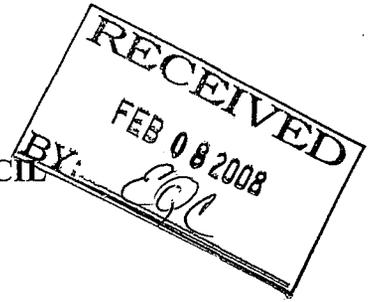


BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING



In the Matter of:)
Basin Electric Power Cooperative) Docket No. 07-2801
Dry Fork Station,)
Air Permit CT – 4631)

ORDER DISMISSING APPEAL

Basin Electric Power Cooperative (Basin Electric) moved the Environmental Quality Council (Council) to enter an Order to dismiss this appeal because there is no statute granting Protestants any right to appeal to this Council from the final Permit to Construct. The Council being fully advised, **HEREBY ORDERS** as follows:

ORDER

The right to appeal any decision to the Environmental Quality Council is statutory. By its terms, the challenged Permit to Construct is a final agency decision by the DEQ. Protestants have a right to appeal that Permit to the Council only if there is a statute that expressly so provides. The Environmental Quality Act only authorizes contested case appeals of construction permits to the Council by permit applicants, not by third parties. W.S. §§ 35-11-802; 35-11-208. Protestants are not the permit applicant. Protestants' only statutory remedy is to appeal directly to the district court, not to the Environmental Quality Council. W.S. §§ 35-11-1001; 35-11-208.

The Council, therefore, grants Basin Electric's Motion to Dismiss Appeal, and dismisses Protestants' Protest and Petition for Hearing, dated October 31, 2007, with prejudice.

DATED this _____ day of _____, 2008.

Hearing Examiner
Wyoming Environmental Quality Council

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