wells shall become a part of the sampling and analysis program and the groundwater monitoring program shall be conducted in accordance with the Department's following attached Memorandums:
 - a. *October 23, 2006, (revised)-Groundwater monitoring frequency and constituents at facilities determined to have inadequate groundwater monitoring systems.*
 - b. *February 25, 2008, (revised)-Groundwater monitoring data reporting format for municipal solid waste landfills*
- D. No later than May 31, 2009, the District shall submit a renewal application which has been updated to reflect current site conditions and which shall include, but not be limited to, the following:
 - a. A detailed final cover design including a seismic stability evaluation of the final cover design and a construction quality assurance plan.

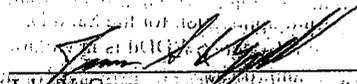
- b. An updated groundwater monitoring and sampling and analysis plan to include the new monitoring wells.

THIS ORDER is final and binding unless, no later than ten (10) days after the day the notice is served, it is appealed by filing a written request for a hearing before the Environmental Quality Council. The request should be mailed to the Chairman, Environmental Quality Council, Barrett Building, Room 407, 2301 Central Avenue, Cheyenne, Wyoming 82002. A copy of this request should be mailed to John Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor, 122 West 25th Street, Cheyenne, Wyoming, 82002.

NOTHING IN THIS ORDER shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this order be interpreted as being a condition precedent to any other enforcement action.

Signed this 28th day of October, 2008.


LeRoy C. Feusner, P.E. BCEE
Administrator
Solid & Hazardous Waste Division


John V. Corra
Director
Dept. of Environmental Quality

Attachments:

- October 23, 2006 Memorandum - Groundwater monitoring frequency and constituents at facilities determined to have inadequate groundwater monitoring systems.
- May 6, 2008 Memorandum - Groundwater monitoring data reporting format for MSW LFs