



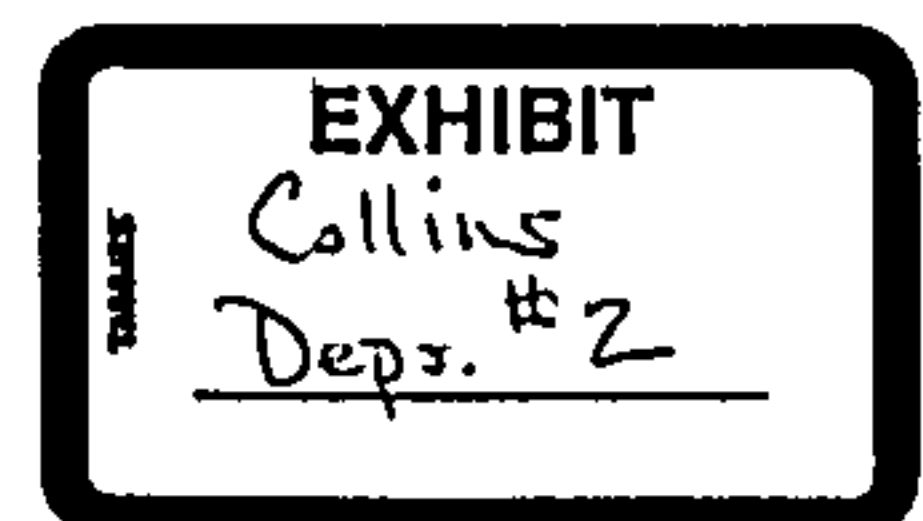
REGULATIONS  
OF THE  
SHOSHONE AND NORTHERN ARAPAHO TRIBES  
OF THE  
WIND RIVER RESERVATION

WATER RESOURCES CONTROL BOARD

REVISED - Effective February 9, 1994

THESE REGULATIONS SHALL BE CITED "W.R. R-11-8-\_\_\_\_\_."

[Approved by Water Board Decisions of May 17, 1991 and February 9, 1994]



CHAPTER 1  
GENERAL PROVISIONS

Section R-11-8-100. Definitions

- a. "Board" shall mean the Wind River Water Resources Control Board.
- b. "Co-Chairmen" shall mean the persons chosen by the Board to act for the Board as Co-Chairmen in a specific matter.
- c. "General Adjudication" shall mean the proceeding entitled In re: The General Adjudication of All Rights to Use Water in the Big Horn River System, 753 P.2d 76 (Wyo. 1988), affirmed 492 U.S. 406 (1989).
- d. "JBC" shall mean the Joint Business Council of the Shoshone and Northern Arapaho Tribes of the Wind River Reservation.
- e. "Law and Order Code" shall mean the Law and Order Code of the Shoshone and Arapaho Tribes, Wind River Reservation, Wyoming in its most recently enacted form. Any statutory citation, unless otherwise indicated, references the legislative enactment as amended.
- f. "Person" shall mean any individual or group or combination thereof acting as a unit, however associated; any organization of any kind, whether organized for profit or not, and regardless of the manner of form in which it does business, whether as a sole proprietorship, receiver, partnership, joint venture, trust, estate, firm, unincorporated association, corporation, or government, including but not limited to, any part, subdivision, or agency of any of the foregoing; and any combination of individuals or organizations in whatever form, and the plural as well as the singular number.
- g. "Reservation lands" or "Reservation" shall mean all lands within the Wind River Reservation, which Reservation is defined to include:
  - i. All lands within the limits or exterior bounds of the reservation as delimited in the Treaty of July 3, 1868, 15 Stat. 673, less the portions ceded under the Acts of December 15, 1874, 18 Stat. 291, and June 7, 1897, 30 Stat. 93, notwithstanding the issuance of any patent, and including rights-of-way running through the Reservation;
  - ii. All lands that may hereafter be added to or made a part of the Reservation.
- h. "Reservation water" shall mean any and all waters underlying, flowing through, or otherwise occurring or contained within the Reservation.
  - i. "Treaty-based water" shall mean 1868 Tribal water and 1868 allottee derivative water.
- j. "Tribal Court" shall mean the Shoshone and Northern Arapaho Tribal Court of the Wind River Reservation.
- k. "Tribal water rights" shall mean those rights to divert or affect Reservation water that are granted pursuant to the provisions of this Code.
- l. "Tribes" shall mean the Shoshone and Northern Arapaho Tribes of the Wind River Reservation.

m. "TWE" shall mean the Tribal Water Engineer, or the Office of the Tribal Water Engineer as the context may require.

n. "Water Code" shall mean the Wind River Water Code of the Law and Order Code in its most recently enacted form. Any statutory citation, unless otherwise indicated, references the legislative enactment as amended.

o. "1868 allottee derivative water" shall mean that water adjudicated to the use of a successor in interest to an Indian allottee, the right to appropriate and the amount thereof which was determined by the General Adjudication and bearing a priority date of 1868, popularly referred to as "Walton rights".

p. "1868 Tribal water" shall mean that water reserved by treaty, adjudicated in the General Adjudication, and bearing a priority date of 1868.

CHAPTER 2  
ORGANIZATION AND AUTHORITY

**Section R-11-8-200. Statutory Framework.**

a. Section 11-8-II of the Shoshone and Arapaho Tribes Law and Order Code establishes the Wind River Resources Control Board as the primary enforcement and management agency responsible for controlling water resources on the Wind River Reservation ("Reservation"). The Board is composed of twelve members, six from the Shoshone Tribe and six from the Northern Arapaho Tribe. S&A LOC § 11-8-II(A)(1).

b. The Water Code provides that the Tribal Water Engineer is to be hired by the Joint Business Council of the Tribes and is supervised by the Board. S&A LOC §§ 11-8-II(A)(2)(h) and 11-8-II(B)(2). Among the duties of the TWE is the responsibility to administer Reservation water rights, and ensure maximum compliance with the Water Code and the regulations, permits and orders of the Board. S&A LOC § 11-8-II(B)(4)(a)(i). Because regulation of Reservation water is the lifeblood of the community and critical to the conservation and enhancement of its resources, the TWE shall evenhandedly guard all the interests involved in carrying out the duties and authorities of his office. S&A LOC § 11-8-II(B)(3).

**Section R-11-8-201. Lines of Authority.**

The Water Code provides that the TWE shall administer and enforce Reservation water rights. S&A LOC § 11-8-II(B)(4). The TWE is authorized to issue citations and bring legal actions. Decisions of the TWE may be appealed by injured person to the Board. Decisions of the Board may be appealed to the courts as provided in the Water Code. S&A LOC § 11-8-VI(B).

**Section R-11-8-202. Rules and Regulations.**

a. Water Code § 11-8-II(A)(2)(e) authorizes the Board to adopt rules and regulations to carry out the duties imposed on it by law. Regulations shall be promulgated in accordance with the Water Code § 11-8-VII(C). These regulations are promulgated pursuant to this authority.

b. These regulations shall apply to all proceedings before the Board. Persons having business before the Board are advised to also examine the previous decisions of the Board which are published in its Order Record. The decisions sometimes contain discussion of policy which could prove helpful in a pending matter. However, such policy statements are not to be viewed as binding precedent. The Board may adapt its policies to the situation at hand on a case-by-case basis.

**Section R-11-8-203. Board Composition.**

The Board is composed of twelve members, six members appointed by the Shoshone Tribe and six members appointed by the Arapaho Tribe. One Board member appointed by each Tribe shall act as Co-Chairmen for the Board. The Co-Chairmen shall be selected by the Board members.

**Section R-11-8-204. Duties and Authority.**

The duties and authority of the Board are to:

a. Oversee the development of water resource management plans and supervise the execution and enforcement of Code provisions and regulations thereunder;

b. Approve or disapprove of water use permits in accordance with the principles and procedures set forth in this Code;

c. Conduct hearings regarding water permit applications and hear disputes regarding the actions of the Tribal Water Engineer and/or water development/management staff in accordance with the procedures adopted pursuant to Board regulations;

d. Compel production of documents or other things and compel attendance of witnesses before the Board;

e. Adopt such rules, regulations, permit forms, and additional materials, and propose amendments to the Code, as necessary to interpret and execute its authority and to implement the objectives and purposes of this Code;

f. Establish and maintain a technical staff qualified by training and experience to enforce and administer this Code;

g. Research and define, based on the best available data, the most effective ways of managing, conserving, and protecting Reservation water;

h. Supervise the Tribal Water Engineer;

i. Advise the General Councils of the Tribes on all aspects of the Code and Reservation water; and

j. Organize and operate its offices in order to discharge its duties and responsibilities effectively.

**Section R-11-8-205. Oaths.**

The Co-Chairmen of the Board shall administer oaths in all situations where to do so is necessary in the performance of their official duties.

**Section R-11-8-206. Seal.**

a. All water use permits and licenses issued by the Board shall be signed by the Co-Chairmen and attested to by the TWE over the seal of the Board. All other orders, certifications and certified documents may be signed and sealed either by the Co-Chairmen or the TWE. The Board's official seal is described as follows:

An embossed circular seal one and three quarters inches in diameter consisting of two concentric circles, the outer being one and three-quarters inches in diameter, and the inner being one and three-sixteenths inches in diameter. The space between the two circles to contain the words: "Wind River Water Resources Control Board". The contents of the inner circle to be approved after participation by Tribal members in its design or shall be the seal of the Shoshone and Northern Arapaho Tribes of the Wind River Reservation when established.

b. Prior to approval of the official seal, the TWE shall attest over the words "Official Seal Of The Wind River Water Resources Control Board".

CHAPTER 3.  
GENERAL PROCEDURES

Section R-11-8-300. Meetings.

a. Regular meetings of the Board shall be held on the first and third Wednesday of each month. Special meetings may be held at other times at the call of the Co-Chairmen after consultation with other Board members. Board members shall be provided at least forty-eight (48) hours advance notice of any special meeting. The purpose of each special meeting shall be stated in the notice and may only include any purposes which are lawful and proper for the Board to consider.

b. The Board may designate any place either within or without the Wind River Reservation, as the place of meeting for any meeting of Board. If no designation is made, then the place of meeting shall be the Office of the Tribal Water Engineer on the Wind River Reservation.

c. A written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered personally or by mail not less than forty-eight hours before the date of the meeting. Notice shall be given by or at the direction of the Co-Chairmen to each Member of record entitled to vote at the meeting. If mailed, such notice shall be deemed to have been delivered when deposited in the United States Mail addressed to the Member at his address as it appears on the records of the Tribal Water Engineer with postage thereon prepaid.

d. A written waiver of notice signed by a Member, whether before or after a meeting, shall be equivalent to the giving of such notice. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member attends for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

Section R-11-8-301 Action Without Meeting. In an emergency, action of the Board may be taken without a meeting, without prior notice and without a vote, if a consent in writing setting forth the nature of the emergency and the action so taken is signed by at least four Board members from each Tribe. Within ten (10) days after obtaining such authorization by written consent, notice must be given to those Board members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. When any action is taken under this provision, the matter shall be placed on the next scheduled meeting for inclusion in the record.

Section R-11-8-302. Quorum and Voting.

a. Unless otherwise required in the Water Code, eight (8) members of the Board shall constitute a quorum, provided at least four (4) members appointed by each Tribe are present. If a quorum is present, unless otherwise provided by law, the affirmative vote of a majority of the Members at the meeting entitled to vote on the subject matter shall be the act of the Board. If a quorum is not present when a meeting starts, then a majority of the Members at the meeting may adjourn the meeting from time to time without further notice until a quorum is present.

b. Each Member shall be entitled to one vote on each matter submitted to a vote at a meeting of Members. No Board member shall vote on a decision which could have a material financial effect personally or directly upon such member or his or her business. A member shall disclose to the Board any such financial effect at the time of such vote and may participate in the discussion of the matter without voting upon it. The inability of a Board member to vote on a matter shall not effect the quorum necessary to take action.

**Section R-11-8-303. Order of Business.**

Meetings of the Board generally will proceed in the following manner, subject to change as necessary:

- a. Call to Order;
- b. Review, correction and approval of minutes from prior meetings;
- c. Office of the Tribal Water Engineer Report;
- d. Unfinished or carry-over business from the last meeting;
- e. New business and discussion items; and
- f. Adjournment.

**Section R-11-8-304. Books and Records.**

The following books and records shall be kept and shall constitute the official records of the Board, which are open to the public, subject to contrary provisions of law or regulations, and available for copying:

- a. Minutes - a loose leaf book to contain, in proper order, the minutes of all meetings of the Board;
- b. Order Record - a loose leaf book to contain the original of all Orders entered by the Board;
- c. Permit and License Record - a loose leaf book to contain a copy of each permit or license for water use issued by the Board; and
- d. An individual file folder for each permit, license or pending action.

**Section R-11-8-305. Public Access to Board Records.**

a. All records required or allowed to be maintained by the TWE or the Board shall be public records, provided however, that the TWE shall deny the right of public inspection of the following records, unless otherwise provided by law, on the ground that disclosure would be contrary to the public interest:

- i. Investigatory files compiled for any law enforcement or prosecution purposes;
- ii. Interagency or intraagency memoranda or letters which would not be available by law to a private party in litigation with the agency;
- iii. Medical, psychological, and sociological data on individual persons, exclusive of autopsy reports;
- iv. Records that are protected from disclosure by court order or federal or tribal law;
- v. Personnel files and letters of reference, except those files shall be available to the duly elected and appointed officials who supervise the work of the person in interest;



vi. Trade secrets, privileged information and proprietary commercial, financial, geological, or geophysical data furnished by or obtained from any person.

b. Notwithstanding the fact that the record might otherwise be available to public inspection, any persons, including the TWE, may apply to the Board for an order restricting disclosure of the particular record, and the Board, after hearing, may issue such an order upon a finding that disclosure would cause substantial injury to the public interest.

c. The TWE shall keep a written record of all requests for access to the Board's records, including the name of the requestor, the date and the records requested. Should any requested file or paper not be provided as requested, the requestor will be provided with a written explanation.

**Section R-11-8-306. Orders, Permits and Licenses.**

a. A specific order shall be entered in the Order Record upon the grant, denial or dismissal of any petition or application filed with the Board, and a machine copy of the Order shall be mailed to the petitioner or applicant. If the Board action grants an amendment in land description, an amendment to or correction of an existing permit or license, a change of use, or an abandonment of a water right, a certified copy of the Order shall be recorded in the Bureau of Indian Affairs Title Plant.

b. When a water permit or license, or an amended permit or license is issued, it shall be issued in duplicate. The first original shall be forwarded to the permittee or licensee. The second original shall be filed in the office of the Board in the Certificate Record.

**Section R-11-8-307. Hearings.**

a. In exercising its rulemaking authority or general regulatory authority over the waters of the Reservation, the Board may conduct fact-finding hearings, pursuant to notice as required by statute for the situation involved.

b. A fact-finding hearing is a non-adversary in nature and no pleadings are required. Any interested person will be afforded the opportunity to appear or otherwise make his views known to the Board. Oral and written statements may be presented without regard to the rules of evidence.

c. The Board member or other person designated as the Hearing Officer may adopt whatever procedures appear to be reasonable and necessary for the conduct of the hearing.

d. Persons appearing to make statements or present information are not thereby made available for cross-examination, but will be permitted to answer questions asked by the Hearing Officer, Board members, or any other person, provided they choose to do so. The Hearing Officer may limit questioning and the length of oral statements in the interest of conducting the hearing in a proper manner.

**Section R-11-8-309. Assistance of Legal Counsel.**

In all matters before the Board, the general counsel or local counsel for the Tribes may be present to assist and advise.

## CHAPTER 4

### PERMITS

#### Section R-11-8-400. Application Procedures.

a. Form. Applications for any permit under this Chapter 4 shall be made on forms developed by the TWE. Each permit application form shall require the following information:

- i. Name.
- ii. Address.
- iii. Tribal Membership(if applicable).
- iv. Name and address of agent to receive correspondence and notices.
- v. Use to which water will be applied.
- vi. Source of water and point of diversion.
- vii. Description of lands to which water will be applied.
- viii. Identification of existing permits issued for such lands.

b. Fee. Upon submission of an application, the person requesting a permit shall pay a fee in the amount of Ten Dollars (\$10.00). If the applicant or affected person requests a public hearing on the application pursuant to § R-11-8-403, an additional fee in the amount of Fifty Dollars (\$50.00) shall be submitted with the request for hearing. The fee may be waived by the Board in the case of financial hardship defined as any person eligible for general assistance payments from the United States. These fees shall be paid by cash or check payable to the "Shoshone and Northern Arapaho Tribes--TWE." All fees collected shall be accounted for on the books and records of the Tribes to the credit of the TWE Office to help defray the cost of reviewing the application and conducting a hearing.

c. Initial Issuance Of Permits. To facilitate the orderly and efficient implementation of the Tribal permit system, all persons who on the effective date of these regulations own individual lands, by allotment or otherwise, which formed the basis for a quantification of the Tribes' Treaty-based water right under the General Adjudication shall be deemed to have filed an application and paid the application fee for a permit hereunder for irrigation water use on such lands. Historic water use in an amount not in excess of the quantities identified with such lands in the General Adjudication may be continued pending processing of such applications by the Board. For purposes of time periods under the regulations, such applications shall be deemed to run from the effective date of this § R-11-8-401(c).

d. Purchasers or Transferee of Individual Lands. A person who is a successor-in-interest to lands held in individual ownership for which 1868 Tribal water use has been permitted under these regulations is eligible for a water permit pursuant to the terms of the Water Code and the regulations. Proposed purchasers or transferees may apply for a permit prior to the closing of such transaction. Any permit approved to a successor-in-interest prior to the completion of the land transfer shall provide that the permit shall become effective on completion of the transfer.

e. TWE Assistance. The TWE shall assist each applicant in the collection of data and the preparation of the application to the extent the applicant, through lack of resources or technical knowledge, requires such assistance. Such assistance shall be limited to providing readily available data and procedural matters. All substantive responses in the application are the responsibility of the applicant.

f. Processing Period. Within sixty (60) days of receipt of the application, the TWE shall: review each permit application; perform investigations; prepare a report on each application; and recommend approval or denial to the Board, which shall have the authority to grant or deny the permit. Every decision of the Board must include factual findings that justify the decision and must be consistent with Tribal water and land use laws.

**Section R-11-8-401. Application Review Standards.**

a. **General Standards.** The Board shall review all applications to determine whether the proposed use or activity adversely affects Tribal resources or other Tribal interests, whether the proposed use or activity is technically feasible, and whether the proposed use or activity is consistent with the policies, purposes, and procedures described by the Water Code.

b. **Presumptions.**

i. **1868 Water Permits.** An 1868 Water Permit grants or confirms a right to use a share of Treaty-based water to a user, and guides the present and future use and appropriation of Treaty-based water. The permit may apply to surface water or ground water. There are three types of 1868 Water Permit, as follows: Type I granted to a Tribal member, Indian allottee, or Tribal entity, enterprise, or political subdivision; Type II granted to a successor in interest of an allottee whose right is determined in the General Adjudication as a "Walton" right; and Type III granted to a person to use 1868 Tribal water upon payment to the Tribes at rates to be established by the JBC, which rates are in addition to any applicable operations and maintenance charges. The following presumptions shall apply to the review of 1868 Water Permits:

A. An individual Tribal member whose lands formed the basis for a quantification of 1868 Tribal water under the General Adjudication shall be presumptively entitled to a permit under this Section.

B. Any person who receives an award of 1868 allottee derivative water in the General Adjudication shall be presumptively entitled to a permit under this Section for the quantity awarded by the court. Any person who becomes a successor-in-interest to a holder of an 1868 allottee derivative water permit shall be presumptively entitled to a General Water Permit on the same terms and conditions as the water permit held by the individual who was awarded 1868 allottee derivative in the General Adjudication.

C. Any Tribal member who becomes a successor-in-interest to lands owned by an individual Tribal member, in allotment or other ownership status, whose lands formed the basis for a quantification of Treaty-based water under the General Adjudication shall be presumptively entitled to a permit under this Section on the same terms as conditions as the water permit held by the individual Tribal member.

ii. **Storage Permit.** A Storage Permit grants the right to impound surface or groundwater for a beneficial use. The following presumption shall apply to the review of Storage Permits:

Any person who has impounded 1868 Tribal water and such impoundment was used as a basis for the quantification of Treaty-based water under the General Adjudication shall be presumptively entitled to a Storage Permit.

iii. **General Water Permit.** A General Water Permit grants or recognizes rights of use, appropriation, or development of water not otherwise covered by another permit. The following presumptions shall apply to the review of General Water Permits:

A. Any person who leases land from the Tribes or receives an assignment from the Tribes that requires the use of water to fulfill the purposes of such lease or assignment shall be presumptively entitled to a General Water Permit.

B. Any non-Tribal member who becomes a successor-in-interest to lands previously owned by an individual Tribal member, in allotment or other ownership status, whose lands formed the basis for a quantification of 1868 Tribal water under the General Adjudication shall be presumptively entitled to a General Water Permit on the same terms as conditions as the water permit held by the individual Tribal member. The provisions of this § R-11-8-401(b)(iii)(B) shall not apply when an 1868 allottee derivative water right with respect to such land was awarded in the General Adjudication. See § R-11-8-401(b)(i)(B).

Water permits under this § R-11-8-401(b) shall be made in conformity with governing law.

c. Rebuttal Of Presumptions. The presumptions established in this Chapter 4 may be rebutted only by presentation of evidence that establishes that the water use requested to be permitted is in excess of the needs for the beneficial purpose to which the water will be put to use or that there has been an abandonment of the Tribal water right, except in the case of allottees, whose allotment irrigation water use rights may not be subject to permanent abandonment. The Board must find that a preponderance of the evidence supports rebuttal of the presumption before the permit will be denied.

Section R-11-8-402. Abandonment.

a. When the holder of a permit fails, either intentionally or unintentionally, to use 1868 Tribal water for the beneficial purposes for which it was permitted for five (5) successive years, the permittee is deemed to have abandoned the Tribal water right and shall forfeit all water rights and privileges thereunder, except as provided in § R-11-8-402(d). The absence of water available for use under the permit during an irrigation season precludes the inclusion of any such period of nonuse resulting therefrom in the computation of the successive five (5) year period.

b. When the TWE or any person who might be affected by a declaration of abandonment of an existing Tribal water right, they may request in writing a legal declaration of abandonment by the Board. The Board shall, if the facts so justify, refer the matter to the TWE for review or the Board may authorize abandonment proceedings.

c. The TWE shall notify the holder of the permit sought to be abandoned by certified mail that a hearing will be held. If notice by certified mail is not possible, notice shall be published once a week for three (3) consecutive weeks in a newspaper of general circulation within the Reservation and posted in the Tribal and BIA offices and other places deemed appropriate by the TWE.

d. A Tribal water right held by an individual Tribal member whose lands remain in trust status may not be permanently abandoned. If such Tribal member's failure to use 1868 water meets the requirements provided in this § R-11-8-402, the Board may declare such water temporarily abandoned and available for permitting to other persons. Any such water permitted to other persons shall be done under terms and conditions which subject its use to cancellation in the event such Tribal member subsequently applies to use such water beneficially. Such Tribal member must provide the Board with at least six (6) months notice of an intention to resume use of the 1868 Tribal water.

Section R-11-8-403. Application Hearings.

a. Requests. Any applicant for a water permit shall on request receive a hearing before the Board to provide an opportunity for a full factual presentation and for public comment and testimony on the proposed use or activity. Any person who might be affected by the issuance of a water permit

either may receive a hearing before the Board or may be afforded the opportunity to provide written comments on the application.

b. Procedures. Whenever a hearing is requested or provided for under the Water Code or the regulations, the following procedures shall be used, unless modified by a specific provision of these regulations:

- i. Notice of a hearing will be published at the Board's expense in a newspaper of general circulation within the Reservation at least one (1) week prior to the date of hearing. Notice shall also be posted in the Tribal and BIA offices and such other places deemed appropriate by the TWE.
- ii. The hearings shall be held by a hearing officer appointed by the Board. The hearing shall end after all persons present at the commencement of the hearing have had an opportunity to present their views.
- iii. All proceedings of the hearing shall be recorded. If an appeal is sought, a transcript of the hearing may be requested by the applicant or any other affected party. The requesting person shall pay the costs of transcript preparation.
- iv. After the hearing, the Board shall take the matter under advisement and render a written decision.

Section R-11-8-404. Decisions:

All applications to the Board for action pertaining to a Tribal water right shall be decided in one or more of the following manners:

- i. Approving the application without conditions,
- ii. Approving the application with conditions,
- iii. Denying the application, or
- iv. Tabling action pending receipt of additional data or information.

If the Board approves the application, the TWE shall issue the appropriate permit or decision document in conformity with the Board's decision.

Section R-11-8-405. Appeals.

Any final decision or ruling of the Board on a permit or permit application shall be appealable in accordance with the provisions of the Water Code and the regulations.

## CHAPTER 5

### APPEALS

#### Section R-11-8-500. Review of TWE Decisions

a. Request for Hearing. Unless sooner required by other provisions of the Water Code or the regulations, within thirty (30) days after issuance of a decision of the TWE, any affected person may file a written request for a hearing before the Board, which shall review and hear the matter. The Shoshone Tribe or the Northern Arapaho Tribe shall be considered affected persons for the purposes of filing any appeal under this chapter.

b. Finality of TWE Decision. If no request for a hearing before the Board is made within the time allowed, the decision of the TWE shall be final and not be subject to appeal to the Board or to any court.

c. Hearing Before Board. Upon the proper and timely filing of an appeal, the Board will conduct a recorded hearing to receive evidence from the appellant and the TWE. The Board will issue a written final decision. Appeal from a final decision of the Board shall be made only to the Tribal Court and pursuant to the Water Code and the regulations.

d. Finality of Board Decision. If no appeal to the Tribal Court is filed within the time allowed, the decision or ruling of the Board shall be binding and enforceable and will not be subject to review by any court.

#### Section R-11-8-501. Court Appeals.

a. Tribal Court Review. The Tribal Court is empowered to hear appeals from any final decision or ruling of the Board.

b. Filing of Appeal. Appeals of Board decisions or rulings shall be filed with the Tribal Court no later than thirty (30) days from issuance of such decision or ruling of the Board, and a copy of such appeal shall be filed with the Board.

c. Exhaustion. No person may seek review by the Tribal Court of a decision or ruling of TWE or the Board unless such person has first exhausted his administrative appeal rights provided by the Water Code or the regulations.

d. Standard of Review. Unless otherwise provided by the Water Code or the regulations, appeals to the Tribal Court shall be limited to review of the record of the Board's administrative decision or ruling. The Tribal Court may modify, reverse, or remand a decision or ruling of the Board only where such decision or ruling is without substantial basis in fact, is contrary to Tribal policy or Tribal law, or is clearly arbitrary and capricious.

e. Administrative Record. Upon receipt by the Board of an appeal that has been filed with the Tribal Court, the Board shall certify and transmit to the Clerk of Tribal Court the administrative record, including all documents, things, transcripts, and other information that formed the basis for the decision or ruling being appealed.

/usr/john/water.reg March 24, 1994