

CK# 17944  
\$ 22000  
10-18-2010

IN THE DISTRICT COURT FOR THE FIRST JUDICIAL DISTRICT  
IN AND FOR LARAMIE COUNTY, STATE OF WYOMING

PEOPLE OF THE STATE OF WYOMING, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
FREMONT COUNTY SOLID )  
WASTE DISPOSAL DISTRICT, )  
)  
Defendant. )

Civ. No. 175-570

**FILED**  
SEP 30 2010  
GERRIE E. BISHOP  
CLERK OF THE DISTRICT COURT

**CONSENT DECREE**

The Wyoming Department of Environmental Quality ("DEQ") in the name of the People of the State of Wyoming as Plaintiff, pursuant to Sections 901(a) and 903(c) of the Wyoming Environmental Quality Act ("Act"), WYO. STAT. ANN. §§ 35-11-901(a) and 903(c), filed a Complaint against Fremont County Solid Waste Disposal District ("Fremont County SWDD") on February 26, 2010 alleging that Fremont County SWDD violated the Act and the Wyoming Solid Waste Rules & Regulations ("WSWRR"). DEQ and Fremont County SWDD (collectively referred to hereinafter as "Parties"), and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties at arms length and in good faith pursuant to WYO. STAT. ANN. § 35-11-901(a)(ii), and will avoid or settle certain litigation among the Parties, and that this Consent Decree is fair, reasonable and in the public interest. THEREFORE, the Parties, by and through their respective attorneys, have agreed to the following terms for resolving this litigation prior to trial, and with the consent of the Parties, IT IS HEREBY ORDERED, ADJUDGED, and DECREED as follows:

**I. Jurisdiction**

This Court has jurisdiction over the subject matter and parties in this civil action under Section 901(a) of the Act (WYO. STAT. ANN. § 35-11-901(a)) and venue is proper in Laramie County under Section 903(c) of the Act (WYO. STAT. ANN. § 35-11-903(c)).

**II. Parties**

A. At the times relevant to this Consent Decree, Fremont County SWDD has owned and/or operated the Sand Draw landfill located in Fremont County, Wyoming.

Clerk of District Court certifies copies were distributed on Sept 30, 2010 to: Esch (M)  
J. Johnson (M)

B. Fremont County SWDD is a "person" as defined in WYO. STAT. ANN. § 35-11-103(a)(vi).

C. DEQ is the agency of Wyoming state government responsible for enforcing the Act and the WSWRR.

### III. Background

A. On October 28, 2008, DEQ issued Notice of Violation and Order (Order) # 4384-08 to Fremont County SWDD for violating the WSWRR.

B. Fremont County SWDD did not request a hearing before the Council to appeal Order # 4384-08.

C. The Council entered an Order Approving Order, Docket No. 09-5215, on September 16, 2009, based on the expiration of time for Fremont County SWDD to appeal Order # 4384-08 under WYO. STAT. ANN. § 35-11-701(c)(ii).

D. DEQ alleges that Fremont County SWDD's continued operation of the Sand Draw landfill without complying with Order # 4384-08 violates the express requirements of the Order as approved by the Council.

E. DEQ alleges that because Fremont County SWDD continues to operate the Sand Draw landfill in violation of the WSWRRs and the Order, Fremont County SWDD is liable for penalties under WYO. STAT. ANN. § 35-11-901(a).

### IV. Settlement

A. Fremont County SWDD shall pay to DEQ a total of one hundred twenty nine thousand four hundred and ninety dollars and no cents (\$129,490.00) ("Stipulated Penalty"). Payment of twenty two thousand dollars and no cents (\$22,000.00) shall be paid within thirty (30) days after notice to Fremont County SWDD of entry by the Court of this Consent Decree, made payable to the Department of Environmental Quality noting the docket number of this civil action and shall be delivered to Luke J. Esch, Assistant Attorney General, Wyoming Attorney General's Office, 123 Capitol Building, Cheyenne, Wyoming 82002.

B. If Fremont County SWDD timely completes the requirements of Section IV.C below, the remaining one hundred seven thousand four hundred and ninety dollars and no cents (\$107,490.00) as set forth in Section IV.A above shall be forgiven. In the event Fremont County SWDD fails to timely meet the requirements of Section IV.C below, Fremont County SWDD shall pay to DEQ the remaining one hundred seven thousand four hundred and ninety dollars and

no cents (\$107,490.00). Such payment shall be paid to DEQ within 60 days of DEQ providing notice to Fremont County SWDD that it has failed to timely complete the requirements of Section IV.C.

C. Compliance - Fremont County SWDD shall work in cooperation with DEQ in order to timely complete and submit a permit renewal application to DEQ in order to come into compliance with the WSWRR in accordance with the following requirements:

1. No later than December 31, 2010, Fremont County SWDD shall submit to DEQ a complete and technically adequate renewal permit application pursuant to the WSWRR.

2. Prior to submittal of the renewal permit application, Fremont County SWDD shall conduct monthly meetings with DEQ to reach agreement on the content of the renewal permit application.

3. Fremont County SWDD shall have individuals at the monthly meetings which have properly delegated decision-making authority.

4. The renewal permit application submitted to DEQ shall include a conceptual design of how the remainder of the Sand Draw facility will be constructed. This conceptual design shall include a commitment to install an engineered containment system and be supported by engineering and geo-technical evaluations.

5. The requirements listed in Section IV.C may be modified only by written agreement signed by both parties.

**V. Release and Covenant Not to Sue and Dismissal With Prejudice**

A. DEQ agrees that full timely compliance with this Consent Decree as specified in Section IV of this Consent Decree shall constitute full satisfaction of the claims specifically alleged in the Complaint initiating this action.

B. In consideration of the Stipulated Penalty paid by Fremont County SWDD as specified under Section IV.A of this Consent Decree and contingent upon full compliance with the terms of this Consent Decree, DEQ and the State of Wyoming hereby release and covenant not to sue Fremont County SWDD, and their respective successors, assigns, affiliates, parents, officers, directors, employees and representatives, as to any common law claims, statutory claims, or other claims or causes of action which were specifically alleged in the Complaint.

C. This covenant not to sue is expressly conditioned upon the complete and satisfactory performance by Fremont County SWDD of all the terms of this Consent Decree.

D. Following Fremont County SWDD's full compliance with the terms of this Consent Decree, the DEQ will file satisfaction pursuant to WYO. STAT. ANN. § 1-16-308.

E. The terms of Sections IV and V shall survive termination of the Consent Decree.

**VI. Parties Bound**

A. This Consent Decree shall apply to and be binding upon Fremont County SWDD, its successors and assigns and upon the DEQ and the State of Wyoming.

B. Nothing in this Consent Decree relieves Fremont County SWDD of its duty to comply with the Act, WSWRR, and rules, regulations and standards adopted thereunder or precludes DEQ from taking enforcement actions for other or future violations not specifically addressed in this Consent Decree.

C. Fremont County SWDD shall remain solely responsible for its compliance with the terms of this Consent Decree, and all applicable federal, state and local laws and regulations.

D. Fremont County SWDD shall cooperate in good faith with DEQ to develop the renewal permit application.

**VII. Terms Not Severable**

The terms of this Consent Decree, which embody the comprehensive stipulated settlement between the Parties, are not severable.

**VIII. Reservation of Rights**

DEQ and the State of Wyoming reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, including seeking injunctive relief and/or civil penalties.

**IX. Termination of Consent Decree**

Except as otherwise provided in Section V, the terms and conditions of this Consent Decree shall terminate upon the DEQ's filing of written notice to the Court confirming the completion of Fremont County SWDD's obligations under this Consent Decree and the Court's entry of a Termination and Dismissal order.

**X. Attorneys' Fees/Costs of Action**

Each Party shall bear its own attorneys fees and costs of this action.

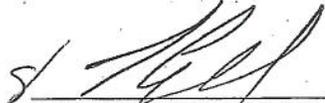
**XI. Retention of Jurisdiction**

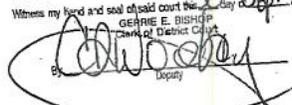
The Court shall retain jurisdiction to enforce the terms and conditions of this Consent Decree, to enter such orders as are appropriate under the Consent Decree, and to resolve all disputes as may be necessary or appropriate for the construction or to carry out the terms of this Consent Decree.

**XII. Authority**

The signatories certify that they are duly authorized to bind their respective Parties to this Consent Decree.

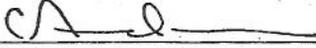
DATED this 29 day of Sept, 2010.

  
\_\_\_\_\_  
DISTRICT COURT JUDGE

STATE OF WYOMING COUNTY OF LARAMIE, SS CHEYENNE  
I, Gerrie E. Bishop, Clerk of the District Court in and for the County of Laramie, Wyoming, do hereby certify that the within and foregoing is a full true and correct copy of the original thereof as the same appears on file or of record in my office and that the same is in full force and effect as of this date.  
Witness my hand and seal of said court this 29 day of Sept 2010  
GERRIE E. BISHOP  
Clerk of District Court  
  
Deputy

WE HEREBY CONSENT to the entry of this Consent Decree:

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

Date: 9/27, 2010 By:   
Carl Anderson, Administrator,  
Solid and Hazardous Waste Division

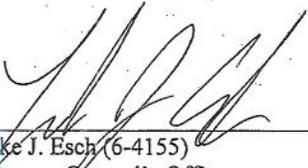
Date: 9/28, 2010 By:   
John Corra, Director  
Department of Environmental Quality

FOR FREMONT COUNTY SOLID  
WASTE DISPOSAL DISTRICT

Date: \_\_\_\_\_, 2010 By: \_\_\_\_\_  
Jim Hedges, President  
Fremont County Solid Waste Disposal District

APPROVAL AS TO FORM:

Date: \_\_\_\_\_, 2010 By: \_\_\_\_\_  
Rick L. Sollars (5-2394)  
Western Law Associates, P.C.  
277 Lincoln Street  
Lander, Wyoming 82520  
Attorney for Fremont County SWDD

Date: 9/28, 2010 By:   
Luke J. Esch (6-4155)  
Attorney General's Office  
123 Capitol Building  
Cheyenne, WY 82002  
(307) 777-6946  
Attorney for DEQ/SHWD

WE HEREBY CONSENT to the entry of this Consent Decree:

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

Date: \_\_\_\_\_, 2010 By: \_\_\_\_\_  
Carl Anderson, Administrator,  
Solid and Hazardous Waste Division

Date: \_\_\_\_\_, 2010 By: \_\_\_\_\_  
John Corra, Director  
Department of Environmental Quality

FOR FREMONT COUNTY SOLID  
WASTE DISPOSAL DISTRICT

Date: 9-24, 2010 By: Jim Hedges  
Jim Hedges, ~~President~~ Chairman  
Fremont County Solid Waste Disposal District

APPROVAL AS TO FORM:

Date: Sept. 23, 2010 By: Rick L. Sollars  
Rick L. Sollars (5-2394)  
Western Law Associates, P.C.  
277 Lincoln Street  
Lander, Wyoming 82520  
Attorney for Fremont County SWDD

Date: \_\_\_\_\_, 2010 By: \_\_\_\_\_  
Luke J. Esch (6-4155)  
Attorney General's Office  
123 Capitol Building  
Cheyenne, WY 82002  
(307) 777-6946  
Attorney for DEQ/SHWD