



## FREMONT COUNTY SOLID WASTE DISPOSAL DISTRICT

Member of Wyoming Solid Waste and Recycling Association (WSWRA)

P.O. Box 1400  
Lander, WY 82520  
telephone 307.332.7040  
fax 307.332.5013  
trashmatters.org

January 23, 2020

Fremont County Solid Waste Disposal District  
Board of Directors  
PO Box 1400  
Lander, WY 82520

Re: FCSWDD and WRIR – Historic Solid Waste Management Summary

Board,

The following report is intended to provide a historic summary of the relations between the Fremont County Solid Waste Disposal District (FCSWDD or District) and the Wind River Indian Reservation (WRIR) regarding solid waste management in Fremont County. This summary has been developed based on the review of approved agreements between the two groups available at the District's Office.

Important dates and associated details that are key to the solid waste programs of each institution are as follows:

- **1868:** formation of the Wind River Indian Reservation.

**Note:** *During this era the WRIR was diminished by the Lander Purchase, the Thermopolis Purchase, and the 1905 Act.*

- **1979:** formation of the Fremont County Solid Waste Disposal District by the Fremont County Commission.
- **1996:** approval of the first known solid waste agreement between the District and the Tribes of the Wind River Indian Reservation (see attached).

**Contract Details:** This agreement provided “access from a public roadway to and use to the four Tribally-constructed transfer station sites for the purpose of solid waste disposal and transfer site maintenance.” Included within this agreement was the transportation of the received solid waste and transfer site maintenance by the District.

In exchange for the services provided, the Tribes provided the District with two roll-off trucks, two roll-off style pup trailers, and fifteen roll-off containers for use.

**Note:** *During this era there were no disposal fees for waste disposal in Fremont County as the operational expenses were being covered by the voter approved 3-mill levy taxes.*

**Note:** During calendar year 2009 the District developed and implemented a mandatory disposal fee for all solid waste disposed of at a District facility. Enforcement of the fee structure was enacted immediately at all sites with scales and/or onsite staff (i.e. the Lander Landfill, Riverton Transfer Station, Sand Draw Landfill, Dubois Landfill, and the Shoshoni Landfill). For the sites without daily staff (i.e. rural transfer stations – i.e. Low-Hazard Low-Volume permitted), an “honor system” fee collection system was established.

- **2012:** following implementation of operational changes with the rural transfer stations owned and operated by the District, the operational model of the four similar sites on the Wind River Indian Reservation were reviewed and determined to provide inconsistent treatment of the District's constituents. In order to develop an equitable operational model for the four sites on the WRIR, the in-place agreement between the WRIR and the District was terminated (see attached).

**Note:** Prior to the negotiations and development of the 2012 and 2013 agreements with the WRIR, the District worked through and developed and implemented an operational plan for all District owned and operated rural transfer stations that included securing the sites with fences and gates, establishment of hours of operation (limiting site accessibility), staffing the sites, and enforcing disposal fees and all FCSWDD Rules and Regulations.

- **2012:** a bridge contract agreement was developed to extend the previously in-place agreement with minor modifications between the WRIR and the District, to provide additional time for negotiations and development of a new agreement (see attached).

**Contract Details:** This agreement included modifications that required the Tribes to operate the sites in a similar manner as the District operated their own rural transfer stations by collecting fees, developing and maintaining their own hours of operation, and maintaining the sites. The District provided the waste hauling efforts from the sites.

There was no compensation associated within this agreement to/from either party.

- **2013:** development and approval of an updated agreement for operation of the four transfer stations on the WRIR.

**Contract Details:** This agreement placed the operational responsibility on the Wind River Environmental Quality Commission through the Joint Business Council of the WRIR. The District's responsibility included providing partial funding for the Tribes to operate the sites (see attached). The Tribes's responsibilities included staffing and operating the sites, establishing and enforcing their own disposal rate structure (not to exceed that charged by the District at their own rural transfer stations) with the revenues to remain with the Tribes, establishing their own hours of operation with a requirement to have the sites open at least one day per week, hauling the waste to a final disposal facility of their choice, and maintaining the sites.

The agreed upon compensation from the District to the Tribes was \$250,000 per year for years one and two, and \$255,000 for the third year.

**Note:** During calendar year 2014 the District developed and implemented a number of operational changes, including the following:

- *Modified hours of operation at all primary District sites, transitioning from 7-days per week down to 5-days per week at the Lander Landfill, Riverton Transfer Station, and the Sand Draw Landfill. Additionally, the Dubois Landfill went from 5-days per week down to 3-days per week.*
- *Development of an “acceptable travel distance” of 20-miles during a review of the number and location of the rural transfer stations. This led to the closure of the Hudson Transfer Station.*

- **2015:** two addendums to the 2013 agreement were developed and approved to split the previous agreement into two separate agreements.

**Contract Details:** These addendums were developed at the request of the Tribes and allowed the contractual obligations and associated payments to be split evenly between the two Tribes. The Eastern Shoshone Tribe took over the management of the Crowheart and Fort Washakie sites, and the Northern Arapaho Tribe took over the management of the Ethete and 17-Mile sites (see attached). No other agreement changes were included.

The agreed upon agreement compensation from the District to each of the Tribes was an even split between the two Tribes.

**Note:** During calendar year 2015 the District reviewed the operations at the rural transfer stations further and developed an “Operational Guidance Document for Community-Based Volunteer Transfer Station Operations” that allowed community volunteers and opportunity to operate the transfer stations that serve their communities following appropriate training. This allowed the communities the ability to develop a schedule that better served their interests.

- **2016:** a new agreement for operation of the transfer stations on the WRIR was developed and approved, following the expiration of the previous agreement.

**Contract Details:** Following negotiations with both Tribes, the 2016 agreement was made between the Eastern Shoshone Tribe and the District. This agreement allowed the Eastern Shoshone Tribe to operate as many sites as they desired, but a minimum of three. It continued to allow them (Eastern Shoshone Tribe) to establish a disposal fee and to maintain all proceeds. Additionally, they were required to establish and maintain hours of operation and staffing with a minimum of one day per week, and to maintain the sites. A new requirement included directing all municipal solid waste managed at these sites to a final disposal facility operated by the District.

The agreed upon agreement compensation from the District to the Eastern Shoshone Tribe was \$250,000 per year.

- **2018:** development and approval of an agreement between the District and the Inter-Tribal Council of the WRIR for a five-year term (see attached).

**Contract Details:** This agreement allowed the Inter-Tribal Council to operate as many sites as they desired, but a minimum of two. It continued to allow them (Inter-Tribal Council) to establish a disposal fee and to maintain all proceeds. Additionally, they were required to establish and maintain hours of operation and staffing with a minimum of one day per week, and to maintain the sites. The requirement to direct all municipal solid waste managed at these sites to a final disposal facility operated by the District remained.

The agreed upon agreement compensation from the District to the Inter-Tribal Council was \$255,000 for the first year, \$260,000 for the second year, \$265,000 for the third year, \$270,000 for the fourth year, and \$275,000 for the fifth year.

**Note:** *During calendar year 2019 the District again reviewed the operations of the rural transfer stations operated by the District and reduced the number of days per month offered at the sites from weekly down to two days per month. As a part of this process two additional communities transitioned their sites operations from District operated to community volunteer operation.*

Thank you,



Andrew Frey, P.E.  
Superintendent of Operations  
Fremont County Solid Waste Disposal District

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## **1996 Agreement between the District and the JBC**

AGREEMENT FOR THE DISPOSAL OF SOLID WASTE

THIS AGREEMENT is made and entered into by and between the Eastern Shoshone and Northern Arapaho Tribe ("Tribes"), sovereign governments and Federally-recognized Indian Tribes, whose address is P.O. Box 217, Fort Washakie, Wyoming, 82514, and the Fremont County Solid Waste District ("District"), whose address is P.O. Box 1400, Lander, Wyoming 82520.

W I T N E S S E T H

WHEREAS, the Eastern Shoshone and Northern Tribes are sovereign governments recognized as such by the United States of America; and

WHEREAS, the Fremont County Solid Waste Disposal District has been established pursuant to Wyoming Statutes § 18-11-101 *et. seq.*; and

WHEREAS, the physical boundaries of the Reservation overlap in substantial part with the boundaries of Fremont County, and, therefore, the District; and

WHEREAS, the Tribes, in conjunction with other environmental protection activities, have conducted an inventory of open dump sites on the Reservation, closed all such dump sites, purchased equipment to collect solid waste and transport such waste, constructed four solid waste transfer stations ("transfer stations") on the Reservation, and provided for the transport of solid waste from the transfer stations to landfills operated by the District; and

WHEREAS, the District operates solid waste landfills that have been and are available for use by individuals residing or businesses operating on the Reservation; and

WHEREAS, an adequate system of solid waste disposal and management is necessary to safeguard the health and welfare of Tribal members and the public at large and to protect environmental quality on the Reservation; and

WHEREAS, the Tribes and the District are uncertain or in disagreement over issues related to solid waste disposal and desire to resolve such uncertainties or differences by agreement:

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and agreements hereafter set forth, it is agreed by and between the Tribes and the District as follows:

1. Purpose of the Agreement

The purpose of this Agreement is to provide for management of solid waste disposal on the Reservation.

2. Term

This Agreement shall commence on November 20, 1996 for a period of one year. This Agreement shall renew automatically at the end of the initial and all subsequent one year terms, subject to termination pursuant to paragraph 20 herein.



3. Enforcement Powers

All parties to this Agreement expressly recognize that the parties are each empowered to enforce their respective laws, rules, and regulations against persons within their respective jurisdictions.

4. Jurisdiction

Nothing in this Agreement shall limit or expand, or be construed to limit or expand, the jurisdiction of the Tribes or the District with respect to the management of solid waste disposal within the confines of the Reservation and/or the District, including, but not limited to, enforcement powers and procedures available to the parties.

5. Cooperative Agreement

The parties intend this Agreement to be a cooperative agreement under Wyo. Stat. § 16-1-101. The parties shall cooperate to obtain grant funds and/or loans, from entities including but not limited to the various agencies of the federal government and the Wyoming Farm Loan Board, to finance the provision of services contemplated by this Agreement. Nothing in this paragraph shall be construed to modify the intent and understanding of the parties that the District shall bear the primary and ultimate responsibility for funding such services.

6. Right of Way, Access and Road Maintenance

The Tribes shall grant the District a right of way providing the District access from a public roadway to and use of the four Tribally-constructed transfer station sites for the purpose of solid waste disposal and transfer site maintenance. The right of way shall require the Bureau of Indian Affairs, Wind River Agency to maintain the access roads to the transfer station sites,

including snow removal. The right of way is attached to this Agreement and made a part by reference as Exhibit A. Exhibit A also describes and identifies the four Tribally-constructed transfer station sites servicing the communities of Arapaho, Crowheart, Ethete and Fort Washakie.

7. Transportation of Solid Waste to Landfills

The District shall have the total responsibility and liability for the transportation to landfills operated by the District of solid waste from the four Tribally constructed-transfer stations described in Exhibit A. The District shall ensure that loads are adequately covered to prevent scattering of debris during transportation.

8. Transfer Station Site Maintenance

The District shall be responsible for the maintenance of the transfer station sites and compliance with applicable laws and regulations. Site maintenance shall include keeping the sites in a sanitary and aesthetically acceptable condition by the regular pickup of scattered and windblown debris, and minimizing conditions which may cause such nuisances as smoke, odors, unsightly appearances, insects and rodents. The Tribes shall promote public education efforts to inform the public of laws, regulations, and other rules governing the use of the transfer stations and solid waste disposal on the Reservation in general.

9. Transportation Scheduling

The District shall transport solid waste from the transfer station sites to District landfills according to a written Schedule established by the District in consultation with the Tribes.

Although the Tribes recognize that ensuring the efficiency of operations requires according the District some flexibility in establishing scheduling and routes, the scheduling shall be of sufficient frequency to ensure sanitary conditions, prevent overflow of waste from the containers, and comply with all applicable laws and regulations. At least seven (7) days in advance of implementing any changes to the Schedule, the District shall inform the Tribes in writing of proposed changes and respond to any questions or concerns raised by the Tribes in regard to the proposed changes. The District shall make final decisions with regard to transportation scheduling.

10. Equipment

The Tribes are owners in common of the following equipment used in the transportation of solid waste from the transfer stations to the District's landfills:

- (1) 1995 Ford Model 9000 Body Type Cab & Chassis V.I.N. 1FD2Y9OU95SVA48332
- (1) 1995 Ford Model 9000 Body Type Cab & Chassis V.I.N. AFDZY9OU8SVA54106
- (2) Flatbed Canister Trailers, Cascade Model CCPT-20-2A
- (2) Roll-Off Units, Cascade Model PG226
- (15) Roll-Off Canisters
- (?) Miscellaneous Replacement Parts for Canisters

The parties intend that for the duration of the Agreement, the District shall have the use of the above-described equipment and shall be responsible for all costs associated with the use of said equipment, including maintenance, insurance, and repairs. To this end, the parties agree as follows:

- a. The Tribes shall deliver to the District a Bill of Sale and title documents, if any, for the above-described equipment.
- b. The District shall deliver to the Tribes a Security Agreement, and such other documents as are necessary for the perfection of a security interest in and to the original equipment, securing the Tribes' interest in the District's fulfillment of its obligations under this Agreement. The Security Agreement is attached to this Agreement and made a part by reference as Exhibit B. The Tribes shall be entitled to repossess the original collateral, without process or order of any court, upon termination of this Agreement for any reason. The District further agrees that upon termination it will deliver the original equipment, if still owned, to the Tribes in as good condition as when received, less ordinary wear and tear incident to normal use in the hands of a competent operator. If otherwise, the District shall pay the expense of putting the equipment in such condition. The Tribes shall not have any security or other interest in any replacement equipment.
- c. When the District makes an adequate showing that any piece of the original equipment is in need of replacement and cannot be economically repaired, the Tribes shall release the lien of the security agreement. In this regard, the Tribes authorize the respective Chairmen of the Eastern Shoshone and Northern Arapaho Business Councils to agree to such release and to execute any documents ordinarily required to effectuate such release. The District shall replace the equipment at its sole expense and shall be responsible for procuring such additional vehicles or equipment as are necessary to fulfill the District's duties and responsibilities under this Agreement.

11. Tribal Employment Policy

As part of its standard procedure in advertising and filling positions, the District shall notify the Tribal Employment Rights Office ("TERO"), of all permanent and temporary employment positions which become available. For purposes of notification, TERO's address is Tribal TERO Office, P.O. Box 217, Fort Washakie, WY 82514; and its phone number is 332-7618. Copy of such notice shall be mailed to the Tribes. The District shall advertise all positions in the *Riverton Ranger*, the *Wyoming State Journal*, and the *Wind River News*. The District is an equal opportunity employer. The District agrees to hire Victor Revere as a full time permanent employee.

12. Tribes Not Liable for District's Activities

Neither the Tribes, nor their officers, agents, or employees shall be liable for any loss, damage, death, or injury of any kind whatsoever to persons or property which may be caused by the District's activities under this Contract or by any defect in any landfill used by the District, and the District releases and agrees to hold harmless the Tribes from such liability, except to the extent such loss, damage, death, or injury results from the negligence of the Tribes, or their officers, agents, or employees.

13. District Not Liable for Tribes' Activities

Neither the District, nor its officers, agents, or employees shall be liable for any loss, damage, death, or injury of any kind whatsoever to persons or property which may be caused by the Tribes' activities under this Contract, and the Tribes release and agree to hold harmless the District from such liability, except to the extent such loss, damage, death, or injury results from

the negligence of the District, or its officers, agents, or employees.

14. Dispute Resolution

In the event of a default of any of the provisions of this Agreement or a dispute over the terms and provisions of this Agreement, the parties agree to the following dispute resolution procedure:

- a. Either party shall notify the other party, in writing, of the alleged dispute and/or default.
- b. The parties shall, within thirty (30) days of service of the writing, as herein provided, meet and in good faith confer and attempt to resolve the default and/or dispute.
- c. If the parties are unable to negotiate an amicable resolution of any dispute within thirty (30) days, either party may refer the matter to arbitration by providing written notice to the other party. Within thirty (30) days of the receipt of such written notice, the parties shall by mutual agreement select an arbitrator to conduct arbitration proceedings. If the parties can agree within such period upon the nomination of a single arbitrator for the dispute, such person shall serve as sole arbitrator of the dispute. If the parties do not agree upon the nomination of a single arbitrator within such thirty (30) day period, each party shall nominate an arbitrator by serving on the other party a notice identifying its arbitrator within seven (7) days after the 30th day, and those two arbitrators shall nominate the third to serve with them within fourteen (14) days after the date the latter of them is nominated. In the event the two arbitrators fail for any reason to name the third arbitrator within fourteen (14) days after the nomination of the last nominated one

of them, either nominee shall be entitled to ask the American Arbitration Association to name the third arbitrator. The arbitrator(s) shall be qualified by training and experience to resolve the dispute.

- d. The arbitrator(s) shall commence proceedings within sixty (60) days after their appointment and hold proceedings providing each party a fair opportunity to present its side of the dispute, together with any documents or other evidence relevant to resolution of the dispute. The American Arbitration Association's rules for commercial arbitration shall be utilized. A court reporter shall make a transcript of any hearing. The parties and the arbitrator shall use their best efforts to conclude any hearing within three (3) business days; no continuances shall be granted by the arbitrator without the agreement of all parties. The arbitrator may render a decision at the close of the hearing, or may request briefs on any and all issues. Any and all such briefs, including reply briefs, shall be filed within the terms and on the schedule set by the Arbitrator, but in any event no later than sixty (60) days following the conclusion of the hearing. The arbitrator shall render a signed decision within sixty (60) days from the conclusion of the briefing. If no award is rendered within such time, unless the parties agree otherwise, a new arbitrator shall be selected as described above, but the new arbitrator shall render a decision solely upon review of the record of the hearing without a further hearing. The arbitration decision shall be final and binding upon the parties unless, during or following completion of the arbitration proceedings, the parties have met and arrived at a different settlement of the dispute. The arbitration decision or signed settlement between the parties may be enforced in any court having jurisdiction.

e. Nothing in this paragraph shall be construed to limit the right of either party to terminate the Agreement for cause pursuant to paragraph 20(a).

f. Nothing in this paragraph shall prevent the parties from mutually agreeing to a different form of dispute resolution, such as mediation.

15. Notices, Demands and Communications

Any notices, demands, or communications required or permitted under this Agreement shall be in writing and shall be deemed to have sufficiently been given if personally served or delivered by a commercial carrier, or sent certified or registered mail, return receipt requested and postage pre-paid, and addressed to the other party at the addresses indicated on the first page of this Agreement, or at such other address as any party shall hereafter furnish the other in writing.

If mailed, such notice shall be deemed to have been made on the third day after posting or on the day actually received, whichever occurs first. If sent by a commercial carrier that guarantees next day delivery, such notice shall be deemed to have been made on the first business day after delivery to the carrier with fee paid and next day delivery designated. In addition to the Tribes' above-mentioned address, the District shall transmit a copy of all correspondence under this paragraph to the Director, Wind River Environmental Quality Commission, P.O. Box 217, Fort Washakie, Wyoming 82514.

16. Rights and Responsibilities Unaffected

Except as expressly provided in this Agreement, no delay or omission to exercise any right, power, or remedy accruing under this Agreement shall impair such right, power, or remedy, nor



shall it be construed to be a waiver of or acquiescence in a breach of or default under this Agreement. The parties specifically and affirmatively agree not to construe the conduct, statements, delay, or omission of any other party as altering in any way the parties' duties and responsibilities as defined in this Agreement. Any waiver, permit, or approval of any breach or default under this Agreement must be in writing, and, the parties hereby agree that neither will raise waiver nor estoppel as an affirmative defense so as to limit or negate the clear language and intent of this Agreement. All remedies, either under this Agreement, by law, or otherwise afforded to any party shall be cumulative, not alternative.

17. Savings Clause

If any provision in this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement, and the affected parties shall negotiate in good faith to amend this Agreement to effectuate fully their intent as embodied in this Agreement.

18. Assignments and Related Matters

Neither the Tribes nor the District shall transfer, delegate, or assign any of its benefits or responsibilities contained in this Agreement without first obtaining the written authorization of the other party except as provided for herein.

- a. The District expressly agrees that the Tribes may assign or otherwise contract for the road maintenance and snow removal services covered by paragraph 6 of this Agreement.

20. Termination

- a. It is expressly understood that this Agreement may be unilaterally terminated for cause by either party by providing the other party with sixty (60) days prior written notice setting forth the alleged default and allowing the other party thirty (30) days to cure the alleged default to the satisfaction of the complaining party.
- b. It is expressly understood that this Agreement may be unilaterally terminated for convenience by either party including termination at the end of any renewal period, effective upon providing the other party with six (6) months prior written notice to enable the other party to make alternative arrangements in regard to the storage and disposal of solid waste.
- c. Notice of termination under this paragraph shall be provided in accordance with Paragraph 18 of this Agreement.

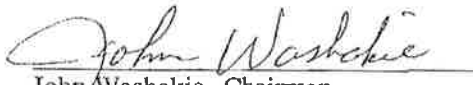
21. Cooperation


The parties agree to cooperate fully with each other and to act reasonably, in good faith, and in a timely manner in all matters hereunder so that each of them may obtain the benefits to which they are entitled hereunder and for which they have negotiated. All parties agree to negotiate in good faith and without delay as to all matters requiring negotiation. No party shall unreasonably deny, withhold, or delay any consent or approval required or contemplated for any action or transaction proposed to be taken or made hereunder, except as otherwise provided herein.


IN WITNESS WHEREOF, the parties have set their names hereto on this 11/20/96 day of  
November, 1996.

TRIBES

DISTRICT

  
John Washakie, Chairman  
Shoshone Business Council

  
Michael Morgan, [title]  
Fremont County Solid Waste District

  
Richard Brannan, Chairman  
Northern Arapaho Business Council

solidw96.com

## SECURITY AGREEMENT

This Security Agreement ("this Agreement") is made this date by and between Fremont County Solid Waste Disposal District ("Debtor") and the Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation ("Secured Party").

Section 1. Grant of Security Interest. Debtor, in consideration of the indebtedness described in this Agreement, hereby grants, conveys, and assigns to Secured Party for security all of Debtor's existing and future right, title and interest in, to and under the property listed in Section 2 of this Agreement. This security interest is granted to the Secured Party to secure the payment, performance and observance of all obligations, covenants and agreements to be paid, performed or observed by Debtor under that certain Agreement, of even date herewith, between Secured Party and Debtor ("Cooperative Agreement"); and the performance of the agreements and warranties of Debtor contained in this Agreement, the Cooperative Agreement, or incorporated in either agreement by reference.

Section 2. Property. The property subject to the security interest ("Collateral") is as follows:

- (1) 1995 Ford Model 9000 Cab & Chassis  
V.I.N. 1FDZV90U8SVA48332
- (1) 1995 Ford Model 9000 Cab & Chassis  
V.I.N. 1FDZV90U8SVA54106
- (1) 1995 Cascade Flatbed Trailer, Model CCPT-20-2A.  
V.I.N. 1C9337CCK20042195
- (1) 1995 Cascade Flatbed Trailer, Model CCPT-20-2A.  
V.I.N. 1C9337CCK20042195
- (2) Roll-Off Units, Cascade Model F2226
- (15) Roll-Off Canisters

Section 3. Covenants of Debtor. The Debtor agrees and covenants as follows:

3.1 Fulfillment of Contract Obligations. The Debtor shall faithfully fulfill all of the obligations relating to the use of the collateral which are contained in the Cooperative Agreement.

3.2 Corporate Existence. The Debtor is a solid waste disposal district duly organized and existing under the laws of the state of Wyoming.

3.3 Corporate Authority. The execution, delivery, and performance of this Agreement and the Cooperative Agreement are within Debtor's corporate powers, have been duly authorized, and are not in

take such action as the Secured Party deems necessary, in its sole discretion, to protect the Secured Party's interest, including but not limited to (i) disbursement of attorneys' fees, (ii) entry upon the Debtor's property to make repairs to the Collateral, and (iii) procurement of satisfactory insurance. Any amounts disbursed by Secured Party pursuant to this Section, with interest thereon, shall become additional indebtedness of the Debtor secured by this Agreement. Unless the Debtor and the Secured Party agree to other terms of payment, such amounts shall be immediately due and payable. Nothing contained in this Section shall require the Secured Party to incur any expense or take any action.

Section 8. Inspection. The Secured Party may make or cause to be made reasonable entries upon and inspections of the Debtor's premises to inspect the Collateral.

Section 9. Debtor and Lien Not Released. From time to time, the Secured Party may, at the Secured Party's option, without giving notice to or obtaining the consent of the Debtor, the Debtor's successors or assigns or of any other lienholder or guarantors, without liability on the Secured Party's part, and notwithstanding the Debtor's breach of any covenant or agreement of the Debtor in this Agreement and/or the Cooperative Agreement, extend the time for payment of any indebtedness or performance of any obligation, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and the time of payment of said indebtedness, release from the Lien of this Agreement any part of the Collateral, and agree in writing with the Debtor to modify any terms of this Agreement or the Cooperative Agreement. Any actions taken by the Secured Party pursuant to the terms of this Section shall not affect the obligation of the Debtor or the Debtor's successors or assigns to observe the obligations secured by this Agreement or the Cooperative Agreement and shall not affect the Lien or priority of Lien hereof on the Collateral.

Section 10. Forbearance by Secured Party Not a Waiver. Any forbearance by the Secured Party in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by the Secured Party of payment of any sum or performance of any obligation secured by this Agreement and/or the Cooperative Agreement after the due date of such payment shall not be a waiver of the Secured Party's right to either require prompt payment or performance when due of all other sums or obligations so secured or to declare a default for failure to make prompt payment or performance. The procurement of insurance or the payment of other charges by the Secured Party shall not be a waiver of the Secured Party's right to accelerate the maturity of the

12.2 Any warranty, covenant, or representation made to the Secured Party by the Debtor under this Agreement, and/or under the Cooperative Agreement, proves to have been false in any material respect when made or furnished.

12.3 Any event that results in acceleration of the maturity of any indebtedness of Debtor under any contract, covenant or agreement, including without limitation termination of the Cooperative Agreement for any cause.

12.4 Any levy, seizure, attachment, lien, or encumbrance of or on the Collateral which is not discharged by the Debtor within 10 days or any sale, transfer, or disposition of any interest in the Collateral, without the written consent of the Secured Party.

Section 13. Acceleration in Case of Debtor's Insolvency. If the Debtor shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended, or under any similar or successor federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if the Debtor shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for the Debtor's property, or if the Collateral shall become subject to the jurisdiction of a federal bankruptcy court or similar state court, or if the Debtor shall make an assignment for the benefit of its creditors, or if there is an attachment, receivership, execution or other judicial seizure, then the Secured Party may, at the Secured Party's option, invoke any remedies permitted by this Agreement. Any attorneys' fees and other expenses incurred by the Secured Party in connection with the Debtor's bankruptcy or any of the other events described in this Section shall be additional indebtedness of the Debtor secured by this Agreement.

Section 14. Rights of Secured Party.

14.1 Upon default (including without limitation termination of the Cooperative Agreement for any cause) or at any time before default when the Secured Party reasonably feels insecure, the Secured Party may require the Debtor to assemble the Collateral and make it available to the Secured Party at the place to be designated by the Secured Party which is reasonably convenient to both parties.

14.2 Upon repossession of the Collateral, the Secured Party shall have the election to sell or to retain the Collateral in satisfaction of the Debtor's obligations.

Section 15. Waiver of Statute of Limitations. Debtor hereby

DEBTOR:

FREMONT COUNTY SOLID WASTE  
DISPOSAL DISTRICT

By: Michael Morgan

Its: Chairman

SECURED PARTY:

EASTERN SHOSHONE TRIBE

By: John Washie  
Chairman, Eastern Shoshone  
Business Council

NORTHERN ARAPAHO TRIBE

By: Michael B.

Chairman, Northern Arapaho  
Business Council

Amount of loan for titled vehicles [W.E. §34-2-9-302(2)]:  
\$228,708.00 (total of factory prices)

Address of Debtor: Fremont County Solid Waste Disposal District  
P.O. Box 1400  
Lander, WY 82520

## **2012 Termination Letter for the 1996 Contract**



**Superintendent**  
**Andrew Frey, P.E.**



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**FREMONT COUNTY SOLID WASTE DISPOSAL DISTRICT**

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Member of Wyoming Solid Waste and Recycling Association (WSWRA)

P.O. Box 1400  
Lander, WY 82520  
telephone 307.332.7040  
fax 307.332.5013

June 14, 2012

Eastern Shoshone Business Council  
P.O. Box 217  
Fort Washakie, WY 82514

Northern Arapaho Business Council  
P.O. Box 217  
Fort Washakie, WY 82514

Wind River Environmental Quality Commission  
P.O. Box 217  
Fort Washakie, WY 82514

RE: Termination of the November 20, 1996 Agreement for Disposal of Solid Waste

Dear Sirs:

As you may be aware the Fremont County Solid Disposal District (District) has been experiencing various difficulties involving the transfer stations in the County over the past several years. In recent months various changes have been implemented at all transfer stations operated by the District, with the exception of those located at Fort Washakie, Ethete, Crowheart and 17-Mile Road. The changes were not implemented at those transfer stations due to a contract that the Eastern Shoshone and Northern Arapaho Tribes (Tribes) and the District entered into on November 20, 1996.

The District is of the opinion that the November 20, 1996 agreement is no longer viable due to changes that have occurred in the District and also due to the issues that have been faced by the District with regards to the transfer stations. The District has been discussing the issue with Ryan Ortiz of the Wind River Environmental Quality Commission for several months, but a resolution has not been reached as to a replacement or new agreement.

While the District intends to continue the discussions on a new agreement, it can no longer operate under the 1996 Agreement and the issues that are not able to be addressed under that agreement.

Therefore, pursuant to paragraph 20(b) of the Agreement for Disposal of Solid Waste dated November 20, 1996 the Fremont County Solid Waste Disposal District hereby provides notice that it will unilaterally terminate the agreement six (6) months from the date of this letter. It is the desire of the District to continue the dialog to attempt to reach some form of new agreement with the Tribes and is transmitting a proposal to do so by separate letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Adams", followed by a horizontal line.

Michael Adams  
Fremont County Solid Waste Disposal District  
Board of Directors Chairman

CC: Fremont County Commissioners

## **2012 Bridge Contract between the District and the JBC**

## BRIDGE CONTRACT FOR OPERATION OF CERTAIN SOLID WASTE TRANSFER STATIONS

THIS AGREEMENT is made and entered into by and between the Fremont County Solid Waste Disposal District, hereinafter referred to as "District", of 52 Beebe Road, P.O. Box 1400, Lander, Fremont County, Wyoming, and the Northern Arapaho Tribe, of P.O. Box 396, Fort Washakie, Wyoming 82514, and the Eastern Shoshone Tribe, of P.O. Box 538, Fort Washakie, Wyoming 82514, hereinafter collectively referred to as "the Tribes".

### RECITALS

WHEREAS, the District and the Tribes entered into an Agreement for the Disposal of Solid Waste, "the Agreement" on November 20, 1996; and

WHEREAS, pursuant to the Agreement the tribes provided to the District equipment to collect and transfer waste from 4 transfer sites at Ft. Washakie, Ethete, Arapaho and Crowheart, all located within the exterior boundaries of the Wind River Indian Reservation (WRIR) and the District agreed to maintain the transfer sites and transport the waste to District landfills; and

WHEREAS, in recent years the District recognized a need to impose fees and limit hours of operations at transfer sites to generate revenue, regulate the waste disposed of at the sites and increase diversion of waste from the District landfills by encouraging citizens to recycle; and

WHEREAS, the District operates 7 additional transfer station sites that are not located on tribally owned land and in June of 2012 the District implemented a policy with respect to the other 7 sites whereby they were only open on limited days for limited hours and users of the facilities were required to pay a fee for disposal; and

WHEREAS, the 4 transfer sites that were part of the Agreement were not fully incorporated into the District's policy of the fee schedule and limited hours of operation; and

WHEREAS, on June 14, 2012 the District sent written notification by certified mail to the tribes address as stated in the Agreement of its intent to terminate the Agreement; and

WHEREAS, without further action the agreement will terminate on December 14, 2012; and

WHEREAS, the parties have worked on a government-to-government basis to create long-term solutions for solid waste disposal on the WRIR; and

WHEREAS, the District has the objective of controlling all transfer station sites and desires to implement fees for disposal at all sites; and

WHEREAS, the Tribes desire to maintain convenient transfer sites for tribal members at low cost, to encourage waste to go into sites rather than the landscape and to encourage waste diversion through recycling; and

WHEREAS, the parties have discussed several long-term solutions, however, the Tribes have expressed the need to gather additional information on the use, users and type of use of the 4 transfer sites prior to adopting a long-term solution, which information is beneficial to the District as well; and

WHEREAS, the parties have reached an agreement to have the 4 sites remain open for disposal for a period of six months, on terms and conditions stated herein, to allow for the gathering of the necessary information.

NOW THEREFORE, for and in consideration of the parties covenants and agreements as contained herein the parties agree as follows:

1. RECITALS: The above said recitals are incorporated into and made a part of this agreement and are not mere factual recitals.

2. TERM OF CONTRACT: The parties agree that the term of this contract shall be for a period of 6 months commencing on December 15, 2012 at 12:01 A.M. and terminating at 12:00 midnight on June 14, 2013. The Tribes hereby agree that they shall properly manage and care for the transfer stations of the District located at Fort Washakie, Ethete, Arapaho and Crowheart, and shall be responsible for the following at each site:

3. SITES: The Tribes agree that the District shall have the same right of use and access to the 4 transfer sites as was granted in the November 20, 1996 Agreement during the term of this Contract.

4. DAYS AND HOURS OF OPERATIONS: The parties agree that the 4 transfer station sites shall be open to the public for disposal of waste on designated days and during designated hours of those days. The parties shall jointly agree on the days and hours of operation for each site, but each site shall be open at least one day per week.

5. OPERATION OF 4 TRANSFER STATION SITES: During the term of this contract the Tribes shall operate the 4 transfer station sites as described herein. They shall employ sufficient personnel, at the cost of the tribes, to operate and staff the 4 sites. In the operation of the 4 sites the Tribes agree to adhere to the following rules:

a. To provide and pay for sufficient staff to operate and staff the 4 sites, including wages, taxes social security contributions, mileage and any other costs of the employees, while the sites are open to the public. Such staff shall undertake training regarding the District Rules and Regulations for transfer sites, of copy of which is attached hereto. Such staff shall also be trained in PCB and Hazardous Waste screening;

b. To open and close each site on the designated days and times. All sites shall be secured on a daily basis and at all times that they are not open for disposal.

c. To provide necessary clean up, and necessary labor for repair and maintenance at the sites to fulfill the purpose of maintaining a clean site and restricting access to the site except on the designated days and hours;

d. To charge and collect the fees for disposal, as stated below, for each site, and to deliver the collected funds to the District on Monday of each week for fees collected in the prior week. To implement fee collection, the District shall furnish a locked collection box, the tribal attendant shall assess the appropriate fee as stated below, issue a receipt for the payment and place the payment and a copy of the receipt in the collection box. On Monday of each week the Tribes shall deliver the collection box and all revenue to the District offices at 52 Beebe Road. Receipts shall be issued to all users of the sites, whether enrolled members of the tribes or non-enrolled members, for accurate tracking purposes.

e. To only allow for disposal of allowable waste in the transfer stations, namely municipal solid waste and construction and demolition waste, with commercial waste not being allowed;

f. To ensure, to the best of their ability, compliance with all applicable rules and regulations of the District at the 4 transfer sites;

g. To keep an accurate record of all enrolled and non-enrolled members of the tribes that dispose of waste at any of the 4 transfer sites, including the amount of waste (such as car load, pickup load, trailer load, etc) that each person disposing of waste disposes. Such records shall be made available to all parties to this agreement. Records shall be kept on forms provided by the District. Such records shall be submitted to the District at the same time and location that the daily revenue is turned over to the District.

h. To direct disposal of waste not allowed at the transfer stations to alternate District sites that the District operates and is appropriate.

i. To contact the District when containers are nearing capacity so that the District can pick up the filled trash canister and replace it with an empty container.

j. To provide security locks for each site and provide the District with keys to all locks at all sites.

k. To cooperate in good faith to manage problems resulting from inappropriate disposal of waste.

6. DISTRICT RESPONSIBILITIES: The District agrees to be responsible for the following:

a. To secure the 4 sites so that access is only available to the public when attendants are present. Such securing of the sites shall be accomplished by the District as soon as practical after the date of this agreement;

b. To provide to the tribes all rules and regulations applicable to transfer sites;

c. To transport the appropriate waste that has been placed in the canisters from the transfer sites to the District landfills;

d. To provide to the tribes the current tipping fee rates;

e. To provide the Tribes with forms for recording daily disposal activities and receipt books. To provide to the Tribes copies of all such completed forms along with the same monthly report of tonnage, hauls and revenue for transfer sites that are provided to the District Board. To provide compilations of tonnage and fees collected from each site to the Tribes, on a periodic basis of not less than monthly.

f. To cooperate in good faith to manage problems resulting from inappropriate disposal of waste.

7. FEES: During the term of this contract no fee shall be charged to enrolled members of the tribes that dispose of waste at any of the 4 transfer sites, provided that the enrolled member shall be required to provide the attendant with proper identification at the time of disposal identifying them as a member of one of the tribes.

All non-enrolled members of the tribes and the public at large shall pay a tipping fee as is established for all other transfer stations by the District. In setting the fee all persons disposing of waste shall receive a credit for recycling, irrespective of whether they recycle or not, until recycling opportunities are provided at the sites by the District. If recycling opportunities are provided at the transfer station sites, then the credit shall only be granted if the person disposing of waste qualifies for the credit by performing the necessary recycling.

8. EMPLOYEE ATTENDANTS: The parties agree that persons that are performing attendant work at the transfer sites shall not be considered as employees of the District, but employees of the tribes.

9. EQUIPMENT: Pursuant to the Agreement the Tribes purchased and allowed the District to utilize specified equipment for the collection and transfer of waste at the transfer stations. The parties agree that the District shall retain the right to utilize the equipment during the term of this Contract.

10. JURISDICTION: Nothing in this agreement shall limit or expand, or be construed to limit or expand, the jurisdiction of the Tribes or District with respect to the management of solid waste at the 4 transfer station locations that are the subject hereof or of the District landfills, including, but not limited to, enforcement powers and procedures available to the parties.

11. INDEPENDENT CONTRACTOR: The Tribes responsibilities under this contract are on an independent contractor basis, and nothing herein shall be construed or interpreted in any other manner. The Tribes, nor their employees hereunder, are not employees, agents or representatives of the District and shall have no ability to bind the District.

12. DEFAULT: In the event of a default of any provision of this agreement or a dispute over the terms and provisions of this agreement, the parties agree to the following dispute resolution procedure:

a. Either party shall notify the other party, in writing, of the alleged dispute and/or default.

b. The parties shall, within seven (7) days of service of the writing, as herein provided, meet and in good faith confer and attempt to resolve the default and/or dispute.

c. If the parties are unable to negotiate an amicable resolution of any default/dispute within ten (10) days, then the non-defaulting party shall have the option to terminate this agreement within 10 days of the failed negotiations.

d. Nothing in this paragraph shall prevent the parties from mutually agreeing to a different form of dispute resolution, such as mediation or litigation.

13. NOTICES: Any notice, demand or communication required or permitted under this agreement shall be in writing and shall be deemed to have sufficiently been given if personally served or delivered by commercial carrier, or sent certified or registered mail, return receipt requested and postage pre-paid, and addressed to the other party at the following addresses:

Fremont County Solid Waste  
Disposal District  
P.O. Box 1400  
Lander, Wyoming

Northern Arapaho Tribe  
P.O. Box 396  
Fort Washakie, Wyoming 82514

Eastern Shoshone Tribe  
P.O. Box 538  
Fort Washakie, Wyoming 82514

The District shall also transmit a copy of any notice, demand or communication to Director, Wind River Environmental Quality Commission, P.O. Box 217, Fort Washake, Wyoming 82514.

14. WAIVER: Except as expressly provided in this agreement, no delay or omission to exercise any right, power, or remedy accruing under this agreement shall impair such right, power, or remedy, nor shall it be construed to be a waiver of or acquiescence in a breach of or default under this agreement. The parties specifically and affirmatively agree not to construe the



conduct, statements, delay, or omission of any other party as altering in any way the parties' duties and responsibilities as defined in this agreement. Any waiver, permit, or approval of any breach or default under this agreement must be in writing, and, the parties hereby agree that neither will raise waiver nor estoppels as an affirmative defense so as to limit or negate the clear language and intent of this agreement. All remedies, either under this agreement, by law, or otherwise afforded to any party shall be cumulative, not alternative.

15. NON-WAIVER OF EXISTING RIGHTS: By entering into this contract neither party waives any rights or claim that either may have against the other regarding solid waste issues.

16. NON-ASSIGNMENT: No party hereto shall assign or otherwise transfer any of its benefits or responsibilities contained in this agreement without first obtaining the written authorization of the other party. The Tribes shall not assign or pledge the payments to made to them hereunder, without the prior written consent of the District.

17. RETENTION OF GOVERNMENTAL IMMUNITY: By entering into this contract neither party waives its Governmental Immunity, as provided by any applicable law including W.S. Section 1-39-101 et seq., and nothing in this agreement constitutes or shall be construed as a waiver of the Tribes' sovereign immunity. Further, each party fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law based on this contract. This contract is entered into by the parties for their sole benefit, and is not intended to be for the benefit of any other third party or entity.

18. COMPLETE AGREEMENT: There is no agreement or promise on the part of any party to this agreement to do or omit to do any act or thing not herein mentioned. All prior agreements, negotiations and promises between or among the parties in any combination, whether oral or written, confidential or public, express or implied, are hereby superseded and replaced in full by this agreement, which constitutes the entire agreement between the parties and may not be effectively amended, changed, modified, or altered without the written consent and agreement of all parties.

19. TIME OF ESSENCE: Time limitations contained herein, or provided for hereby, are of the essence of this agreement.

20. EFFECTIVE DATE: The effective date of this agreement shall be December 14, 2012.

Eastern Shoshone Tribe

By: [Signature]  
Chairman

Northern Arapaho Tribe

By: [Signature]  
Chairman

Fremont County Solid Waste  
Disposal District

By: [Signature] 12-11-12  
Mike Adams, Chairman

## **2013 Letter of Concern Regarding Lack of Agreement**

**Superintendent**  
**Andrew Frey, P.E.**



## **FREMONT COUNTY SOLID WASTE DISPOSAL DISTRICT**

Member of Wyoming Solid Waste and Recycling Association (WSWRA)

P.O. Box 1400  
Lander, WY 82520  
telephone 307.332.7040  
fax 307.332.5013

June 28, 2013

Eastern Shoshone Business Council  
ESBC Chairman  
P.O. Box 538  
Fort Washakie, WY 82514

Northern Arapaho Business Council  
NABC Chairman  
P.O. Box 396  
Fort Washakie, WY 82514

Wind River Environmental Quality Commission  
P.O. Box 214  
Fort Washakie, WY 82514

Re: Wind River Indian Reservation – Solid Waste Management

This letter has been drafted by the Fremont County Solid Waste Disposal District (District) to the Wind River Indian Reservation (WRIR) Joint Business Councils (JBC) to ensure that all parties are notified of the current solid waste management situation.

On June 14, 2012 the Fremont County Solid Waste Disposal District (District) sent a letter to the JBC indicating that it was exercising its rights under the November 20, 1996 contract and terminating the current agreement. Pursuant to that contract, the termination would take place in 6-months (on December 14, 2012).

On December 14, 2012, the Fremont County Solid Waste Disposal District (District) and the Wind River Indian Reservation Joint Business Council (JBC) entered into a "Bridge Contract for Operation of Certain Solid Waste Transfer Stations" (Bridge Contract). This document created a 6-month contract where the JBC representatives provided staff to operate the Ft. Washakie, Ethete, Arapahoe, and Crowheart transfer stations, tracked and collected appropriate disposal fees, maintained the sites, and the District hauled the waste to the appropriate final disposal facilities and handled the materials. This timeframe was explained to the District to be very important to allow the JBC representatives to gather appropriate information regarding the use and management of the sites. The Bridge Contract term was from December 15, 2012 through June 14, 2013.

The District and the JBC representatives have spent over 12-months working closely in an attempt to find a beneficial long-term solution for solid waste management on the WRIR. Throughout this

timeframe there have been many proposals made between the two parties, however, there has not been an approved contract established.

The previously approved Bridge Contract expired at midnight on June 14, 2013. The District agreed to extend the Bridge Contract to July 1, 2013; however, the JBC has not agreed to approve the extension. Following the end of the day on June 14, 2013, the District no longer had the legal authority to access the Ft. Washakie, Ethete, Arapahoe, and Crowheart transfer stations, or enforce the District's Rules and Regulations.

On June 6, 2013 the District received a formal offer approved by the JBC, and with minor modifications agreed to by both representing parties, the District accepted the offer and drafted a contract. The contract was then submitted to the WRIR attorneys, with no further correspondence.

Effective on midnight June 30, 2013, the District will no longer access the Ft. Washakie, Ethete, Arapahoe, and Crowheart transfer stations to assist with the solid waste management. The WRIR equipment in the District's possession will be stored at the Lander Landfill to allow the WRIR representatives to pick it up for transfer.

The delayed action on an agreement has reached a critical stage. The District has worked very hard to implement a beneficial long-term solution to the solid waste management on the WRIR, and regrets the current situation.

Thank you,



Andrew Frey, P.E.  
Superintendent of Operations  
Fremont County Solid Waste Disposal District



Mike Adams  
Board of Directors Chairman  
Fremont County Solid Waste Disposal District

cc: Fremont County Board of Directors  
Fremont County Commissioners  
Western Law Associates  
U.S. Environmental Protection Agency

# **2013 Agreement between the District and the Tribes**

## TRANSFER STATION OPERATING AGREEMENT

THIS AGREEMENT is made and entered into by and between the Fremont County Solid Waste Disposal District, hereinafter referred to as "the District", of 52 Beebe Road, P.O. Box 1400, Lander, Fremont County, Wyoming, and the Northern Arapaho Tribe of P.O. Box 396, Fort Washakie, Wyoming 82514, and the Eastern Shoshone Tribe, of P.O. Box 538, Fort Washakie, Wyoming 82514, both federally recognized Indian tribes hereinafter collectively referred to as "the Tribes".

### RECITALS

WHEREAS, the District was formed in 1979 pursuant to W.S. Section 18-11-101 et seq. to dispose of municipal solid waste and currently operates various landfills and transfer stations within Fremont County, Wyoming; and

WHEREAS, the Tribes, as federally recognized Indian tribes, with inherent rights of self-governance exercise rights of self-determination and enjoy a government-to-government relationship with the State of Wyoming and its political sub-divisions; and

WHEREAS, in 1996 the District agreed to operate four Tribally constructed and operated transfer stations ("Transfer Stations") which service the communities of Arapaho, Crowheart, Ethete and Ft. Washakie; and

WHEREAS, the Tribes desire to operate and manage the Transfer Stations in conjunction with its solid waste management program; and

WHEREAS, the District desires to have the Tribes operate the Transfer Stations on the terms and conditions stated herein and the Tribes desire to operate the Transfer Stations on the terms and conditions stated herein.

NOW THEREFORE, for and in consideration of the monies to be paid hereunder, the services to be rendered hereunder and the parties covenants and agreements as contained herein the parties agree as follows:

1. **Recitals.** The above said recitals are incorporated into and made a part of this agreement and are not mere factual recitals.

2. **Tribes' Responsibilities.** The Tribes hereby agree to operate and manage the Transfer Stations, and shall be responsible for the following at each site:

a. To provide all necessary equipment to properly equip each site for the receipt of solid waste;

b. To provide adequate staff to operate each site;

c. To set hours and days of operation at each site as the Tribes deem reasonable and prudent, but at a minimum of one day per week per site.

d. To maintain the Transfer Stations in compliance with applicable Tribal and Federal standards.

e. To accept appropriate waste at the Transfer Stations and transport it to a final disposal facility of their selection subject to the provisions in 4a.

f. To procure and maintain any permits or licenses that may be required to operate the Transfer Stations, solid waste management facilities, and transport.

g. The Tribes agree that fees at the Transfer Stations will not exceed the prevailing rate for all other transfer stations in Fremont County operated by the District.

3. **District's Responsibilities.** The District agrees to provide partial funding for the Tribes to operate the Transfer Stations and shall be responsible for the following:

a. To accept and dispose of acceptable municipal solid waste and construction and demolition debris the Tribes deliver the District's landfills or bale station ("Disposal Facilities").

b. To handle (through baling or otherwise) the delivered waste and to properly dispose of the same in the District Disposal Facilities.

c. To maintain scales for the weighing of the waste delivered by the Tribes.

d. To procure and maintain all permits and licensing to dispose of the accepted solid waste.

e. To dispose of acceptable municipal solid waste and construction and demolition waste from the Tribes, for the regular fee charged to other customers.

f. To invoice the Tribes on a monthly basis for the tipping fees incurred at the District's Disposal Facilities.

g. On a monthly basis provide the Tribes an accounting of all waste delivered to the District's Disposal Facilities.

h. The District will accept delivery of all segregated recyclable materials segregated by type of material from the Tribes, with recyclable materials being defined by the District's recycling program. Upon delivery the recyclables shall become the property of the District and processed and marketed by the District, with the District being entitled to retain all revenue from the sale of the recyclables.

i. Allow the Tribes' gate attendants and other personnel to attend the District's bi-annual solid waste training to ensure that only household, non-hazardous, non-liquid waste enters the Transfer Stations.

**4. Use of District Disposal Facilities.** If the Tribes choose to utilize the District's Disposal Facilities, then the following conditions of use apply:

a. The District may determine in advance of delivery which facility the waste is delivered to, however the District's determination shall not be arbitrary or unreasonably burden the Tribal solid waste program. The District's preference for delivery shall be communicated to the Tribes in writing.

b. All loads must be adequately covered to prevent scattering of debris during transportation.

c. The waste shall be properly sorted to ensure that only municipal solid waste and construction and demolition waste is delivered to the landfill.

d. The waste shall be delivered with the municipal solid waste, and the construction and demolition debris wastes delivered in separate containers and loads.

e. The Tribes are responsible to pay to the District the tipping fee at the Disposal Facility where waste is delivered at the rate established by the District and as currently existing and as shall be amended in the future. The tipping fee charged to the Tribes by the District shall be the same amount as charged to all other customers.

f. The District is not required to accept any material at the Disposal Facilities if disposal of the material would violate the District's Rules and Regulations.

**5. Transition Period.** To allow the Tribes time to acquire the necessary equipment to operate the Transfer Stations. The parties agree to a transition period during which the terms of this Agreement shall be in full force and effect, except that transportation of the waste collected at the Transfer Stations shall be provided by the District, as provided for under the parties' "Bridge Contract" dated December 14, 2012. The transition period shall be for 6 months or until the Tribes obtain the necessary equipment to transport the waste, whichever shall first occur. The Tribes will work diligently to acquire the equipment; however, if delivery of the equipment is delayed (i.e. on back order), the parties will confer and negotiate in good faith an extension of the transition period.

**6. Term.** The term of this agreement shall be for a period of 3 years, unless terminated prior to then as provided for herein. The term shall commence on July 1, 2013 and terminate on June 30, 2016, unless terminated sooner as provided for herein. Six months prior to termination of the Agreement each party shall notify the other of its intent to either continue with the Agreement or to not renew it. Upon termination, the parties shall negotiate a renewal upon such terms as the parties may agree upon if both parties agree to do so.



7. **Payment to Tribes.** The District agrees to pay the Tribes for the services described herein. During the first and second years of the primary term of this Agreement, the District shall pay to the Tribes the sum of \$250,000.00 per year, except that payment to the Tribes will be reduced by \$24,000.00 for each quarter or by \$8,000.00 for each month in which the District is responsible for transportation of waste from the Transfer Stations to a disposal facility. During the third year of the primary term of this Agreement, the District shall pay to the Tribes the sum of \$255,000.00.

Payments to the Tribes will be in advance and on a quarterly or monthly basis. The District may elect to withhold payment to the Tribes in an amount equal to any accrued and unpaid tipping fees due to the District. Furthermore, if the Tribes are more than 30 days delinquent on any invoice for tipping fees the District may deny the Tribes access to its disposal facilities.

8. **Continued Use of Equipment.** Under the Parties November 20, 1996 agreement the Tribes and the District agreed that the District would have use of certain equipment to transport waste from the Transfer Stations. The Parties agree that the District shall continue to have use of six of the waste containers and one truck for the duration of this Agreement or until the equipment becomes inoperable whichever occurs first. The District will be responsible for all costs associated with the use of the equipment it continues to use. All other equipment shall be returned to the Tribes at the end of the transition period.

9. **Independent Contractor.** The parties agree that in the performance of this Agreement the Tribes are acting as an independent contractor and the District shall not have any control as to the method, timing or sequence of the Tribes performance of its obligations hereunder.

10. **Termination.** This Agreement may be terminated by the mutual consent of the parties. Either party may unilaterally terminate this agreement for cause. If either party seeks to terminate this agreement for cause they must first provide to the other party sixty (60) days prior written notice setting forth the default. The other party shall have a period of thirty (30) days to cure the default. If default is cured within the thirty (30) day period, then the contract shall continue.

11. **Regulation at Transfer Stations.** Nothing in this agreement shall limit or expand, or be construed to limit or expand, the jurisdiction of the Tribes or District with respect to the management of the Transfer Stations or of the District landfills, including, but not limited to, enforcement powers and procedures available to the parties.

12. **Indemnification.** Each party to this Agreement shall assume the risk of liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the other.

13. **Default and Dispute Resolution.** In the event of a default of any provision of this agreement or a dispute over the terms and provisions of this agreement, the parties agree to the following dispute resolution procedure:

a. Either party shall notify the other party, in writing, of the alleged dispute and/or default.

b. The parties shall, within thirty (30) days of service of the writing, as herein provided, meet and in good faith confer and attempt to resolve the default and/or dispute.

c. If the parties are not able to reach a resolution within sixty (60) days of the written notice then this Agreement shall terminate.

14. **Notice.** Any notice, demand or communication required or permitted under this agreement shall be in writing and shall be deemed to have sufficiently been given if personally served or delivered by commercial carrier, or sent certified or registered mail, return receipt requested and postage pre-paid, and addressed to the other party at the following addresses:

Fremont County Solid Waste  
Disposal District  
P.O. Box 1400  
Lander, Wyoming 82520

Northern Arapaho Tribe  
P.O. Box 396  
Fort Washakie, Wyoming 82514

Eastern Shoshone Tribe  
P.O. Box 538  
Fort Washakie, Wyoming 82514

Joint Business Council  
P.O. Box 217  
Fort Washakie, Wyoming 82514

The District shall also transmit a copy of any notice, demand or communication to Director, Wind River Environmental Quality Commission, P.O. Box 217, Fort Washakie, Wyoming 82514.

15. **No Waiver.** Except as expressly provided in this agreement, no delay or omission to exercise any right, power, or remedy accruing under this agreement shall impair such right, power, or remedy, nor shall it be construed to be a waiver of or acquiescence in a breach of or default under this agreement. The parties specifically and affirmatively agree not to construe the conduct, statements, delay, or omission of any other party as altering in any way the parties' duties and responsibilities as defined in this agreement. Any waiver, permit, or approval of any breach or default under this agreement must be in writing, and, the parties hereby agree that neither will raise waiver nor estoppels as an affirmative defense so as to limit or negate the clear language and intent of this agreement. All remedies, either under this agreement, by law, or otherwise afforded to any party shall be cumulative, not alternative.

16. **No Assignment.** No party hereto shall assign or otherwise transfer any of its benefits or responsibilities contained in this agreement without first obtaining the written authorization of the other party. The Tribes shall not assign or pledge the payments made to them hereunder, without the prior written consent of the District.

17. **Sovereign Immunity.** Nothing in this Agreement constitutes or should be construed to constitute a waiver of sovereign immunity. By entering into this contract neither party waives its Governmental Immunity, as provided by any applicable law including but not limited to W.S.

Section 1-39-101 et seq. Further, each party fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law based on this contract. Designations of venue, choice of law and similar provisions should not be construed as a waiver of sovereign immunity. Any ambiguity in this Agreement shall be construed in favor of sovereign immunity. This contract is entered into by the parties for their sole benefit, and is not intended to be for the benefit of any other third party or entity.

18. **Entire Agreement.** There is no agreement or promise on the part of any party to this agreement to do or omit to do any act or thing not herein mentioned. All prior agreements, negotiations and promises between or among the parties in any combination, whether oral or written, confidential or public, express or implied, are hereby superseded and replaced in full by this agreement, which constitutes the entire agreement between the parties and may not be effectively amended, changed, modified, or altered without the written consent and agreement of all parties.

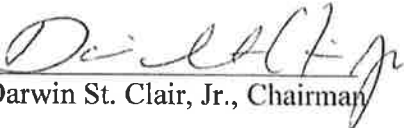
19. **Time of the Essence.** Time limitations contained herein, or provided for hereby, are of the essence of this agreement.

20. **Mutual Benefit.** It is mutually agreed that this agreement shall be binding upon the parties hereto and their successors and approved assigns of the parties hereto. The District hereby represents that the term of this agreement is of benefit to the District to allow for future budgetary concerns and for planning purposes.

21. **Effective Date.** The effective date of this agreement shall be July 1, 2013.

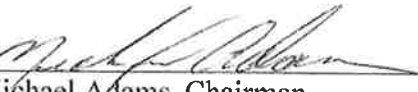
Eastern Shoshone Tribe

Northern Arapaho Tribe

By:   
Darwin St. Clair, Jr., Chairman

By:   
Darrell O'Neal, Chairman *for*

Fremont County Solid Waste  
Disposal District

By:   
Michael Adams, Chairman

## **2015 Amendment to the 2013 Agreement (NAT)**

## ADDENDUM TO TRANSFER STATION MANAGEMENT AGREEMENT

THIS ADDENDUM is made and entered into by and between the Fremont County Solid Waste Disposal District, hereinafter referred to as "District", of 52 Beebe Road, P.O. Box 1400, Lander, Fremont County, Wyoming, and the Northern Arapaho Tribe, of P.O. Box 396, Fort Washakie, Wyoming 82514, and the Eastern Shoshone Tribe, of P.O. Box 538, Fort Washakie, Wyoming 82514, hereinafter collectively referred to as "the Tribes".

### RECITALS

WHEREAS, on July 1, 2013 the parties hereto entered into a Transfer Station Operating Agreement; and

WHEREAS, pursuant to such agreement the District paid certain sums monthly to the Tribes; and

WHEREAS, after enter into the Agreement the District was instructed by the Tribes to send payment under the contract to Wind River Environmental Quality Commission; and

WHEREAS, the Tribes have now divided responsibility of the sites with the Northern Arapaho Tribes operating the Ethete and 17-mile sites and the Eastern Shoshone Tribe operating the Fort Washakie and Crowheart sites; and

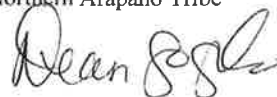
WHEREAS, the Tribes have now requested that the District send ½ of the payment to each tribe and the District is agreeable to doing so.

NOW THEREFORE, for and in consideration of the parties mutual promises and covenants as herein contained the parties agree as follows:

1. The above said recitals are incorporated into and made a part of this agreement and are not mere factual recitals.
2. The Northern Arapaho Tribe shall be solely responsible for the duties and obligations of the Tribes under the original agreement with regards to the Ethete and 17-mile transfer stations.
3. The Eastern Shoshone Tribe shall be solely responsible for the duties and obligations of the Tribes under the original agreement with regards to the Fort Washakie and Crowheart transfer stations.
4. The District agrees to send ½ of the monthly payment, less disposal fees, to each tribe.
5. The tribes agree that all disposal fees from the Ethete and 17-mile sites shall be deducted from the payment to the Northern Arapaho Tribe and the disposal fees from the Fort Washakie and Crowheart sites shall deducted from the payment to the Eastern Shoshone Tribe.
6. All other provisions of the Transfer Station Operating Agreement not modified herein shall remain in full force, and if the terms of the agreement related to the transfer station sites in general, the term shall apply to the Northern Arapaho Tribe with regards to the Ethete and 17-mile sites only and to the Eastern Shoshone Tribe with regards to the Fort Washakie and Crowheart sites only.
7. This agreement and the modifications made herein shall not be effective until signed by all parties.
8. The effective date of this agreement shall be the latest date of signature by the parties.

Eastern Shoshone Tribe

Northern Arapaho Tribe



By: \_\_\_\_\_  
Darwin St. Clair, Jr. Chairman

By: Dean Goggles  
Dean Goggles, Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Fremont County Solid Waste  
Disposal District

By: Mike Adams  
Mike Adams, Chairman

5-22-15  
Date

## **2015 Amendment to the 2013 Agreement (EST)**

## ADDENDUM TO TRANSFER STATION MANAGEMENT AGREEMENT

THIS ADDENDUM is made and entered into by and between the Fremont County Solid Waste Disposal District, hereinafter referred to as "District", of 52 Beebe Road, P.O. Box 1400, Lander, Fremont County, Wyoming, and the Northern Arapaho Tribe, of P.O. Box 396, Fort Washakie, Wyoming 82514, and the Eastern Shoshone Tribe, of P.O. Box 538, Fort Washakie, Wyoming 82514, hereinafter collectively referred to as "the Tribes".

### RECITALS

WHEREAS, on July 1, 2013 the parties hereto entered into a Transfer Station Operating Agreement; and

WHEREAS, pursuant to such agreement the District paid certain sums monthly to the Tribes; and

WHEREAS, after enter into the Agreement the District was instructed by the Tribes to send payment under the contract to Wind River Environmental Quality Commission; and

WHEREAS, the Tribes have now divided responsibility of the sites with the Northern Arapaho Tribes operating the Ethete and 17-mile sites and the Eastern Shoshone Tribe operating the Fort Washakie and Crowheart sites; and

WHEREAS, the Tribes have now requested that the District send ½ of the payment to each tribe and the District is agreeable to doing so.

NOW THEREFORE, for and in consideration of the parties mutual promises and covenants as herein contained the parties agree as follows:

1. The above said recitals are incorporated into and made a part of this agreement and are not mere factual recitals.
2. The Northern Arapaho Tribe shall be solely responsible for the duties and obligations of the Tribes under the original agreement with regards to the Ethete and 17-mile transfer stations.
3. The Eastern Shoshone Tribe shall be solely responsible for the duties and obligations of the Tribes under the original agreement with regards to the Fort Washakie and Crowheart transfer stations.
4. The District agrees to send ½ of the monthly payment, less disposal fees, to each tribe.
5. The tribes agree that all disposal fees from the Ethete and 17-mile sites shall be deducted from the payment to the Northern Arapaho Tribe and the disposal fees from the Fort Washakie and Crowheart sites shall deducted from the payment to the Eastern Shoshone Tribe.
6. All other provisions of the Transfer Station Operating Agreement not modified herein shall remain in full force, and if the terms of the agreement related to the transfer station sites in general, the term shall apply to the Northern Arapaho Tribe with regards to the Ethete and 17-mile sites only and to the Eastern Shoshone Tribe with regards to the Fort Washakie and Crowheart sites only.
7. This agreement and the modifications made herein shall not be effective until signed by all parties.
8. The effective date of this agreement shall be the latest date of signature by the parties.

Eastern Shoshone Tribe

Northern Arapaho Tribe



By:   
Darwin St. Clair, Jr. Chairman

11-23-2015  
Date

Fremont County Solid Waste  
Disposal District

By: \_\_\_\_\_  
Dean Goggles, Chairman

\_\_\_\_\_  
Date

By:   
Mike Adams, Chairman

5-22-15  
Date

## **2016 Agreement between the District and the EST**



*Eastern Shoshone Business Council  
P.O. Box 538  
Fort Washakie, WY 82514  
(307) 332-3532/4932  
Fax: (307) 332-3055*

May 13, 2016

Michael Adams  
Fremont County Solid Waste Disposal District  
P. O. Box 1400  
Lander, WY 82520

Mr. Adams,

On May 12, 2016 the Shoshone Business Council in special session approved the Transfer Station Operating Agreement with the Fremont County Solid Waste Disposal District.

Enclosed are two (2) copies for your signature, please return one (1) signed original for our records.

If you have any questions they may be directed to Phoebe Wilson, SBC Executive Secretary or a Councilmember at 307-332-3532.

Sincerely,

  
Carolyn Shoyo, Administrative Assistant  
Shoshone Business Council

cc: Enclosures  
File

## TRANSFER STATION OPERATING AGREEMENT

THIS AGREEMENT is made and entered into by and between the Fremont County Solid Waste Disposal District, hereinafter referred to as "the District", of 52 Beebe Road, P.O. Box 1400, Lander, Fremont County, Wyoming, and the Eastern Shoshone Tribe, of P.O. Box 538, Fort Washakie, Wyoming 82514, a federally recognized Indian tribe hereinafter referred to as "EST".

### RECITALS

WHEREAS, the District was formed in 1979 pursuant to W.S. Section 18-11-101 et seq. to dispose of municipal solid waste and currently operates various landfills and transfer stations within Fremont County, Wyoming; and

WHEREAS, EST, as federally recognized Indian tribes, with inherent rights of self-governance exercise rights of self-determination and enjoy a government-to-government relationship with the State of Wyoming and its political sub-divisions; and

WHEREAS, in 1996 the District agreed to operate Tribally constructed and operated transfer stations ("Transfer Stations") and did so to service the communities of Arapaho, Crowheart, Ethete and Ft. Washakie; and

WHEREAS, EST desires to operate and manage the Transfer Stations in conjunction with its solid waste management program; and

WHEREAS, the District desires to have EST operate the Transfer Stations, as set forth herein, on the terms and conditions stated herein and the Tribes desire to operate the Transfer Stations on the terms and conditions stated herein.

NOW THEREFORE, for and in consideration of the monies to be paid hereunder, the services to be rendered hereunder and the parties covenants and agreements as contained herein the parties agree as follows:

1. Recitals. The above said recitals are incorporated into and made a part of this agreement and are not mere factual recitals.

2. EST's Responsibilities. EST hereby agrees to operate and manage Transfer Stations at Crowheart, Fort Washakie, and either in the 17 Mile Road/Ethete area at a location that EST determines, and shall be responsible for the following at each site:

- a. To provide all necessary equipment to properly equip each site for the receipt of solid waste;
- b. To provide adequate staff to operate each site;

c. To set hours and days of operation at each site as EST deems reasonable and prudent, but at a minimum to operate the Fort Washakie site and the 17 Mile Road/Ethete site 1 day per week and the Crowheart site one day every 2 weeks.

d. To maintain the Transfer Stations in compliance with applicable Tribal and Federal standards.

e. To accept appropriate waste (as defined by the District Rules and Regulations) at the Transfer Stations and transport it to the Lander Landfill.

f. To procure and maintain any permits or licenses that may be required to operate the Transfer Stations, solid waste management facilities, and transport.

g. EST shall be allowed to set the fees for consumers at the sites, but agrees that fees at the Transfer Stations will not exceed the prevailing rate for all other transfer stations in Fremont County operated by the District.

3. District's Responsibilities. The District agrees to provide partial funding for EST to operate the Transfer Stations and shall be responsible for the following:

a. To accept and dispose of acceptable municipal solid waste and construction and demolition debris the EST deliver the District's landfills.

b. To handle the delivered waste and to properly dispose of the same in the District Disposal Facilities.

c. To maintain scales for the weighing of the waste delivered by EST.

d. To procure and maintain all permits and licensing to dispose of the accepted solid waste.

e. To dispose of acceptable municipal solid waste and construction and demolition waste from EST, for the regular fee charged to other customers.

f. To invoice EST on a monthly basis for the tipping fees incurred at the District's Disposal Facilities.

g. On a monthly basis provide EST an accounting of all waste delivered to the District's Disposal Facilities.

h. The District will accept delivery of all segregated recyclable materials segregated by type of material from EST, with recyclable materials being defined by the District's recycling program. Upon delivery the recyclables shall become the property of the District and processed and marketed by the District, with the District being entitled to retain all revenue from the sale of the recyclables.

i. Allow EST's gate attendants and other personnel to attend the District's biannual solid waste training to ensure that only household, non-hazardous, non-liquid waste enters the Transfer Stations.

4. Use of District Disposal Facilities. The following conditions of use apply to disposal:

a. EST shall deliver the waste from the transfer stations to the Lander Landfill.

b. All loads must be adequately covered to prevent scattering of debris during transportation.

c. The waste shall be properly sorted to ensure that only municipal solid waste and construction and demolition waste is delivered to the landfill.

d. EST is responsible to pay to the District the tipping fee at the Disposal Facility where waste is delivered at the rate in effect on July 1, 2016. The tipping fee shall be deducted from the monthly contract payments.

e. The District is not required to accept any material at the Disposal Facilities if disposal of the material would violate the District's Rules and Regulations or create a safety hazard for District employees.

5. Term. The term of this agreement shall be for a period of 2 years, unless terminated prior to then as provided for herein. The term shall commence on July 1, 2016 and terminate on June 30, 2018, unless terminated sooner as provided for herein. Six months prior to termination of the Agreement each party shall notify the other of its intent to either continue with the Agreement or to not renew it. Upon termination, the parties shall negotiate a renewal upon such terms as the parties may agree upon if both parties agree to do so.

6. Payment to EST. The District agrees to pay EST for the services described herein. During the term of this Agreement, the District shall pay to EST the sum of

\$250,000.00 per year. Payments to EST will be in advance and on a monthly basis. The District shall deduct from the monthly payments to EST an amount equal to any accrued tipping fees due to the District.

7. Independent Contractor. The parties agree that in the performance of this Agreement EST is acting as an independent contractor and the District shall not have any control as to the method, timing or sequence of EST's performance of its obligations hereunder.

8. Termination. This Agreement may be terminated by the mutual consent of the parties. Either party may unilaterally terminate this agreement for cause. If either party seeks to terminate this agreement for cause they must first provide to the other party sixty (60) days prior written notice setting forth the default. The other party shall have a period of thirty (30) days to cure the default. If default is cured within the thirty (30) day period, then the contract shall continue.

9. Regulation at Transfer Stations. Nothing in this agreement shall limit or expand, or be construed to limit or expand, the jurisdiction of EST or the District with respect to the management of the Transfer Stations or of the District landfills, including, but not limited to, enforcement powers and procedures available to the parties.

10. Indemnification. Each party to this Agreement shall assume the risk of liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the Other.

11. Default and Dispute Resolution. In the event of a default of any provision of this agreement or a dispute over the terms and provisions of this agreement, the parties agree to the following dispute resolution procedure:

a. Either party shall notify the other party, in writing, of the alleged dispute and/or default.

b. The parties shall, within thirty (30) days of service of the writing, as herein provided, meet and in good faith confer and attempt to resolve the default and/or dispute.

c. If the parties are not able to reach a resolution within sixty (60) days of the written notice then this Agreement shall terminate.

12. Notice. Any notice, demand or communication required or permitted under this agreement shall be in writing and shall be deemed to have sufficiently been given if personally served or delivered by commercial carrier, or sent certified or registered mail, return receipt requested and postage pre-paid, and addressed to the other party at the following addresses:

Fremont County Solid Waste  
Disposal District  
P.O. Box 1400  
Lander, Wyoming 82520

Eastern Shoshone Tribe  
P.O. Box 538  
Fort Washakie, Wyoming 82514

13. No Waiver. Except as expressly provided in this agreement, no delay or omission to exercise any right, power, or remedy accruing under this agreement shall impair such right, power, or remedy, nor shall it be construed to be a waiver of or acquiescence in a breach of or default under this agreement. The parties specifically and affirmatively agree not to construe the conduct, statements, delay, or omission of any other party as altering in any way the parties' duties and responsibilities as defined in this agreement. Any waiver, permit, or approval of any breach or default under this agreement must be in writing, and, the parties hereby agree that neither will raise waiver nor estoppels as an affirmative defense so as to limit or negate the clear language and intent of this agreement. All remedies, either under this agreement, by law, or otherwise afforded to any party shall be cumulative, not alternative.

14. No Assignment. No party hereto shall assign or otherwise transfer any of its benefits or responsibilities contained in this agreement without first obtaining the written authorization of the other party. EST shall not assign or pledge the payments made to them hereunder, without the prior written consent of the District.

15. Sovereign Immunity. Nothing in this Agreement constitutes or should be construed to constitute a waiver of sovereign immunity. By entering into this contract neither party waives its Governmental Immunity, as provided by any applicable law including but not limited to W.S. Section 1-39-101 et seq. Further, each party fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law based on this contract. Designations of venue, choice of law and similar provisions should not be construed as a waiver of sovereign immunity. Any ambiguity in this Agreement shall be construed in favor of sovereign immunity. This contract is entered into by the parties for their sole benefit, and is not intended to be for the benefit of any other third party or entity.

16. Entire Agreement. There is no agreement or promise on the part of any party to this agreement to do or omit to do any act or thing not herein mentioned. All prior agreements, negotiations and promises between or among the parties in any combination, whether oral or written, confidential or public, express or implied, are hereby superseded and replaced in full by this agreement, which constitutes the entire agreement between the parties



and may not be effectively amended, changed, modified, or altered without the written consent and agreement of all parties.

17. Time of the Essence. Time limitations contained herein, or provided for hereby, are of the essence of this agreement.

18. Mutual Benefit. It is mutually agreed that this agreement shall be binding upon the parties hereto and their successors and approved assigns of the parties hereto. The District hereby represents that the term of this agreement is of benefit to the District to allow for future budgetary concerns and for planning purposes.

19. Effective Date. The effective date of this agreement shall be July 1, 2016.

Eastern Shoshone Tribe

By:   
Darwin St. Clair, Jr., Chairman

Fremont County Solid Waste  
Disposal District

By:   
Michael Adams, Chairman

# **2018 Agreement between the District and the WRITC**

## TRANSFER STATION OPERATING AGREEMENT

THIS AGREEMENT is made and entered into by and between the Fremont County Solid Waste Disposal District, hereinafter referred to as "the District", of 52 Beebe Road, P.O. Box 1400, Lander, Fremont County, Wyoming, and the Wind River Inter-Tribal Council, of P.O. Box 217, Fort Washakie, Wyoming 82514, hereinafter referred to as "the Council".

### RECITALS

WHEREAS, the District was formed in 1979 pursuant to W.S. Section 18-11-101 et seq. to dispose of municipal solid waste and currently operates various landfills and transfer stations within Fremont County, Wyoming; and

WHEREAS, The Council, as an Inter-Tribal Council of two federally recognized Indian Tribes, with inherent rights of self-governance exercise rights of self-determination and enjoy a government-to-government relationship with the State of Wyoming and its political sub-divisions; and

WHEREAS, in 1996 the District agreed to operate Tribally constructed and operated transfer stations ("Transfer Stations") and did so to service the communities of Arapaho, Crowheart, Ethete and Ft. Washakie; and

WHEREAS, The Council desires to operate and manage the Transfer Stations in conjunction with its solid waste management program; and

WHEREAS, the District desires to have The Council operate the Transfer Stations, as set forth herein, on the terms and conditions stated herein and the Tribes desire to operate the Transfer Stations on the terms and conditions stated herein.

NOW THEREFORE, for and in consideration of the monies to be paid hereunder, the services to be rendered hereunder and the parties covenants and agreements as contained herein the parties agree as follows:

1. Recitals. The above said recitals are incorporated into and made a part of this agreement and are not mere factual recitals.

2. The Council's Responsibilities. The Council hereby agrees to operate and manage at least two of the four Transfer Stations at Crowheart, Fort Washakie, 17 Mile Road and Ethete area at a location that The Council determines, (The Council, in its sole discretion may manage more than two sites, but must operate the Crowheart facility under any event) and shall be responsible for the following at each site:

- a. To provide all necessary equipment to properly equip each site for the receipt of solid waste;
- b. To provide adequate staff to operate each site;
- c. To set hours and days of operation at each site as The Council deems reasonable and prudent.
- d. To maintain the Transfer Stations in compliance with applicable Tribal and Federal standards.
- e. To accept appropriate waste (as defined by the District Rules and Regulations and within the operating permits) at the Transfer Stations and transport it to the Lander Landfill.
- f. To procure and maintain any permits or licenses that may be required to operate the Transfer Stations, solid waste management facilities, and transport.

g. The Council shall be allowed to set the fees for consumers at the sites, but agrees that fees at the Transfer Stations will not exceed the prevailing rate for all other transfer stations in Fremont County operated by the District.

h. The Council shall deliver all waste (ie: municipal solid waste, construction and demolition, recyclables and diversions materials) to the Lander Landfill.

3. **District's Responsibilities.** The District agrees to provide partial funding for The Council to operate the Transfer Stations and shall be responsible for the following:

a. To accept and dispose of acceptable municipal solid waste, construction and demolition, recyclables and diversion material debris the The Council delivers to the District's Lander landfill.

b. To handle the delivered waste and to properly dispose of the same in the District Disposal Facilities.

c. To maintain scales for the weighing of the waste delivered by The Council.

d. To procure and maintain all permits and licensing to dispose of the accepted solid waste.

e. To dispose of acceptable municipal solid waste and construction and demolition waste from The Council, for the regular fee currently charged to other customers, (i.e.: \$80 per ton).

f. The District agrees that it shall not increase the current rates for waste delivered by The Council during the term of this contract, and agrees that if the rates are lowered District-wide, it shall also lower the fee to The Council.

g. To invoice The Council on a monthly basis for the tipping fees incurred at the District's Disposal Facilities.

h. On a monthly basis provide The Council an accounting of all waste delivered to the District's Disposal Facilities.

i. The District will accept delivery of all segregated recyclable materials segregated by type of material from The Council, with recyclable materials being defined by the District's recycling program. Upon delivery the recyclables shall become the property of the District and processed and marketed by the District, with the District being entitled to retain all revenue from the sale of the recyclables.

j. Allow The Council's gate attendants and other personnel to attend the District's biannual solid waste training to ensure that only household, non-hazardous, non-liquid waste enters the Transfer Stations.

4. **Use of District Disposal Facilities.** The following conditions of use apply to disposal:

a. The Council shall deliver the waste (i.e. municipal solid waste, construction & demolition debris, recycling, and diversion materials) from the transfer stations to the Lander Landfill.

b. All loads must be adequately covered to prevent scattering of debris during transportation.

c. The waste shall be properly sorted to ensure that only acceptable municipal solid waste, construction and demolition, recyclable and diversion waste is delivered to the landfill.

d. The Council is responsible to pay to the District the tipping fee at the Disposal Facility where waste is delivered at the rate in effect on July 1, 2018. The tipping fee for the waste delivered by The Council shall be deducted from the monthly contract payments. (For example: if the tipping fee for a month is \$4,000.00 and the monthly payment from the District to the Council is \$21,250.00, then the District shall pay The Council the net fee of \$17,250.00).

e. The District is not required to accept any material at the Disposal Facilities if disposal of the material would violate the District's permits, Rules and Regulations or create a safety hazard for District employees.

5. Term. The term of this agreement shall be for a period of 5 years, unless terminated prior to then as provided for herein. The term shall commence on August 1, 2018 and terminate on July 31, 2023, unless terminated sooner as provided for herein. Six months prior to termination of the Agreement each party shall notify the other of its intent to either continue with the Agreement or to not renew it. Upon termination, the parties shall negotiate a renewal upon such terms as the parties may agree upon if both parties agree to do so.

6. Payment to The Council. The District agrees to pay The Council for the services described herein. During the term of this Agreement, the District shall pay to The Council the sum of \$255,000.00 for the first year of the contract, \$260,000.00 for the second year of the contract, \$265,000.00 for the third year of the contract, \$270,000.00 for the fourth year of the contract and \$275,000.00 for the fifth year of the contract.

Payments to The Council will be in advance and on a monthly basis. The District shall deduct from the monthly payments to The Council an amount equal to any accrued tipping fees due to the District from the previous month in the manner set forth in paragraph d. above. All payments to The Council shall be made to Inter-Tribal Finance, by direct deposit into an account as shall be designated by The Council.

7. Independent Contractor. The parties agree that in the performance of this Agreement The Council is acting as an independent contractor and the District shall not have any control as to the method, timing or sequence of The Council's performance of its obligations hereunder.

8. Termination. This Agreement may be terminated by the mutual consent of the parties. Either party may unilaterally terminate this agreement for cause. This Agreement may be modified by the mutual consent by both parties hereto. If either party seeks to terminate this agreement for cause, they must first provide to the other party sixty (60) days prior written notice setting forth the default. The other party shall have a period of thirty (30) days to cure the default. If default is cured within the thirty (30) day period, then the contract shall continue.

9. Regulation at Transfer Stations. Nothing in this agreement shall limit or expand, or be construed to limit or expand, the jurisdiction of The Council or the District with respect to the management of the Transfer Stations or of the District landfills, including, but not limited to, enforcement powers and procedures available to the parties.

10. Indemnification. Each party to this Agreement shall assume the risk of liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the Other.

11. Default and Dispute Resolution. In the event of a default of any provision of this agreement or a dispute over the terms and provisions of this agreement, the parties agree to the following dispute resolution procedure:

a. Either party shall notify the other party, in writing, of the alleged dispute and/or default.

b. The parties shall, within thirty (30) days of service of the writing, as herein provided, meet and in good faith confer and attempt to resolve the default and/or dispute.

c. If the parties are not able to reach a resolution within sixty (60) days of the written notice then this Agreement shall terminate.

12. Notice. Any notice, demand or communication required or permitted under this agreement shall be in writing and shall be deemed to have sufficiently been given if personally served or delivered by commercial carrier, or sent certified or registered mail, return receipt requested and postage pre-paid, and addressed to the other party at the following addresses:

Fremont County Solid Waste Disposal District  
P.O. Box 1400  
Lander, Wyoming 82520

Wind River Inter-Tribal Council  
P.O. Box 217  
Fort Washakie, Wyoming 82514

13. No Waiver. Except as expressly provided in this agreement, no delay or omission to exercise any right, power, or remedy accruing under this agreement shall impair such right, power, or remedy, nor shall it be construed to be a waiver of or acquiescence in a breach of or default under this agreement. The parties specifically and affirmatively agree not to construe the conduct, statements, delay, or omission of any other party as altering in any way the parties' duties and responsibilities as defined in this agreement. Any waiver, permit, or approval of any breach or default under this agreement must be in writing, and, the parties hereby agree that neither will raise waiver nor estoppels as an affirmative defense so as to limit or negate the clear language and intent of this agreement. All remedies, either under this agreement, by law, or otherwise afforded to any party shall be cumulative, not alternative.

14. No Assignment. No party hereto shall assign or otherwise transfer any of its benefits or responsibilities contained in this agreement without first obtaining the written authorization of the other party. The Council shall not assign or pledge the payments made to them hereunder, without the prior written consent of the District.

15. Sovereign Immunity. Nothing in this Agreement constitutes or should be construed to constitute a waiver of sovereign immunity. By entering into this contract neither party waives its Governmental Immunity, as provided by any applicable law including but not limited to W.S.

Section 1-39-101 et seq. Further, each party fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law based on this contract. Designations of venue, choice of law and similar provisions should not be construed as a waiver of sovereign immunity. Any ambiguity in this Agreement shall be construed in favor of sovereign immunity. This contract is entered into by the parties for their sole benefit, and is not intended to be for the benefit of any other third party or entity.

16. Entire Agreement. There is no agreement or promise on the part of any party to this agreement to do or omit to do any act or thing not herein mentioned. All prior agreements, negotiations and promises between or among the parties in any combination, whether oral or written, confidential or public, express or implied, are hereby superseded and replaced in full by this agreement, which constitutes the entire agreement between the parties and may not be effectively amended, changed, modified, or altered without the written consent and agreement of all parties.

17. Time of the Essence. Time limitations contained herein, or provided for hereby, are of the essence of this agreement.


18. Mutual Benefit. It is mutually agreed that this agreement shall be binding upon the parties hereto and their successors and approved assigns of the parties hereto. The District hereby represents that the term of this agreement is of benefit to the District to allow for future budgetary concerns and for planning purposes.


19. Effective Date. The effective date of this agreement shall be August 1, 2018.

Fremont County Solid Waste Disposal District

By:   
Mark Moxley, Chairman

Wind River Inter-Tribal Council

By:   
Clinton D. Wagon, Chairman  
Eastern Shoshone Business Council

By:   
Roy B. Brown, Chairman  
Northern Arapaho Business Council