1				CHAPTER 5			
2	PETITIONS FOR AWARD OF COSTS AND EXPENSES UNDER W.S. 35-11-437(f)						
3							
4	Section 1. Petition and Answer.						
5	South 1. a Compania mana lamb ii Ca e						
6	(a)	As des	cribed i	in W.S. 35-11-437(f), a petition for award of costs and expenses			
7	` '	with the Council within forty-five (45) days of receipt of a final order from the					
8		Council, in accordance with Chapter 2, Section 5 of these rules. Any person served with a copy of					
9	the petition shall have thirty (30) days from service within which to file an answer to the petition.						
10	Failure to make a timely filing of the petition may constitute a waiver of the right to such an						
11	award.	a tillici	y ming	of the petition may constitute a warver of the right to such an			
12	awaru.						
13	(b)	The pe	tition o	hall contain the natitionar's name and a detailed accounting			
14	` '	(b) The petition shall contain the petitioner's name and a detailed accounting,					
15	including receipts, of all costs and expenses authorized under W.S. 35-11-437(f). Where						
	attorneys' fees are claimed, the petition shall include evidence concerning the hours expended on						
16	the case, the customary commercial rate of payment for such services in the area, and the experience, reputation and ability of the individual(s) performing the services.						
17	experience, rep	utation	and abi	nty of the individual(s) performing the services.			
18	(2)	A		as to award costs and an W.C. 25.11.427(f) shall follow the			
19	(c)			ng to award costs under W.S. 35-11-437(f) shall follow the			
20	contested case	proceau	res outi	ined in Chapter 2 of these rules.			
21	Q4:	2 11/1-	- N/I	D			
22	Section 2. Who May Receive an Award.						
23	(2)	A		acts and armonass including attamany? for a may be arroaded.			
24	(a)	Approj	priate c	osts and expenses including attorneys' fees may be awarded:			
25		(;)	Тоог	- amoittee from any nearest but only if the Council finds that			
26		(i)	10 a p	permittee from any person, but only if the Council finds that:			
27			(4)	The manage initiated or monticipated in enforcement action in had			
28	C-141- C41		(A)	The person initiated or participated in enforcement action in bad			
29	raith for the pur	rpose of	narassi	ing or embarrassing the permittee.			
30		···	Tr.	''' C 4 D 4 1 1 1 1 1 C 1 C 1 C 1 C			
31		(ii)	10 a p	permittee from the Department, but only if the Council finds that:			
32			(4)				
33		1 .	(A)	The Department issued an order of cessation, a notice of			
34	violation, or an order to show cause why a permit should not be suspended or revoked, in bad						
35	faith and for the	e purpos	se of ha	rassing or embarrassing the permittee.			
36		<b></b>	<b></b>				
37		(iii)	To an	y person from the permittee, but only if the Council finds that:			
38							
39			(A)	The person initiated or participated in an administrative			
40	proceeding reviewing enforcement actions;						
41							
42			(B)	A violation of the Wyoming Environmental Quality Act,			
43	regulations, or permit has occurred, or that an imminent hazard existed; and						
44							
45			(C)	The person substantially contributed to a full and fair			
46	determination of	of the iss	sues.				
47							
48		(iv)		y person, other than a permittee or its representative, from the			
49	Department, but only if the Council finds that:						

(A) The person initiated or participated in a contested case proceeding under the Wyoming Environmental Quality Act as it provides for regulation of surface coal mining and reclamation operations in accordance with P.L. 95-87;					
	(B)	The person prevailed in whole or part, achieving at least some			
degree of success on the merits;					
C					
	(C)	The person substantially contributed to a full and fair			
determination of the issues.					
(v)	To the	e Department from a person, but only if the Council finds that:			
	(A)	The Department has demonstrated that a person initiated or			
participated in reviewing of any enforcement action in bad faith for the purpose of harassing or					
embarrassing the Department.					
Section 3. Awards.					
(a) An	award und	er this chapter may include:			
(i)		sts and expenses, including attorneys' fees and expert witness fees			
reasonably incurred as a result of initiation and/or participation in a proceeding under the					
Wyoming Environmental Quality Act as it provides for regulation of surface coal mining and					
reclamation operations in accordance with P.L. 95-87.					
` '		sts and expenses, including attorneys' fees and expert witness fees			
reasonably incurred	ın seeking	the award before the council.			
	degree of success of determination of the (v)  participated in revie embarrassing the Description 3. A  (a) An  (i) reasonably incurred Wyoming Environm reclamation operation (ii)	proceeding under the Wyomin surface coal mining and reclam  (B) degree of success on the merits  (C) determination of the issues.  (v) To the  (A) participated in reviewing of an embarrassing the Department.  Section 3. Awards.  (a) An award und  (i) All coreasonably incurred as a result Wyoming Environmental Quarreclamation operations in according to the coal of			