

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

ORDER ON INTERVENTION

At a public meeting on February 16, 2006 the Wyoming Environmental Quality Council (EQC) considered Motions to Intervene and Rule 19, Wyoming Civil Rules of Procedure. In the interest of fairness and economy the EQC whose members are Mark Gordon, Jon Brady, Richard C. Moore, P.E., Wendy Hutchinson, John Morris, Dennis M. Boal, and Sara M. Flintner, by an unanimous vote hereby find, conclude and order following:

1. The EQC holds contested case hearings where final actions taken by the Department of Environmental (DEQ) are challenged.
2. Contested cases hearings involve DEQ decisions that include the issuance, amendment, or revision of permits.
3. The Environmental Quality Act (the Act) provides a right to object to final permit actions of DEQ to those permittees whose permit is affected and to citizens who have an interest in the permit.
4. When persons, who are not the permittee, object to a final permit action taken by DEQ, a contested case is docketed with the EQC. Permittees are indispensable parties to cases in which their permit is challenged.
5. Landowners or other persons may be indispensable parties in contested cases where a permit is challenged, depending on the nature of their interest in the outcome of the case.
6. Permittees, landowners, or other persons who are or may be indispensable parties are not named as parties when a contested case is docketed and they are then left to file a motion to intervene to become a party to the case.
7. Because of the nature of their interest in proceedings affecting their permit or interest, a permittee, a landowner, or other person should be a party to the case.
8. W.R.C.P. 19, incorporated by reference in the EQC's Rules of Practice and Procedure, addresses indispensable parties and provides a process to join parties in a proceeding.

Therefore, the EQC concludes:

1. Permittees are indispensable parties to cases in which their permit is at issue or in jeopardy.
2. Landowners or other persons may be indispensable parties, depending on the nature of their interest.
3. Joining indispensable parties to a case is a procedural decision that may be made by the EQC member presiding over the case.

4. Should a person who is indispensable decline to participate in the case, or should a person's status as indispensable be questioned, the matter shall be referred to a majority of those on the EQC for a decision on how to proceed, which will include consideration of the procedures provided in W.R.C.P. 19.

IT IS HEREBY ORDERED THAT:

1. All persons who are indispensable parties to a contested proceeding before the EQC shall be joined as a party.
2. The EQC member presiding over a case where the joinder of an indispensable party is necessary may join that party without having the matter decided by the full EQC.
3. Where joinder is challenged or where issues as to the interests of a party are challenged, the matter will be referred to the entire EQC for a decision on how to proceed.

DATED this 3rd day of March, 2006

Mark Gordon, Chairman
ENVIRONMENTAL QUALITY COUNCIL