

Kelly Shaw, Wyo. Bar No. 7-5624
Stacia Berry, Wyo. Bar No. 7-5001
Koch Law, P.C.
121 W. Carlson St. #3
P.O. Box 2660
Cheyenne, WY 82003
Ph: (307) 426-5010
Fax: (307) 426-4927
kshaw@kochlawpc.com
stacia.berry@kochlawpc.com

Christopher Hawks, Wyo. Bar No. 5-2871
Hawks & Associates, LC
199 E. Pearl Ave. #103
P.O. Box 4430
Jackson, WY 83001
Ph: (307) 733-9437
Fax: (866) 220-6681
chris@hawksassociates.net

Attorneys for Intervenor Basecamp Teton WY SPV LLC

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

IN THE MATTER OF THE APPEAL)
OF PROTECT OUR WATER)
JACKSON HOLE FROM)
PERMIT NO. 2023-025) **Docket No. 23-3801**

BASECAMP’S RESPONSE IN OPPOSITION TO MOTION TO SUSPEND PERMIT

Intervenor Basecamp Teton WY SPV LLC (“Basecamp”), by and through its undersigned counsel, respectfully submits this response in opposition to the Motion to Suspend Permit (“Motion”) filed by Protect Our Water Jackson Hole (“POWJH”) on October 10, 2023.

BACKGROUND

Basecamp saw an unmet need in Teton County, and it met that need by creating a unique, upscale glamping experience that respects its natural surroundings. Basecamp constructed a series of small, low-impact, off-grid geodesic domes that will allow guests to experience Wyoming’s

natural beauty in an intimate way and with less impact to the land, environment, and surrounding area. Despite Basecamp's painstaking efforts to construct a natural, low-impact community, POWJH targets Basecamp with an appeal of its lawfully issued permit and now seeks to prohibit Basecamp's use of a septic system to responsibly manage its wastewater. Rather than proceeding through the normal procedures for a contested case, POWJH requests that the Council take the extraordinary step of suspending Basecamp's permit before the contested case can even begin. Because of the significant impact on Basecamp's legal rights and the damage a suspension would cause to Basecamp's business, Basecamp opposes this request.

As a preliminary matter, Basecamp agrees with and adopts all the arguments advanced in the "Department's Response Opposing Motion to Suspend Permit," filed October 24, 2023, and the "Department's Motion to Dismiss," filed November 29, 2023. Basecamp focuses its arguments in this Response on the issues that affect its interests most significantly.

ARGUMENT

The Council should deny POWJH's Motion to Suspend Permit for two reasons. First, the Council lacks the legal authority to grant interim remedies such as preliminary injunctions, stays, and suspensions. Second, the Council cannot take adverse action against Basecamp's permit without first allowing Basecamp the opportunity to demonstrate that its permit meets all statutory and regulatory requirements through an evidentiary hearing. Because POWJH requests that the Council suspend Basecamp's permit without a hearing, the Council should deny POWJH's motion.

I. THE COUNCIL LACKS AUTHORITY TO GRANT INTERIM REMEDIES.

The Council is empowered to act as the hearing examiner for the Department of Environmental Quality ("DEQ"), and in that capacity, it reviews decisions made by DEQ. W.S. § 35-11-112. However, the Council lacks legal authority to grant interim remedies such as

preliminary injunctions, stays, and suspensions. POWJH has characterized the request in its Motion to Suspend as a suspension, a stay, and an injunction. Although POWJH uses these terms interchangeably, they are not equivalent. A stay “stop[s] or arrest[s] a judicial proceeding.” Stay, Black’s Law Dictionary (2nd Ed. Online). A suspension “discontinue[s] [something] temporarily, but with an expectation or purpose of resumption[.]” Suspend, Black’s Law Dictionary (2nd Ed. Online). A preliminary injunction is a separate form of relief: an order to do or to not do something that is granted before a trial starts to prevent damage to one party. Preliminary Injunction, Black’s Law Dictionary (2nd Ed. Online). Each form of relief derives from a specific type of authority and applies in specific situations, but none is applicable or available here.

None of the potential sources of authority to grant interim remedies of preliminary injunctions, stays, and suspensions apply to the Council. The Council does not have authority to grant preliminary injunctions pursuant to Wyoming Rule of Civil Procedure 65. The Council does not have judicial authority to stay a DEQ permit. And the Council does not have authority to suspend a permit as an interim remedy.

A. THE COUNCIL CANNOT ISSUE PRELIMINARY INJUNCTIONS.

The Council lacks legal authority to grant preliminary injunctions because its rules do not incorporate Wyoming Rule of Civil Procedure 65. Rule 65 allows courts to issue preliminary injunctions. Although the Council’s rules incorporate other rules of civil procedure, they do not incorporate Rule 65 specifically.

A state agency must follow a specific procedure to incorporate other rules into its rules by reference:

An agency may incorporate, by reference in its rules and without publishing the incorporated matter in full, all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this state, another state or by a nationally recognized organization or association, provided:

- (i) The agency determines that incorporation of the full text in agency rules would be cumbersome or inefficient given the length or nature of the rules;
- (ii) The reference in the rules of the incorporating agency fully identifies the incorporated matter by location, date and otherwise, and states that the rule does not include any later amendments or editions of the incorporated matter;
- (iii) The agency, organization or association originally issuing the incorporated matter makes copies of it readily available to the public;
- (iv) The incorporating agency maintains and makes available for public inspection a copy of the incorporated matter at cost from the agency and the rules of the incorporating agency state where the incorporated matter is available on the internet as defined in W.S. 9-2-3219(a)(iii); and
- (v) The incorporating agency otherwise complies with all procedural requirements under this act and the rules of the registrar of state agency rules governing the promulgation and filing of agency rules.

W.S. § 16-3-103(h). Most importantly, to incorporate a rule by reference, the incorporating agency must fully identify the rule that it incorporates. W.S. § 16-3-103(h)(ii). Because the Council's rules do not fully identify Wyoming Rule of Civil Procedure 65, they do not incorporate Rule 65 and its contained authority to grant preliminary injunctions.

The Council's rules fully identify and incorporate other rules of civil procedure. Specifically, the rules incorporate by reference Rule 11, Rule 12(b)(6), Rule 24, Rule 45, Rule 52, Rule 56, and Rule 56.1. Rules, Wyo. Dep't of Env'tal Quality, Practice and Procedure, Ch. 2, § 2. If the Council had intended to incorporate other rules from the Wyoming Rules of Civil Procedure, it could have done so, but it did not. Similarly, while the Wyoming Administrative Procedure Act adopts other rules of civil procedure—Rule 26 and Rules 28 through 37—it does not adopt Rule 65. Because Rule 65 has not been incorporated into either the Council's rules or the Wyoming Administrative Procedure Act, Rule 65 has not been adopted for contested cases. Therefore, preliminary injunctions are not available to the Council under its rules.

The rules' statement that "[t]he Council shall conduct all contested case hearings with reference to the Wyoming Rules of Civil Procedure" is insufficient to incorporate Rule 65 and the authority to grant preliminary injunctions. *See* Wyo. Dep't of Env'tal Quality, Practice and Procedure, Ch. 2, § 2. That statement does not fully identify Rule 65 and does not identify the date of the rule that would apply. Without fully identifying the rule or specifying the version that applies, no incorporation of a rule of civil procedure is valid. *See* W.S. § 16-3-103(h)(ii). The legal requirements for rule adoption are strict: failure to fully comply with the Wyoming Administrative Procedure Act renders any resulting rule invalid. *Beppler v. Uinta Cty. Sch. Dist. No. One*, 2020 WY 149, ¶ 3 (declaring a rule not adopted in compliance with the Wyoming Administrative Procedure Act invalid, null, and void). Because the requirement to conduct contested cases "with reference to the Wyoming Rules of Civil Procedure" does not meet the statutory requirements to incorporate rules other than those specifically identified and incorporated, it does not incorporate rules other than the ones specifically listed.

If the Council issued a preliminary injunction in this case, it would be applying a rule that it never fully identified, incorporated by reference, or adopted. Put more bluntly, granting a preliminary injunction on the basis of a rule that is not incorporated into the Council's rules of practice and procedure would be arbitrary, capricious, an abuse of discretion, in excess of statutory jurisdiction, and without observance of procedure required by law. *See* W.S. § 16-3-114(c)(ii)(A), (C), and (D). Granting POWJH's request by issuing a preliminary injunction would be reversible error under the Wyoming Administrative Procedure Act. *See id.* Therefore, the Council does not have legal authority to grant a preliminary injunction and should deny POWJH's Motion to Suspend to the extent that it requests a preliminary injunction.

B. THE COUNCIL CANNOT STAY A DEQ PERMIT.

The Council's authority as hearing examiner does not empower it to grant stays of DEQ permits. In general, a court can grant a stay that temporarily pauses its own proceedings or orders. For example, courts often stay their own proceedings when a different case needs to be completed before the court can act. Courts may stay a civil case while criminal charges on the same conduct proceed, or courts may stay one case while a nearly-identical case proceeds to avoid duplicative litigation and rulings. *E.g., SEC v. Telexfree, Inc.*, 52 F. Supp. 3d 349, 352-53 (D. Mass. 2014). Courts can also stay their own orders or judgments while an appeal proceeds. *Stays*, 106 Calif. L. Rev. 869, 871-72. Here, POWJH's request that the Council stay a DEQ permit seeks something else. Rather than requesting that the Council stay its own proceedings or stay the effectiveness of its own order, POWJH asks the Council to stay a decision of DEQ.

POWJH's request shows a fundamental misunderstanding of the complementary roles of the Council and DEQ. The Wyoming Legislature established the Council as a check and balance on DEQ. In virtually every aspect of their shared authority, the Council and DEQ play a particular role: DEQ acts in the first instance, and the Council reviews that action. DEQ has authority to issue cease and desist orders, and the Council has authority to review those orders. *Compare* W.S. § 35-11-701(c) *with* § 35-11-112(a)(iii). The Council cannot issue cease and desist orders on its own, nor can DEQ review an order issued by the Council. *See id.* DEQ conducts preliminary rulemaking to draft and recommend rules to the Council, and the Council reviews and promulgates those rules. W.S. § 35-11-112(a)(i), (ii); *see also* Rules, Wyo. Dep't of Env'tal Quality, Practice and Procedure, Ch. 3. The Council cannot draft and recommend rules in the first instance, nor can DEQ review and promulgate its own rules without the Council. *See id.* The same is true for permits: DEQ issues permits in the first instance, and the Council reviews any challenges to those permits.

Compare W.S. § 35-11-801(a) *with* § 35-11-112(a)(iv). Naturally, the Council does not issue permits, and DEQ does not review and decide challenges to the permits it issues. *See id.* Asking the Council to stay the effectiveness of a DEQ permit, outside of its normal authority to review decisions as a hearing examiner, reverses these roles. Staying the effectiveness of a DEQ permit places the Council in the role of permit issuer or denier, rather than in its rightful role as permit reviewer. The Council may well have authority to stay the effectiveness of its own decisions, but that is not what POWJH is requesting here.

The Council can take a wide variety of actions when it reviews DEQ permits, but staying a permit is not among those options. The Environmental Quality Act authorizes the Council to “[o]rder that any permit... be granted, denied, suspended, revoked or modified[.]” W.S. § 35-11-112(c)(ii). “Where a statute enumerates the subjects or things on which it is to operate... it is to be construed as excluding from its effect all those not expressly mentioned[.]” *Wyrulec Co. v. Schutt*, 866 P.2d 756, 760-61 (Wyo. 1993) (internal quotation marks and citations omitted). Because the Environmental Quality Act specifically lists the Council’s powers to review permits—allowing it to order a permit be granted, denied, suspended, revoked, or modified—it implicitly excludes the power to stay a permit, which is a separate remedy.

Furthermore, just as the Council cannot grant preliminary injunctions because it has not adopted, incorporated, or been granted authority to do so, it also cannot grant stays of DEQ permits. No rule or statute specifically authorizes the Council to grant stays. Without a specific grant of authority to stay DEQ permits, the Council is without authority to exercise such a power. *See Platte Dev. Co. v. EQC*, 966 P.2d 972, 975 (Wyo. 1998).

Finally, POWJH’s reliance on a prior case to demonstrate that the Council can grant stays is misplaced. POWJH relies on *Big Horn* for its argument that the EQC has authority to stay a

permit. (See Mot. to Suspend Permit, dated Oct. 10, 2023, p. 4 (citing *In the Matter of: Petitioner Big Horn LLC*, Permit No. WYW0027731)). However, in the *Big Horn* case, neither party opposed the request for a stay, and a stay was likely already in place by operation of law, rendering the Council’s grant of a stay procedurally moot. (“Notice of Nonopposition to Petitioner’s Request for Stay,” Jan. 11, 2022, EQC Docket No. 21-3601, ¶ 4). The permit at issue was not a new permit, but instead, a renewal permit. (“Appeal of Discharge Permit Renewal and Request for Stay,” Nov. 23, 2021, EQC Docket No. 21-3601, ¶¶ 1-2). The party seeking the stay in *Big Horn* was the permittee itself, and the permittee requested to stay the effectiveness of a renewal permit that imposed additional, new obligations on the permittee. (See *id.*). By virtue of the appeal it filed, the renewal permit was likely already stayed. When a permittee “has made timely and sufficient application for the renewal of a [permit]... the existing [permit] does not expire until the application has been finally determined by the agency[.]” W.S. § 16-3-113(b). Thus, the existing permit continued in effect until finally determined by DEQ and the Council. Because neither party opposed the request for a stay, and the new permit was already stayed by operation of law, the Council did not consider or determine whether it had authority to grant such a stay. POWJH cannot rely on *Big Horn* to prove that the Council has authority to grant stays, or that DEQ is estopped from denying that such authority exists. Because the Council does not have the authority to stay permits, it should deny Basecamp’s Motion to Suspend on those grounds.

C. THE COUNCIL CANNOT SUSPEND A PERMIT AS AN INTERIM REMEDY.

The Environmental Quality Act does not authorize the Council to suspend a permit as an interim remedy. A permit can be suspended in only two ways. First, the Director of DEQ may “[i]ssue, deny, amend, **suspend** or revoke permits[.]” W.S. § 35-11-109(a)(xiii) (emphasis

added).¹ Second, the Council may “[o]rder that any permit, license, certification or variance be granted, denied, **suspended**, revoked or modified[.]” W.S. § 35-11-112(c)(ii) (emphasis added). While the Director and the Council unquestionably have the authority to suspend permits, that authority is limited by procedural requirements and due process concerns. Procedural prerequisites and due process concerns foreclose the possibility of the Council suspending a permit as an interim remedy.

While it grants the Director and the Council the authority to suspend permits, the Environmental Quality Act also recognizes that both the Director and the Council must abide by the general requirement to provide permittees with notice and opportunity for a hearing before suspending a permit. One of the Council’s duties is to “[c]onduct hearings in any case contesting the grant, denial, suspension, revocation or renewal of any permit, license, certification or variance authorized or required by this act[.]” W.S. § 35-11-112(a)(iv). Any time the Director suspends a permit, then, a permittee can demand a hearing before the Council. *See id.* The Wyoming Administrative Procedure Act provides a backstop that ensures a suspension issued by the Director is not effective unless and until such a hearing is held. W.S. § 16-3-113(c). It states:

No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license.

Id. Similarly, although the Council can also suspend permits, it can do so only after providing a permittee with notice and an opportunity to be heard. The Council’s authority to suspend permits is “[s]ubject to any applicable state or federal law[.]” W.S. § 35-11-112(c). Again, because state

¹ While the division administrators may “make recommendations to the director regarding the issuance, denial, amendment, suspension or revocation of permits[.]” they do not possess authority to suspend permits on their own. W.S. § 35-11-110(a)(ii).

law requires notice and an opportunity to be heard before a suspension is effective, the Council's authority to suspend permits is expressly conditioned on providing that opportunity. Granting a suspension as an interim remedy fails to comply with the requirement that the Council provide a permittee with notice and an opportunity to show compliance. Therefore, the Council lacks legal authority to suspend permits as an interim remedy, and the Council should deny POWJH's motion to suspend Basecamp's permit.

II. THE COUNCIL MUST ALLOW BASECAMP THE OPPORTUNITY TO SHOW COMPLIANCE BEFORE TAKING ADVERSE ACTION ON ITS PERMIT.

Basecamp's business depends on its ability to safely manage wastewater at its glamping community. Without the small wastewater permit it holds, and the on-site septic system the permit authorizes, Basecamp has no other option to safely manage wastewater at its remote, off-grid location. Because the permit is integral to Basecamp's business, Basecamp ensured that it complied with all applicable laws and regulations when it applied for and received its permit. Wyoming law recognizes the significant, protected interests permittees have in crucial permits like Basecamp's DEQ-issued permit. The rights granted by permits are so important that state agencies cannot suspend those rights without providing permittees notice and an opportunity to be heard. Before the Council can take any adverse action on Basecamp's permit, it must allow Basecamp an opportunity to show compliance at an evidentiary hearing.

A. BASECAMP HAS A LEGALLY PROTECTABLE INTEREST IN ITS PERMIT THAT INCLUDES THE RIGHT TO DUE PROCESS OF LAW.

Basecamp's interests in its permit are legally protected at several levels. A DEQ-issued permit is a type of license that includes the right to notice and an opportunity for a hearing before it can be suspended. *See* W.S. § 16-3-101(b)(iv) ("Licensing' includes the agency process

respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license[.]”). A DEQ-issued permit is also protected by the United States Constitution and the Wyoming Constitution. The United States Constitution provides, “No State shall... deprive any person of life, liberty, or property, without due process of law[.]” U.S. Const. Amend XIV, § 1. The Wyoming Constitution provides similar protections and states, “No person shall be deprived of life, liberty or property without due process of law.” Wyo. Const. Art. I, § 6. Wyoming’s Administrative Procedure Act reiterates that these protections extend to licenses and permits like the one held by Basecamp. *See* W.S. § 16-3-113(c). Finally, the Environmental Quality Act also recognizes permittees’ property interest in permits by ensuring that permittees can appeal suspensions issued by the Director and by requiring the Council to conduct hearings prior to issuing or affirming a permit suspension. W.S. § 35-11-112(a)(iv). From the federal and state constitutions, to state administrative and environmental laws, permittees’ rights to due process are protected at every level. The Council cannot take adverse action against Basecamp’s permit without first providing Basecamp with the due process to which it is entitled.

When the Council granted an unopposed request for a stay in the *Big Horn* case, its action did not raise concerns about the permittee’s due process. *See In the Matter of: Petitioner Big Horn LLC*, Permit No. WYW0027731, EQC Docket No. 21-3601). Crucially, in the *Big Horn* case, the party seeking to stay the permit was the permittee itself. (“Appeal of Discharge Permit Renewal and Request for Stay,” Nov. 23, 2021, EQC Docket No. 21-3601, ¶¶ 1-2). The permittee requested to stay the effectiveness of a renewal permit that imposed additional, new obligations on the permittee. (*See id.*). Staying the renewed permit allowed the permittee to continue operating under the terms of its existing permit while the Council reviewed the renewal permit and resolved the disputed terms. (*Id.*, ¶ 49). In *Big Horn*, the stay granted by the Council preserved the status quo

and the permittee's existing rights. ("Order Granting Stay," Jan. 12, 2022, EQC Docket No. 21-3601). The request for stay was also unopposed. ("Notice of Nonopposition to Petitioner's Request for Stay," Jan. 11, 2022, EQC Docket No. 21-3601, ¶ 4). Because the stay in *Big Horn* was unopposed, was requested by the permittee, and preserved the permittee's rights, granting the stay did not implicate due process concerns. In fact, because the permittee's appeal was based on an argument that its due process rights were violated, the filing of the stay actually protected the permittee's due process rights and the status quo.

Unlike the stay granted in *Big Horn*, suspending Basecamp's permit would raise significant due process concerns. The permit at issue here is an original permit, not a renewal permit. If Basecamp's permit is suspended, it cannot fall back on an existing permit the way the *Big Horn* permittee did. Suspending Basecamp's permit will eliminate Basecamp's rights, not preserve them. For those reasons, Basecamp opposes a stay or suspension in this case. The significant differences between the *Big Horn* appeal and this case highlight the need to protect Basecamp's procedural and substantive due process rights. Protecting those rights requires the Council to provide Basecamp with an opportunity for a hearing before it suspends, stays, or takes any other adverse action on Basecamp's permit.

B. BASECAMP'S DUE PROCESS RIGHTS INCLUDE THE RIGHT TO AN EVIDENTIARY HEARING.

As the permit holder, Basecamp deserves an opportunity to show its compliance, present evidence in its favor, and confront witnesses to demonstrate that its permit is in compliance with all applicable laws and regulations. In determining how much "process" is "due" under the due process clause, the Wyoming Supreme Court has said:

[I]n administrative proceedings of a quasi-judicial character the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play. These

demand “a fair and open hearing[.]” ... Such a hearing has been described as an “inexorable safeguard.”

The right to a hearing embraces not only the right to present evidence but also a reasonable opportunity to know the claims of the opposing party and to meet them. The right to submit argument implies that opportunity; otherwise the right may be but a barren one.

Bd. of Cty. Comm'rs v. Teton Cty. Youth Servs., 652 P.2d 400, 412 (Wyo. 1982) (quoting *Morgan v. United States*, 304 U.S. 1, 14, 58 S. Ct. 773, 82 L. Ed. 1129, (1938)). The process due to Basecamp includes, at a minimum, the right to a fair and open hearing.

First, the Council must allow Basecamp to present evidence and show it complied with all applicable laws and regulations. Specifically, Basecamp can show that it complied with the Environmental Quality Act and the Water Quality Division’s permitting rules, and the Council must afford it an opportunity to do so. In another case challenging the propriety of a septic system in Teton County, the Council gave a permittee the opportunity to present evidence about its permitting efforts, characteristics of the area, and testimony from several witnesses, including engineers and hydrologists. *Knight v. Env'tl. Quality Council*, 805 P.2d 268, 275 (Wyo. 1991). Basecamp is entitled to the same opportunity here. An evidentiary hearing will provide Basecamp with an opportunity to show its compliance with all applicable laws and regulations.

Second, the Council must ensure Basecamp has adequate notice of the basis for challenging its permit, and the opportunity to show compliance on each issue. POWJH alleges a number of deficiencies in Basecamp’s permit. In its Motion to Suspend, it alleges that “Basecamp purported to submit a wetlands delineation by the Army Corps of Engineers” and “DEQ relied on Basecamp’s unsubstantiated representation that a line on a map represented the extent of surface water, without any support.” (Mot. to Suspend Permit, dated Oct. 10, 2023, p. 2). In its original appeal, POWJH also alleges that Basecamp’s septic system does not meet the minimum required

setback distance to “surface water or spring, including ‘seasonal and intermittent’” and wetlands. (Appeal of Notification of Coverage, dated Aug. 11, 2023, ¶¶ 24-27). POWJH also claims that Basecamp’s system does not meet other requirements of Teton County’s Small Wastewater Facility Regulations. (*Id.*, ¶¶ 30-31). POWJH further claims that Basecamp’s permit will not protect water quality in nearby Fish Creek. (*Id.*, ¶ 36). Additionally, POWJH alleges that DEQ did not appropriately consider alternatives, required an inadequate monitoring program, and improperly located monitoring wells. (*Id.*, ¶¶ 39-44). Frankly, the quantity and scope of the deficiencies POWJH alleges mandates a full evidentiary hearing to clarify issues and present adequate evidence for the Council to decide each of POWJH’s allegations.

Third, an evidentiary hearing is necessary to allow Basecamp to challenge and confront POWJH’s claimed evidence against it. For example, POWJH claims that its environmental consultant conducted site visits on two occasions and produced a diagram “that depicts wetland boundaries and shows encroachments into wetlands[.]” (*Id.*, ¶ 29). Basecamp deserves the opportunity to examine this evidence; to conduct discovery about the diagram, the person who produced the diagram, and the methods used to produce it; and to marshal its own evidence. The best way to resolve these issues is through a full, fair contested case, as envisioned and required by Wyoming law. Because an evidentiary hearing is required prior to taking adverse action against Basecamp’s permit, the Council should deny POWJH’s Motion to Suspend.

CONCLUSION

For the foregoing reasons, Basecamp respectfully requests that the Council deny POWJH’s motion to suspend its permit. Additionally, Basecamp demands that prior to any adverse action against its permit, the Council set an evidentiary hearing to allow Basecamp to present evidence and testimony in support of its permit.

Respectfully submitted this 8th day of December, 2023.

/s/ Kelly Shaw

Kelly Shaw, Wyo. Bar No. 7-5624

Stacia Berry, Wyo. Bar No. 7-5001

KOCH LAW, P.C.

121 W. Carlson St. #3

P.O. Box 2660

Cheyenne, WY 82003

Ph: (307) 426-5010

Fax: (307) 426-4927

kshaw@kochlawpc.com

stacia.berry@kochlawpc.com

Christopher Hawks, Wyo. Bar No. 5-2871

Hawks & Associates, LC

199 E. Pearl Ave. #103

P.O. Box 4430

Jackson, WY 83001

Ph: (307) 733-9437

Fax: (866) 220-6681

chris@hawksassociates.net

*Attorneys for Intervenor Basecamp Teton WY SPV
LLC*

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of December, 2023, a true and correct copy of the foregoing **BASECAMP'S RESPONSE IN OPPOSITION TO MOTION TO SUSPEND PERMIT** was filed and served in accordance with by uploading to Docket Entry No. 23-3801 at wyomingeqc.wyo.gov, in accordance with Rules of Practice and Procedure, Chapter 2, Section 5(b).

/s/ Kelly Shaw
KOCH LAW, P.C.