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

IN THE MATTER OF APPEAL OF:)
) **DOCKET NO. 24-4801**
LIMITED MINING OPERATION,)
PEAK GRAVEL, ET0961, TFN 7 6/211)

MOTION TO DISMISS FOR WANT OF SUBJECT MATTER JURISDICTION

THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY-LAND QUALITY DIVISION (“DEQ-LQD”), by and through its undersigned counsel Gregory Weisz, hereby moves the Environmental Quality Council (“Council”) for an order dismissing this appeal due to lack of subject matter jurisdiction, for the reasons set forth below:

Appeals to the Council must be specifically authorized

“There is no inherent right to appeal from administrative action; rather, any such right is limited as described in the statute.” *Mountain Cement Co. v. South of Laramie Water & Sewer Dist.*, 2011 WY 81, ¶ 20, 255 P.3d 881, 887 (Wyo. 2011) (citing *Holding’s Little Am. v. Bd. of County Comm’rs of Laramie County*, 670 P.2d 699, 702 (Wyo. 1983) (and cases cited therein)).

In accord with the above-described holding, the Council’s rules specifically state that only “[w]here authorized by the Wyoming Environmental Quality Act, appeals to the Council from final actions of the Administrators or Director shall be made within thirty (30) days of notification of such action.” *Rules, Wyo. Dep’t of Env’tl. Quality, Practice and Procedure*, ch. 1, § 8(a). Thus,

in order for this appeal to continue, the Petitioners must point to an express provision of the Wyoming Environmental Quality Act (“WEQA”) authorizing the appeal, or to a rule enacted pursuant to the WEQA. As explained below, there is no statute or rule authorizing this appeal.

Subject matter jurisdiction

“Subject matter jurisdiction is ‘the power to hear and determine cases of the general class to which the proceedings in question belong.’” *Amoco Production Co. v. Wyoming State Bd. of Equalization*, 7 P.3d 900, 904 (Wyo. 2000) (citation omitted). “Subject matter jurisdiction is essential to the exercise of judicial power. If a court does not have subject matter jurisdiction, it lacks any authority to proceed, and any decision, judgment, or other order is, as a matter of law, utterly void and of no effect for any purpose.” *Elliot v. Natrona County Board of Commissioners*, 2023 WY 61, ¶ 9, 530 P.3d 1078, 1082 (Wyo. 2023) (citations omitted).

Subject matter jurisdiction applies equally to both courts and administrative agencies. *Amoco Production Co.*, 7 P.3d at 904. “An administrative agency is limited in authority to powers legislatively delegated. ‘Administrative agencies are creatures of statute and their power is dependent upon statutes, so that they must find within the statute warrant for the exercise of any authority which they claim.’” *Hayse v. Wyo. Bd. of Coroner Standards*, 2020 WY 4, ¶ 11, 455 P.3d 267, 273 (Wyo. 2020) (quoting *Amoco Production Co. v. Wyo. State Bd. of Equalization*, 12 P.3d 668, 673 (Wyo. 2000) (internal citation omitted)).

“[R]easonable doubt of the existence of a power must be resolved against the exercise thereof. A doubtful power does not exist.” *Mayland v. Flitner*, 2001 WY 69, ¶ 47, 28 P.3d 838, 854 (Wyo. 2001) (citing *French v. Amax Coal West*, 960 P.2d 1023, 1027 (Wyo. 1998)). “An agency does not have discretion in determining whether or not it has subject matter jurisdiction; subject matter jurisdiction either exists or it does not.” *Amoco Production Co.*, 7 P.3d at 904

(citation omitted). “If an agency lacks subject matter jurisdiction, any proceeding conducted by it has a fundamental defect, ‘which cannot be cured by waiver or consent by the parties.’” *Id.* (citing *Weller v. Weller*, 960 P.2d 493, 496 (Wyo. 1998)).

Thus, in the absence of an express grant of authority to hear this appeal, the Council must dismiss Petitioners’ appeal. In order for this Council to have proper subject matter jurisdiction for an appeal of a limited mining operation notification, a statute or rule must give Petitioners the right to appeal to the Council. *See Amoco Production Co.*, 7 P.3d at 904. Without such a statute or regulation expressly vesting the Council with subject matter jurisdiction, the Council simply cannot proceed.

There is no statute or regulation authorizing this appeal

Petitioners cannot cite any applicable statute or rule authorizing an appeal of a limited mining operation notice. Rather, Petitioners cited Wyoming Statute § 35-11-801(d) as a basis for this appeal. That statute, however, pertains only to a “general permit.”

The WEQA does not define the phrase “general permit,” but it is a phrase common to environmental regulatory agencies, understood to mean a permit that applies to a category of activities or similar emissions by one or more emitters that can be regulated by the same or similar conditions. Affidavit of Todd Parfitt. The Wyoming Department of Environmental Quality (“DEQ”) issues general permits for certain discharges relating to water quality and certain solid waste management activities. *Id.*

At the federal level, a general permit has been defined as:

[a permit] that is issued on a nationwide or regional basis for a category or categories of activities when:

- (1) Those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or

(2) The general permit would result in avoiding unnecessary duplication of the regulatory authority exercised by another Federal, state, or local agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal.

Wyoming Outdoor Council Powder River Basin Res. Council v. U.S. Army Corps of Engineers, 351 F. Supp. 2d 1232, 1253–54 (D. Wyo. 2005) (citing 33 C.F.R. § 322.2(f)(1)(2)). Similarly, the federal rules implementing the Clean Water Act define a general permit as a “NPDES ‘permit’ issued under [40 C.F.R.] § 122.28¹ authorizing a category of discharges under the CWA within a geographical area.” 40 C.F.R. § 122.2(a). With respect to solid waste management, the DEQ Solid and Hazardous Waste Division has the authority to issue general permits for closure of municipal solid waste landfills. Wyo. Stat. Ann. § 35-11-531.

Notably, however, the portions of the WEQA pertaining to land quality and mining regulation in Article 4 of Title 35, Chapter 11 do not contain any provisions for issuance of general permits for mining. Affidavit of Todd Parfitt; Affidavit of Kyle Wendtland.

Thus, Petitioners’ reliance on Wyoming Statute § 35-11-801(d) pertaining to appeals of general permits is inapplicable on its face. Moreover, as explained below, not only is a Limited Mining Operation notification not a “general permit,” it is not a “permit” at all.

Section 112 of the WEQA does not provide subject matter jurisdiction for this appeal

The other basis the Petitioners seem to rely on as a supposed basis for appeal is Wyoming Statute § 35-11-112 (“Section 112”). Section 112 does not authorize this appeal. The Wyoming Supreme Court considered Section 112 in *Wyoming Dept. of Env’tl. Quality v. Wyoming Outdoor Council*, 2012 WY 135, 286 P.3d 1045 (Wyo. 2012) (“*WOC*”). This statute does not provide a

¹ 40 C.F.R. § 122.28 authorizes state environmental regulatory agencies such as the Wyoming DEQ to issue general permits under the Clean Water Act.

general right of appeal to the Council; it merely authorizes this Council to conduct hearings in cases in which the Council otherwise has been given jurisdiction to hear an appeal from a DEQ decision. Said differently, Section 112 confirms the Council's power to preside over contested cases generally, if a right to a contested case is granted elsewhere in the WEQA or an administrative rule that implements the WEQA.

The *WOC* case involved the DEQ's issuance of two permits governing the discharge of water produced from coalbed methane production. *Id.* at 1047. The DEQ's Water Quality Division had issued two water quality permits pursuant to Chapter 2 of its Water Quality rules, which regulate point-source discharges into surface waters. *Id.* at 1048. The *WOC* case examined the question, when the WEQA itself was silent, whether the agency could grant an interested party the right of appeal through rules. *Id.* at 1047.

While the *WOC* court noted that the **WEQA** was silent as to a right to appeal to the Council, the **DEQ's Water Quality rules** granted a right of appeal to the Council to any "interested person." *See Rules, Wyo. Dep't of Env'tl. Quality, Water Quality*, ch. 2, § 17. The Chapter 2 rule stated that "[i]n any case where the director makes a decision to issue, modify, or terminate a permit [. . .] any interested person may request a hearing before the Environmental Quality Council." *Rules, Wyo. Dep't of Env'tl. Quality, Water Quality*, ch. 2, § 17. The *WOC* Court found that this rule established the right for an interested person to bring an appeal, relying on the Council's rulemaking authority. *Id.* at 1053.

While the *WOC* case found that a grant of a right to appeal by rule was permissible, with respect to the limited mining operation in the case at bar there is no rule granting of a right of appeal, as discussed further below.

Section 112 defines the relief the Council can/cannot provide

One final reference to Section 112: its express language further demonstrates that the Council does not have the authority to take any action with respect to the LMO notification giving rise to Petitioners' LMO appeal.

In construing a statute, the Council must determine the intent of the legislature. *Skoric v. Park Cnty. Cir. Ct.*, 2023 WY 59A, ¶ 9, 532 P.3d 667, 669 (Wyo. 2023) (citing *Amoco Prod. Co. v. Dep't of Revenue*, 2004 WY 89, ¶ 34, 94 P.3d 430, 444 (Wyo. 2004)). However, “[o]nly if a statute is ambiguous” will a court reach the question of legislative intent. *Sinclair Oil v. Wyo. Dep't of Revenue*, 2010 WY 122, ¶ 7, 238 P.3d 568, 571 (Wyo. 2010). If the statute is unambiguous a court will give effect to the plain language of the statute. *Id.*

Thus, the Council should first look at the plain language used by the legislature. *Skoric*, 532 P.3d at 670. If the statute is “sufficiently clear and unambiguous, the Court simply applies the words according to their ordinary and obvious meaning.” *Id.* (citing *In re BG*, 2023 WY 40, ¶ 10, 528 P.3d 402, 407 (Wyo. 2023)). “A statute is clear and unambiguous if ‘its wording is such that reasonable persons are able to agree on its meaning with consistency and predictability.’” *Id.* (quoting *Spence v. Sloan*, 2022 WY 96, ¶¶ 34-35, 515 P.3d 572, 581-82 (Wyo. 2022)).

Moreover, the Council must consider statutory language *in pari materia*, which means the Council must “construe statutes as a whole, giving effect to every word, clause, and sentence, and we construe together all parts of the statutes on the same subject.” *Id.* (quoting *In re BG*, 528 P.3d at 407). Finally, rules of statutory construction require the Council to read the statute in a way to avoid making provisions meaningless. *See Matter of Est. of Britain*, 2018 WY 101, ¶ 28, 425 P.3d 978, 987 (Wyo. 2018).

In construing Section 112 *in pari materia* it is clear this Council cannot provide any relief to the Petitioners, as the Wyoming Legislature carefully spelled out the limited forms of relief the Council can provide to an appellant in Wyoming Statute § 35-11-112(c), which provides that:

(c) Subject to any applicable state or federal law, and subject to the right to appeal, the council may:

(i) Approve, disapprove, repeal, modify or suspend any rule, regulation, standard or order of the director or any division administrator;

(ii) Order that any permit, license, certification or variance be granted, denied, suspended, revoked or modified;

(iii) Affirm, modify or deny the issuance of orders to cease and desist any act or practice in violation of the laws, rules, regulations, standards or orders issued or administered by the department or any division thereof. Upon application by the council, the district court of the county in which the act or practice is taking place shall issue its order to comply with the cease and desist order, and violation of the court order may be punished as a contempt.

Wyo. Stat. Ann. § 35-11-112(c).

Taking action regarding a LMO notification does not fall within any of the three categories of relief the Council has authority to provide under WEQA Section 112. It is obvious a LMO notification does not fall within the parameter of subsections (i) or (iii) quoted above. Most importantly, as explained below, a LMO notification is not a permit that would fall within the relief available under subsection (ii).

In essence, by challenging the LMO notification in this case, the Petitioners are asking that the Council issue a declaration with respect to the propriety of the LMO notification. However, the Council does not have the authority to issue a declaratory judgment; only “[c]ourts of record within their respective jurisdictions may declare rights, status and other legal relations.” Wyo. Stat. Ann. § 1-37-102. Obviously, the Council is not a “court of record.” *See also Best v. Best*, 2015

WY 133, ¶ 20, 357 P.3d 1149, 1154 (Wyo. 2015) (even a Wyoming circuit court does not have jurisdiction to issue a declaratory judgment unless it has jurisdiction arising under some other statutory basis).

In sum, the Council should read the plain language of subsection (c) of Section 112 and to consider it in context with the remainder of that statute, the rest of the WEQA, and the WEQA implementing regulations. Section 112, when read *in pari materia* with the remainder of the WEQA and the WEQA rules demonstrates that the Wyoming Legislature and this Council did not intend Section 112 to operate as a general grant of jurisdiction to entertain appeals of all DEQ-LQD matters. Rather, as discussed further below, there are twenty-six (26) statutory rights of appeal (Appendix A) and twenty-eight (28) regulatory rights of appeal (Appendix B) that define the Council's subject matter jurisdiction.

A LMO Notification is not a permit

It is important the Council recognize that the limited mining operations (“LMO”) statute, Wyoming Statute § 35-11-401(e)(vi), does not provide for issuance of a permit. Rather, the LMO statute is only a notification statute; it does not result in acquisition of a mining permit.

The fact that a LMO notification is not a permit is borne out by another provision of the WEQA which defines a “mining permit” as a “certification that the tract of land described may be mined by an operator licensed to do so in conformance with an approved mining plan and reclamation plan.” Wyo. Stat. Ann. § 35-11-405(a). For a LMO, the operator is not required to submit a mining operation plan or a reclamation plan to the DEQ-LQD. *See, e.g.*, absence of any such requirements in Wyoming Statute § 35-11-401(e)(vi) and Affidavit of Kyle Wendtland. The only approval the DEQ-LQD provides in relation to a LMO notification is an acknowledgement that the LMO operator has tendered the reclamation bond amount required by the LMO statute.

Affidavit of Kyle Wendtland. Finally, and most importantly the DEQ-LQD regulations do not provide for any appeal of a LMO notification to the Council. *Id.*

The WEQA and DEQ/EQC WEQA rules expressly authorize EQC appeals in certain—but not all—instances

As further demonstration that the Petitioners in this matter cannot cite to any statute or regulation authorizing their appeal, the Council should consider the numerous instances in which the WEQA or regulations promulgated to implement the WEQA provide for appeals to the Council. As shown on Appendix A hereto there are approximately twenty six (26) statutory rights to appeal a DEQ decision. Moreover, the Department and the Council, through rulemaking authority granted under Wyo. Stat. Ann. § 35-11-112, have created twenty-eight (28) regulatory bases for appeal. *See* Appendix B.

Given the Legislature's action in creating approximately twenty-six (26) statutory rights of appeal and agency rulemaking that provides for an additional twenty-eight (28) rights of appeal, it is clear that in order for Petitioners to continue this appeal they must be able to point to either a statutory or regulatory right to appeal to the Council. This they cannot do.

The express delineation of appeal rights in Appendix A and Appendix B show that no such appeal right with respect to a LMO notification exists. If this Council were to infer some implied basis for an appeal in this case, doing so would render the statutory and regulatory rights for Council appeals (over 54 such appeal rights) completely superfluous. Both the Legislature and the DEQ have seen fit to expressly define the cases in which a person can appeal a DEQ agency decision to the Council. An appeal of the LMO notification is not such an instance.

To further compound the issue, the WEQA and the WEQA rules also vary in the specific language used to describe who may seek administrative or judicial review. The Supreme Court presumes that “the legislature acts intentionally when it uses particular language in one statute, but not another.” *Rodriguez v. Casey*, 2002 WY 111, ¶ 10, 50 P.3d 323, 327 (Wyo. 2002) (citations omitted).

For example, Wyoming Statute § 35-11-801(d) states that “[a]ny aggrieved party may appeal” a DEQ authorization granted under a general permit “as provided in this act.” The WEQA then defines “aggrieved party” as “any person named or admitted as a party to any proceeding under this act because of damages that person may sustain or be claiming because of his unique position in any proceeding held under this act[.]” However, WEQA Statute § 35-11-802 explicitly provides that only permit “applicants” have a right to “petition for hearing before the council to contest” the Director’s refusal to grant any permit under the Act. By contrast again, WEQA Statute § 35-11-526(c) provides an “applicant or other interested party” with the right to appeal a solid waste determination by the Director.

Thus, the right to appeal to the Council varies on a case-by-case basis. In examining Appendix A and Appendix B, the Council will see that the WEQA and the WEQA Rules contain a variety of language granting various rights of appeal. Sometimes interested persons are granted the right to appeal, in other cases only a permit applicant can appeal. Therefore, if the Council were to consider Section 112 as a general grant of jurisdiction for an appeal, doing so would render superfluous all of the distinctions enacted by the Legislature and the DEQ described in Appendix A and Appendix B.

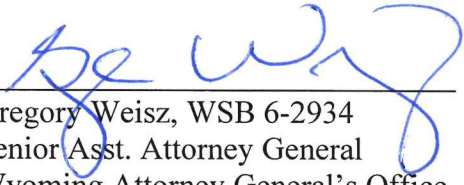
Conclusion

In conclusion, in reading the WQEA as a whole, it is evident the Wyoming Legislature did not intend for the Council to be an arbiter of general jurisdiction for all types of disputes from every conceivable type of complainant. Rather, the legislature and this Council have enacted a multitude of statutes and regulations providing various statutory and regulatory rights of appeal to various (but not all) complainants. To find that Section 112 grants jurisdiction to this Council for every type of appeal would render the multitude of statutory and regulatory rights of appeal (numbering approximately 54 in total), and the distinctions between them, superfluous and meaningless. There simply exists absolutely no right to appeal a LMO notification.

Moreover, because a LMO notification is not a permit, the express language of Section 112(c) makes it clear that the Council cannot “deny or revoke the ‘Permit Approval’” as Petitioners request in their appeal. (Petitioners’ Appeal at 5.)

The Council must dismiss Petitioners’ LMO appeal.

RESPECTFULLY SUBMITTED this 27th day of September, 2024.



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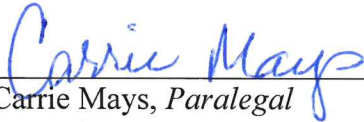
CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served by e-mail, via the Council's e-filing system, or by delivering or mailing a true and correct copy thereof, on the 27th day of September, 2024, addressed to the following:

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APPENDIX A

STATUTORY RIGHTS OF APPEAL

- **Wyo. Stat. Ann. § 16-3-113(a)** (Gives permit applicants the right to a contested case pursuant to WAPA);
- **Wyo. Stat. Ann. 35-11-211(d)** (“The operator may appeal the assessment to the Council [. . .]”);
- **Wyo. Stat. Ann. § 35-11-404(g)** (“Waivers shall be in writing and may be appealed [. . .]”);
- **Wyo. Stat. Ann. § 35-11-406(b)(x)** (“the applicant may request a hearing before the environmental quality council.”);
- **Wyo. Stat. Ann. § 35-11-406(b)(xii)** (“the applicant may request a hearing before the environmental quality council.”);
- **Wyo. Stat. Ann. § 35-11-406(o)** (“after opportunity for hearing [by the council]”);
- **Wyo. Stat. Ann. § 35-11-406(p)(iii)** (“The applicant or objector may appeal the director’s written decision after an informal conference to the council”);
- **Wyo. Stat. Ann. § 35-11-406(q)(iii)** (“The applicant or objector may appeal the director’s written decision to the council.”);
- **Wyo. Stat. Ann. § 35-11-409(c)** (“Opportunity for a public hearing before the council shall be provided.”);
- **Wyo. Stat. Ann. § 35-11-414(e)** (“The decision of the administrator may be appealed through the director to the council.”);
- **Wyo. Stat. Ann. § 35-11-425(a)** (“Any person having an interest which is or may be adversely affected may petitioner the council [. . .]”);
- **Wyo. Stat. Ann. § 35-11-432** (“The decision of the administrator may be appealed through the director to the council.”);
- **Wyo. Stat. Ann. § 35-11-437(c)(ii)** (“[. . .] if the operator or any person having an interest which is or may be adversely affected files a petition for review [. . .] The council shall [. . .] provide a public hearing, if requested.”).
- **Wyo. Stat. Ann. § 35-11-502(k)** (“Any interested person has the right to file written objections to the proposed permit [. . .] If substantial written objections are filed, a public hearing shall be held [. . .]”).
- **Wyo. Stat. Ann. § 35-11-502(n)(iv)** (“provided that any such permit shall be subject to appeal under the provisions of this act.”);
- **Wyo. Stat. Ann. § 35-11-515(k)** (“The director, subject to appeal to the council, [. . .]”);
- **Wyo. Stat. Ann. § 35-11-517(e)** (“The owner may appeal the assessment to the council [. . .]”);
- **Wyo. Stat. Ann. § 35-11-518(b)** (“any disputes concerning implementation of the order shall be resolved by appeal to the council as provided by this act.”);

- **Wyo. Stat. Ann. § 35-11-526(c)** (“The applicant or other interested party may appeal the administrator’s determination.”);
- **Wyo. Stat. Ann. § 35-11-601(g)** (“an aggrieved party as defined by this act in writing may request a hearing before the council.”);
- **Wyo. Stat. Ann. § 35-11-701(c)(ii)** (“Any order is final unless [. . .] the person or persons named therein request, in writing, a hearing before the council.”).
- **Wyo. Stat. Ann. § 35-11-801(d)** (“Any aggrieved party may appeal the authorization as provided in this act.”).
- **Wyo. Stat. Ann. § 35-11-802** (“If the director refuses to grant any permit under this act, the applicant may petition for a hearing before the council to contest the decision.”);
- **Wyo. Stat. Ann. § 35-11-1611** (“If a person and the department are unable after good faith efforts to resolve a dispute arising under this article pursuant to the provisions of an agreement, the person may appeal the department’s decision to the council.”);
- **Wyo. Stat. Ann. § 35-11-1612** (“The owner of the eligible site may appeal the assessment to the council [. . .].”).

APPENDIX B

REGULATORY RIGHTS OF APPEAL

- **Chapter 6, Section 7(a)(iii), Air Quality Rules** (“The Administrator’s decision issued as a result of the hearing may be appealed to the Environmental Quality Council in the manner set forth in the Environmental Quality Act [. . .]”);
- **Chapter 11, Section 2, Air Quality Rules** (incorporating federal right of appeal);
- **Chapter 1, Section 3 and 5, Hazardous Waste Rules** (incorporating federal right of appeal);
- **Chapter 2, Section 2(e)(iv), Solid Waste Management Rules** (If substantial written objections are received [. . .] a public hearing will be held [. . .]”).
- **Chapter 7, Section 15(h), Solid Waste Management Rules** (providing right to appeal under Wyo. Stat. Ann. § 35-11-515(k); Wyo. Stat. Ann 35-11-701(c)”);
- **Chapter 10, Section 4(e)(iii), Solid Waste Management Rules** (providing right to appeal under Wyo. Stat. Ann. § 35-11-802);
- **Chapter 17, Section 4, Solid Waste Management Rules** (“Denial of entry into the program is a final decision by the Administrator which can be contested to the Environmental Quality Council for a hearing pursuant to W.S. 35-11-112(a)(iii).”).
- **Chapter 13, Section 3 (c)(iv), Land Quality – Coal Rules** (“The applicant or objector may appeal the Director’s decision to the Environmental Quality Council in accordance with W.S. § 35-11-406(p).”))
- **Chapter 13, Section 4, Land Quality – Coal Rules** (“An operator may appeal the Administrator’s decision to the Environmental Quality Council in accordance with W.S. § 35-11-112(a)(iii).”).
- **Chapter 15, Section 2, Land Quality – Coal Rules** (“Any affected person has the right to file written [. . .] objections [. . .] If written objections are filed, and public hearing requested, the Council shall hold a public hearing [. . .]”).
- **Chapter 7, Section 4, Land Quality Rules – Non Coal** (An operator may appeal the Administrator’s decision to the Environmental Quality Council in accordance with W.S. § 35-11-112(a)(iii).”).
- **Chapter 1, Section 8(b), Practice and Procedure Rules** (“following an informal conference governed by Chapter 9, Section 2 of these rules, the applicant or any person with an interest that is or may be adversely affected may appeal the decision to the Council for a hearing [. . .]”).
- **Chapter 1, Section 44(b)(iii), Storage Tanks Rules** (“Administrative Orders may be appealed to the Environmental Quality Council.”).
- **Chapter 1, Section 49(c), Storage Tanks Rules** (“Revocation of licenses is a final department action subject to appeal to the Environmental Quality Council [. . .]”).

- **Chapter 4, Section 15(d), Uranium Recovery Rules** (“The final decision is subject to review by the Environmental Quality Council and judicial review in accordance with Wyoming law.”).
- **Chapter 2, Section 17, Water Quality Rules** (“In any case where the director makes a decision to issue, modify, or terminate a permit or storm water permit authorization, or where the director makes a decision to deny issuance of modification of a permit or storm water permit authorization, any interested person may request a hearing before the Environmental Quality Council.”).
- **Chapter 3, Section 12(b), Water Quality Rules** (“The modified permit is effective [. . .] unless within that time the permittee requests a contested case hearing before the Environmental Quality Council.”).
- **Chapter 3, Section 13(b), Water Quality Rules** (“The suspension, revocation, or termination is effective [. . .] unless the permittee requests a contested case before the Environmental Quality Council.”).
- **Chapter 5, Section 16(b), Water Quality Rules** (“The Administrator shall suspend or revoke an operator’s certificate by providing notice and an opportunity for hearing to the operator.”).
- **Chapter 9, Section 18(a), Water Quality Rules** (“The Administrator shall provide an opportunity for the applicant or any interested person to request a public hearing [. . .]”).
- **Chapter 20, Section 14(c)(ii), Water Quality Rules** (“The applicant may request a contested case hearing before the Environmental Quality Council [. . .]”).
- **Chapter 20, Section 18(d), Water Quality Rules** (“[. . .] the permittee shall request a hearing before the Environmental Quality Act [. . .]”).
- **Chapter 22, Section 7(d), Water Quality Rules** (“The final decision of the department may be appealed to the Environmental Quality Council [. . .]”).
- **Chapter 27, Section 7(a)(v), Water Quality Rules** (“Determinations of deficiency by the Department are appealable by the applicant to the Environmental Quality Council.”).
- **Chapter 27, Section 7(b)(iv), Water Quality Rules** (“A denial of the application by the department is appealable by the applicant to the Environmental Quality Council [. . .]”).
- **Chapter 27, Section 7(d)(ii), Water Quality Rules** (“Denials by the administrator may be appealed for hearing to the Environmental Quality Council.”).
- **Chapter 27, Section 21(j), Water Quality Rules** (“During the public comment period, any interested person [. . .] may request a public hearing.”).