

DELEGATION AGREEMENT
BY AND BETWEEN
THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
AND
CITY OF GILLETTE, WYOMING

Article I. Authority

1. Pursuant to the authority of W.S. 35-11-304 (a), the State of Wyoming, acting through the Administrator of the Water Quality Division and the Director of the Department of Environmental Quality, and the City of Gillette, a local governmental entity, referred to herein as "Entity", enter into the following Delegation Agreement:

Article II. Introduction and Purpose

2. This agreement is authorized by W.S. 35-11-304, which provides that, to the extent requested by a municipality, water and sewer district or county, the Administrator of the Water Quality Division, with the approval of the Director of the Department of Environmental Quality, shall delegate the authority to enforce and administer the provisions of W.S. 35-11-301(a)(iii) and (v) to local governmental entities, subject to certain conditions.

This Agreement provides for local assumption of such authority, and for promulgation of local regulations consistent with the standards and provisions of the Wyoming Environmental Quality Act and applicable standards and regulations promulgated pursuant to the Act.

3. The purpose of this Agreement is to foster State-Local cooperation and conformity in the regulation of publicly owned and controlled sewage collection facilities and publicly owned and controlled water distribution facilities and to provide uniform and effective application of the provisions of Wyoming law relating to the construction and operation of these facilities.
4. Under this Agreement, the enforcement and administration of permitting and inspection of publicly owned or controlled sewage collection facilities, and publicly owned or controlled water distribution facilities is delegated to qualifying local governmental entities which have complied with the requirements of W.S. 35-11-304, applicable Wyoming Water Quality Rules and Regulations, and the terms of the Wyoming Administrative Procedure Act, W.S. 16-3-101, et. seq.

Article III. Requirements for the Agreement

5. The State, by the Administrator of the DEQ/WQD, and the Entity by the Mayor, affirm that they will comply with all of the provisions of this Agreement, all applicable standards and Wyoming Water Quality Rules and Regulations and regulations promulgated by the Entity and that they will continue to meet all the conditions and requirements specified in this Agreement.
 - a) The Administrator of the Department of Environmental Quality, Water Quality Division shall be responsible for administering this Agreement on behalf of the State of Wyoming. The City Engineer shall administer this Agreement on behalf of the Entity, in accordance with W.S. 35-11-304(a)(ii).
 - b) The Department of Environmental Quality, Water Quality Division has and shall continue to have authority to carry out this Agreement, and shall expend sufficient funds to effectively implement the delegation and oversight activities contemplated in W.S. 35-11-304(a).

Article IV. Terms of the Agreement

6. By execution of this Agreement, the Department of Environmental Quality, Water Quality Division delegates and the Entity accepts the authority and responsibility to enforce and administer the provisions of W.S. 35-11-301(a)(iii) and (v) for publicly owned or controlled sewage collection facilities, and publicly owned or controlled water distribution facilities. This delegation includes the authority to develop necessary rules, regulations, standards and permit systems, to review and approve construction plans, conduct inspections, issue permits, to enforce against violations, and to develop rules governing the review and appeal of any decision made by the Entity.
 - a) The Entity agrees to enforce and administer the permit program for the facilities identified above for the areas within its boundaries. The boundaries are identified on the map included in Attachment A, incorporated herein by this reference.
 - b) The Entity hereby designates the City Engineer as the "Delegated Local Official" who has been authorized to enforce and administer the permitting program delegated herein. The authorizing resolution from the Entity is included in Attachment B, incorporated herein by this reference. The Delegated Local Official reserves the right to delegate authorization to enforce and administer the permitting program to qualified Entity staff members identified in the City of Gillette Development Services Organizational Chart in Attachment C2.
 - c) The required qualifications for the individuals holding the positions of City Engineer and Chief Building Official are included in Attachment C, incorporated herein by this reference.
 - d) The Entity has established rules, regulations and standards for the issuance of permits required under W.S. 35-11-301(a)(iii) and (v), which are at least as stringent as those promulgated by the State under W.S. 35-11-302(a)(iii). The local rules include the process by which an aggrieved party may seek a review of the Entity's action. Such standards and rules, as promulgated, are found in Attachment D, attached and incorporated herein by reference.

- e) The local Entity has developed and adopted permitting procedures consistent with those established in current rules and regulations of the State. The procedures, as adopted by the Entity are also included in Attachment D, incorporated herein by reference. The Application for Permit to Construct is Attachment E, and the Permit to Construct Document is Attachment F, both incorporated herein by reference.
- f) The Delegated Local Official shall establish and maintain an adequate system of records and information for each project permit, inspection, and enforcement action. The records and information system to be used by the local agency is described in Attachment G, attached and incorporated herein by reference.
- g) The Entity agrees to submit status reports to the Administrator annually on or before March 31st. The Administrator will annually review these status reports and may conduct an on-site program evaluation of the local program to assess the Entity's compliance with the terms of this Agreement. Upon request and reasonable notice, the Administrator may during business hours inspect the records and procedures of the Entity with regard to the review, issuance, inspection and enforcement of the permit program.
- h) The Entity agrees to consider the impact of a proposed project on existing sewers, lift stations, treatment works, public water supply distribution systems and treatment plants prior to issuing a permit.

Article V. Other Conditions of Delegation

- 7. No permit shall be issued for any facility which would result in non-compliance with an approved Water Quality Management Plan prepared under Sections 208 or 201 of the Federal Clean Water Act.
- 8. Upon approval of this Agreement, the Entity will promptly proceed to assume the responsibility to implement this Agreement, and to hire, train and organize personnel as necessary. The Department of Environmental Quality, Water Quality Division will provide technical and other assistance as requested.
- 9. The Entity will commence performing the functions delegated by this Agreement upon the date of execution and continue until such time as delegation is suspended or revoked or until the Entity provides ninety (90) days notice of intent to terminate the Agreement.
- 10. This Agreement may be amended at any time by the written agreement of both parties.
- 11. If a municipality, county, or water and sewer district is the applicant or recipient of a permit as the owner, or is the applicant or recipient of a permit as the utility system operator, the facility will be deemed to be publicly owned or controlled.

Article VI. Changes in State or Entity Standards

11. The State may from time to time revise and promulgate new or revised construction and/or operation standards and administrative procedures. If necessary in order to meet the requirements of W.S. 35-11-304(a), the Entity shall make such changes as may be accomplished by rule-making within six months of notice by the State.
12. The State and Entity shall provide each other with copies of any changes to their respective laws, rules, regulations and standards which pertain to the administration and enforcement of this agreement.

Article VII. Inspection

13. The Delegated Local Official shall provide for inspection of all facilities during construction to ensure the facilities have been constructed according to approved plans and specifications. The Delegated Local Official may also conduct periodic operation inspections of facilities permitted under the authority of this Agreement, and may implement procedures for inspection and the reporting of inspection in conformity with W.S. 35-11-109(a)(vi). The Delegated Local Official will be the point of contact and inspection authority in dealing with permittees concerning operations and compliance with the permitting and operation standards covered by this Agreement.
14. For oversight purposes, the DEQ/WQD may designate authorized representatives to enter and inspect the construction and/or operation of the facilities described in this Agreement. Said inspections shall be conducted in conformity with W.S. 35-11-109(a)(vi). The Entity shall receive reasonable notice of such inspection and may participate in this inspection.

Article VIII. Enforcement

15. The Entity shall be the primary enforcement authority concerning local compliance with the requirements of the construction and permitting management activities delegated by this Agreement. The Entity has necessary authority to enforce compliance at the local level.
 - a) Should the local governmental entity and the State fail to agree regarding the propriety of any enforcement action or inaction, the DEQ/WQD may take any action necessary to comply with the terms of the Wyoming Environmental Quality Act and applicable standards and regulations. The Agreement does not limit the State's authority to enforce against other violations of State law.
 - b) The local governmental entity shall include in the annual status report all violations of applicable laws, regulations or orders and all action taken with respect to such violations.

Article IX. Revocation, Suspension or Termination

16. This Agreement may be voluntarily terminated by the Entity upon 90 days written notice to the Administrator. Additionally, the Administrator with the approval of the Director, may revoke or temporarily suspend this Delegation Agreement if the Entity fails to perform its delegated duties or has otherwise violated the terms of this Agreement. The Administrator shall immediately notify the Delegated Local Official, in writing, of any revocation or suspension of the permitting authority. Such administrative action is subject to review by the Environmental Quality Council, if the Entity so requests, within 20 days of notice of the State's action. Unless a revocations or suspension is appealed to the Council, it becomes effective 20 days after the receipt of such notice.
17. The Entity may not assign any of its functions or authority delegated by this Agreement without prior written consent of the Administrator.
18. The parties to this Agreement have read and understand all of its provisions. This Agreement is effective upon execution this _____ day of _____, 20____, and shall remain in effect until terminated as provided above.

Department of Environmental Quality

Todd Parfitt
Director

Date

Water Quality Division

Kevin Frederick
Administrator

Date

City of Gillette

Tom Murphy
Mayor

Date