
**BEFORE THE EXECUTIVE DIRECTOR OF THE
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

In the Matter of:

Franklin Hill Regional Landfill
Class I Solid Waste Landfill Permit
Permit Number 1402

**EXECUTIVE DIRECTOR'S DISMISSAL
OF BOX ELDER LAND AND WATER'S
PETITION FOR REVIEW FOR FAILURE
TO PROSECUTE**

May 22, 2020

FINDINGS OF FACT

1. On January 22, 2020, Box Elder Land and Water, LLC (Petitioner) filed its *Petition for Review* of the Director's issuance of the Franklin Hill Regional Landfill Class I Solid Waste Permit. On April 28, 2020, in accordance with Utah Administrative Code R305-7-114, the Director of the Division of Waste Management and Radiation Control (Director) gave notice to the Executive Director of the Department of Environmental Quality and to the parties that no one had requested appointment of an Administrative Law Judge (ALJ) in this matter within three months after Petitioner filed its *Petition for Review* in this matter.
2. The Director's notice said that absent a showing by May 15, 2020 of good cause for this lack of prosecution, the Executive Director shall dismiss the adjudication initiated by the *Petition for Review*.
3. Petitioner filed nothing in response to the Director's notice.
4. No party has requested the appointment of an Administrative Law Judge in this

matter. No party has shown good cause for not requesting the appointment of an Administrative Law Judge.

CONCLUSIONS OF LAW

5. Under Utah Administrative Code R305-7-114, if no one requests appointment of an Administrative Law Judge within three months after a Petition for Review is filed, the Executive Director, a party, or a putative party to the adjudicative proceeding may serve a written notification to the parties that, absent a showing of good cause by a date specified in the notification, the Executive Secretary shall dismiss the adjudication for lack of prosecution. In this matter, any showing of good cause was to be served and filed by May 15, 2020.

6. The Director's April 28, 2020 notice met the requirements of Utah Admin. Code R305-7-114(2).

7. Neither Petitioner nor any other party or putative party has shown good cause for not requesting the appointment of an Administrative Law Judge within three months after Petitioner filed its *Petition for Review*.

ORDER OF DISMISSAL

8. Therefore, Petitioner's *Petition for Review* is dismissed.

NOTICE OF RIGHT TO REQUEST JUDICIAL REVIEW

9. This Order is a final agency action on the *Petition for Review*. The Petitioner may seek judicial review of this Order in accordance with Sections 63G-4-401, 63G-4-403, and 63G-4-405 of the Administrative Procedures Act. Utah Code Section 19-1-301.5(16)(a). A party wishing to challenge this Order shall file a petition for judicial

review of this Order within 30 days after its issuance. Utah Code Section 63G-4-4-1(3)(a).

DATED this 22nd Day of May, 2020.

Signature: 
L. Scott Baird (May 22, 2020 09:38 MDT)

Email: scottbaird@utah.gov

SCOTT BAIRD
Executive Director, Department of
Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of May, 2020, I caused a copy of the forgoing **EXECUTIVE DIRECTOR'S DISMISSAL OF BOX ELDER LAND AND WATER'S PETITION FOR REVIEW FOR FAILURE TO PROSECUTE** to be sent by electronic mail to the following:

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Signature: *Becky Larsen*
Becky Larsen (May 22, 2020 09:39 MDT)

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