

BEFORE THE
SURFACE TRANSPORTATION BOARD

310861

ENTERED
Office of Chief Counsel
February 11, 2026
Part of
Public Record

Docket No. AB-346X

FREMONT COUNTY WYOMING
-DECISION AND NOTICE OF INTERIM TRAIL USE-
BAD WATER LINE

PETITION TO REOPEN

PETITIONER:

JAKE Z. STETLER AND KARLINE Z. STETLER,
HUSBAND AND WIFE

PETITIONER:

THOMAS L. HERBST AND MICHELLE E. HERBST,
INDIVIDUALLY AND AS TRUSTEES OF THE
EPIC LEGACY LIVING TRUST DATED SEPTEMBER 5, 2025

ATTORNEYS FOR PETITIONERS

MARSHALL E. KELLER WYO BAR #7-6406

FALLON E. CLAY WYO BAR #8-2766

Keller Law Firm, PC

116 N. 5TH

Po Box 111

Thermopolis, Wyoming 82443

(307) 864-2318

FILED
February 11, 2026
SURFACE TRANSPORTATION BOARD

FEE RECEIVED
February 11, 2026
SURFACE TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-346X

FREMONT COUNTY WYOMING
-DECISION AND NOTICE OF INTERIM TRAIL USE-
BAD WATER LINE

**PETITION TO REOPEN BASED ON A SUBSTANTIAL CHANGE IN
CIRCUMSTANCES AND NEW EVIDENCE**

COMES NOW the Petitioners, Jacob Z. Stetler and Karline Z. Stetler, husband and wife (“Stetler Family”), individually, and Thomas L. Herbst and Michele E. Herbst, husband and wife (“Herbst Family”), individually and as Trustees of the Epic Legacy Living Trust dated September 5, 2025, in the above-entitled matter and for their cause of action against the Respondent, Fremont County of the State of Wyoming (“County”), hereby petition that this proceeding be reopened for the purpose of revoking the April 8, 1991 Decision and Notice of the Interim Trail Use Agreement affecting the Petitioners property. In the alternative, if revocation is not granted, Petitioners seek enforcement of the conditions defined in paragraph 5 of the May 10, 1991 Interim Trail Use/Banking Agreement (“Agreement”)¹, and paragraph 4 of the April 8, 1991 Interstate Commerce Commission Decision and Notice of Interim Trail Use or Abandonment (“NITU”) and the requirements of 16 U.S.C. 1247(d). The Board should make its decisions retroactive to May 6, 2021, for the Stetler Family and retroactive to December 27, 2017 for the Herbst

¹ May 10th, 1991 Interim Trail Use/Railbanking Agreement and May 14th Decision were approved to reopen the NITU Decision of April 8, 1991 (Service Date of April 10, 1991), after it was determined that the agreement would have no effect on historical structures.

Family . The Board should also award the Stetlers' attorney fees for violations of the U.S. Constitution. Amend. V rights, 16 U.S.C. 1247(d), and the NITU.²

The Petitioners state the following in support of their Petition to Reopen and revoke the NITU through their property, or to enforce the provisions of the NITU, the Agreement, and 16 U.S.C. 1247(d).

BACKGROUND

1. The Bad Water Line railroad (“BWL”) owned a railroad right of way through the parcel currently owned by the Stetler Family and the parcel owned by the Epic Legacy Trust dated September 5, 2025.

2. In 1991, the BWL began the process of abandoning its railroad in Fremont County, Wyoming. Fremont County decided to use the Rails-to-Trails Act to convert the Bad Water Rail line into a recreational trail. As required, they entered into an agreement subject to 16 U.S.C. 1247(d) and Section 8 of the National Trails System Act. Pet. Ex. A, Rail Banking Agreement.

3. The Interstate Commerce Commission (ICC) ultimately issued a decision in docket AB-346X to grant the transfer of the right-of-way to Fremont County to use as a trail, subject to 16 U.S.C. 1247(d). Accordingly, BWL transferred the right-of-way to Fremont County by deed on October 1, 1991.³ Pet. Ex. B, Decision AB-346X.

4. On April 26, 2021, the Stetler family purchased their property with the legal description of :

[Rest of Page Intentionally Left Blank]

² “URA waives federal sovereign immunity with respect to litigation expenses in takings cases.” 42 U.S.C. § 4654(c).*Hardy v. United States*, 157 Fed. Cl. 464, 470 (2021).

³ Decision and Notice of Interim Trail Use AB-346X.

The Southwest Quarter (SW¼), Section 28, Township 38 North, Range 94 West, Sixth Principal Meridian, Fremont County, Wyoming. LESS AND EXCEPT THEREFROM 3 parcels of land described as follow:

1. A tract of land located in the Northwest Quarter of the Southwest Quarter (NW¼SW¼), Section 28, Township 38 North, Range 94 West, Sixth Principal Meridian, Fremont County, Wyoming, more particularly described as follows: Commencing at the Northwest corner of the SW¼, said Section 28; thence S 38°50' E, 692.7 feet to the point of beginning; thence S 22°41' E, 208.71 feet; thence N 67°19' E, 208.71 feet; thence N 22°41' W, 208.71 feet; thence S 67°19' W, 208.71 feet to the point of beginning.
2. A tract of land located in the Northwest Quarter of the Southwest Quarter (NW¼SW¼), Section 28, Township 38 North, Range 94 West, Sixth Principal Meridian, Fremont County, Wyoming, more particularly described as follows: Commencing at the Northwest corner of the SW¼, said Section 28; thence S 89°54' E, along the North line of said SW¼, 186.61 feet to the point of beginning of this description; thence continue S 89°54' E, 149.36 feet; thence S 0°03' E, 262.18 feet to the Northerly right of way line of U.S. Highway 26; thence S 68°33' W, along said right of way line 160.42 feet; thence N 0°03' W, 321.10 feet to the point of beginning of this description.
3. A tract of land located in the Northwest Quarter of the Southwest Quarter (NW¼SW¼), Section 28, Township 38 North, Range 94 West, Sixth Principal Meridian, Fremont County, Wyoming, more particularly described as follows: Commencing at the Northwest corner of the SW¼, said Section 28; thence S 89°54' E, along the North line of said SW¼, 335.97 feet to the point of beginning of this description; thence continue S 89°54' E, 664.57 feet to the Northerly right of way of U.S. Highway 26; thence S 68°33' W, along said right of way line 713.78 feet; thence N 0°03' W, 262.18 feet to the point of beginning of this description.

5. The Fremont County Assessor began assessing an ad valorem tax on the portion of the railroad right-of-way traversing the Stetler family parcel in violation of 16 U.S.C. 1247(d), the Interim Railbanking Agreement, and the ICC decisions in docket AB-346X sometime after the October 1, 1991 transfer and before the Stetlers came into possession of the property until 2024. Pet. Ex. C and D.

6. On or about December 27, 2017, Thomas L. Herbst came into ownership of property in Fremont County, Wyoming (“Herbst Parcels”) more particularly described as follows:

The NE1/4 of the NW 1/4, and the NE 1/4 of Section 32, Township 38 North, Range 94 West, in the 6th Principal Meridian, Fremont County, Wyoming

The S1/2 of the SE 1/4, and the SE 1/4 of the SW 1/4 of Section 29, Township 38 North, Range 94 West, in the 6th Principal Meridian, Fremont County, Wyoming

7. On February 9, 2024, Thomas L. Herbst quit-claimed the property to himself and Michele E. Herbst. On September 5, 2025, Thomas L. Herbst and Michele E. Herbst quitclaimed the property to Thomas L. Herbst and Michele E. Herbst as Trustees of the Epic Legacy Living Trust dated September 5, 2025.

8. The Fremont County Assessor assessed an ad valorem tax on the portion of the railroad right-of-way traversing the Herbst family parcel in violation of 16 U.S.C. 1247(d), the Interim Railbanking Agreement, and the ICC decisions in docket AB-346X sometime after October 1, 1991, but before the Herbst Family came into possession of the parcel. Pet. Ex. E and F.

9. The County Assessor showed on their public map server⁴ that no Rails to Trails existed through the Stetler family parcel nor the Herbst Parcels, but did from Riverton, Wyoming, until it reached the Wind River Reservation. Pet. Ex. G.

10. The Stetler family paid the assessed taxes, believing the railway was abandoned, until they discovered – through communications with the County Attorney on September 27, 2023 – that Fremont County claimed a right-of-way easement through their property. Pet. Ex. H.

11. The Herbst family continued paying taxes on the right-of-way, unaware of 16 U.S.C. 1247(d), the Interim Railbanking Agreement, and the ICC decisions in docket AB-346X, which provide that the County is to take responsibility for all current and future assessments on the Railroad Right of Way to be used for the Rail to Trails.

⁴ Fremont County maintains a public GIS website for the public to view their prior taxes, tax parcel, and who has responsibility for payment.

[https://maps.terragis.net/fremontwy/map#zcr=7.833116399723851/2134618.147233/995261.6650853028/0&lyrs=publicland,cities,ownership,roads&filter=\(pidn%20in\('38942830032600'\)\)](https://maps.terragis.net/fremontwy/map#zcr=7.833116399723851/2134618.147233/995261.6650853028/0&lyrs=publicland,cities,ownership,roads&filter=(pidn%20in('38942830032600')))

12. The Stetler family sent a demand for a refund to the Fremont County Commissioners and the Fremont County Assessor's Office. Pet. Ex. I and K.

13. Though Fremont County determined it is inappropriate to continue to assess ad valorem taxes on the Stetler property, Fremont County Commissioners denied refunding the ad valorem taxes that had already been assessed and paid prior to June 4, 2024. The Fremont County Commissioners also refused to hold a hearing on the refund request after it was requested. Pet. Ex. L and M.⁵

14. The Fremont County Commissioners denied both the hearing and the refund request. To date, the Fremont County Assessor and Fremont County Commissioners refuse to take complete responsibility for the railroad right-of-way through the Stetler family property.⁶

15. Fremont County failed to maintain the Rails to Trails at all until putting in new fences in 2023. When installing the new fence line on either side of the Rails to Trails, they did not survey the actual boundary, and the fence's location is also in question.

16. The Surface Transportation Board has the jurisdiction to revoke or enforce the NITU and Agreement. "The power of the [Surface Transportation Board] over railroad extensions is plenary..... The same conclusion has been reached with regard to the [Surface Transportation Board's] authority to regulate the abandonment of railroad lines." *Indus. Sitting Council v. Chi. & N. W. Transp. Co.*, 660 P.2d 776, 782 (Wyo. 1983). "Without question, the STB retains jurisdiction over an unabandoned right-of-way." *Trevarton v. South Dakota*, 817 F.3d 1081, 1085 (8th Cir. 2016).

17. Assessing taxes in violation of 16 USCS § 1247, the Interim Rail Banking Agreement, and the ICC decisions in docket AB-346X, the County of Fremont, Wyoming, violated the Stetler Family's Fifth Amendment Rights.

⁵ The Stetler family never filed for a hearing before the County Board of Equalization, only the County Commissioners. All County hearings were still docketed with the County Board of Equalization at the behest of the County.

⁶ Stetler family filed for an appeal, and the County filed to have a question answered by the Board of Equalization to determine if the taxes were erroneous or illegal, Wyo. Board of Equalization, Docket 2025-03. The State Board of Equalization decided on October 28, 2025, that it lacked jurisdiction to decide the matter, and the County Board of Equalization dismissed on remand on January 13, 2026. Pet. Ex. N.

Conclusion

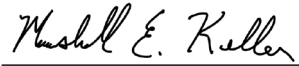
The above-stated facts show a continued history of Fremont County violating 16 U.S.C. 1247(d) and the Interim Railbanking Agreement on which the decision for Docket AB-346X was made. The actions of Fremont County not only violate the agreements, the ICC Decision, and the law, but also the Fifth Amendment of the United States Constitution.

The Stetler Family and the Herbst Family acquired the parcels years later. They learned about the Interim Rail Banking Agreement and that Fremont County had wrongfully taxed them for the public right-of-way. Upon request to correct the situation and refund the money paid, Fremont County doubled down and refused to do so. Assessing and enforcing an ad valorem tax on the Railroad Right of Way is a substantial change from when the Railroad Banking Agreement was instituted in 1991 and a direct violation of Federal law and the agreement. It would also be considered new evidence brought before the Surface Transportation Board that did not exist in 1991 when the ICC made its decision.

WHEREFORE, the Petitioners pray for the Surface Transportation Board to:

- a. Revoke the NITU affecting the Stetler family property and the Herbst Parcels.
- b. Enforce the NITU and Agreement to have the Stetler family and Herbst family reimbursed for the loss of their property and prior taxes assessed and paid with interest,
- c. Award the Stetler Family attorney fees as allowed under 49 C.F.R. § 1016.
- d. Award the Herbst Family attorney fees as allowed under 49 C.F.R. § 1016.
- e. and for such other and further relief as the Board deems just and proper.

DATED this 11th day of February, 2026.



Marshall E. Keller, WSB #7-6406

Keller Law Firm, PC

Attorney for Petitioners

PO Box 111

Thermopolis, WY 82443-0111

(307) 864-2318

CERTIFICATE OF SERVICE

I, Marshall E. Keller, attorney for the Petitioners, hereby certify that I served a true and correct copy of the foregoing Petitioners' *Petition To Reopen Based On A Substantial Change In Circumstances And New Evidence* on the 11th day of February, 2026 on the party as follows:

Fremont County Attorney
450 N. 2nd St., Room 170
Lander, WY 82520
attorney@fremontcountywy.gov

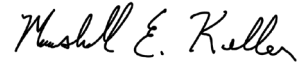
☒ US MAIL
☒ EMAIL

Wyoming Attorney General
109 State Capitol
200 W. 24th Street
Cheyenne, WY 82002

☒ US MAIL
☐ EMAIL

Wyoming Department of Transportation
WYDOT Railroad Div.
5300 Bishop Blvd.
Cheyenne, WY 82009

☒ US MAIL
☐ EMAIL



Marshall E. Keller

*Dick
Jungberg*

②② BAD WATER LINE
TO
FREMONT COUNTY

INTERIM TRAIL USE/RAILBANKING
AGREEMENT

This is an Interim Trail Use/Railbanking Agreement ("Agreement") entered into this 10TH day of MAY, 1991, by and between Bad Water Line, with its principal office at 642 South Federal Blvd., Riverton, Wyoming 82501, hereinafter called "Grantor," and Fremont County, Wyoming, hereinafter called "Grantee," with its office at Fremont County Courthouse, Lander, Wyoming, 82520.

Whereas Grantor pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), seeks to donate all of Grantor's right, title and interest in and to that parcel of land situated between Riverton and Shoshoni in Fremont County from Milepost 725.612 to Milepost 703.068, a distance of approximately 22.544 miles, as more particularly described in Exhibit "A" attached hereto and made a part hereof (said parcel of land being hereinafter called the "Premises"),

NOW, THEREFORE, the parties agree as follows:

1. Donation. Grantor agrees to donate to grantee all of Grantor's right, title, and interest, if any, in the Premises for the sum of \$1.00 in hand paid. Grantee acknowledges that Grantee has been allowed access to the premises, prior to signing this Agreement, for the purposes of inspecting and testing the Premises in whatever fashion and by whatever means grantee deems advisable. Grantee accepts the Premises "AS IS, WHERE IS."

2. Conveyance. Grantor shall convey or cause to be conveyed all of Grantor's right, title and interest, if any, in the Premises to Grantee by quitclaim deed pursuant to 16 U.S.C. 1247(d), subject to all rights, easements and reservations in place or of record and in accordance with the other terms, conditions and reservations contained herein. In the event Grantor's description of the Premises as used in the deed is not acceptable to grantee, Grantee shall so advise Grantor of their objections to said description and within fifteen (15) days thereof, Grantee shall, at Grantee's expense, arrange for a survey of the Premises to be furnished to Grantor.

3. Exclusion for track. This agreement relates only to land, tunnels, bridges, culverts and buildings on the Premises. Unless otherwise stated herein, any conveyance shall exclude Grantor's railroad tracks and appurtenances thereto.

4. Bridges and similar structures. All bridges, culverts and other structures (other than rails, ties, wires, signals and other track materials) on the Premises shall remain in place and become the property of Grantee upon conveyance of said Premises. All such structures are included in the donation. Grantor shall have the exclusive right to remove all rails, ties, wires, signals and other track materials, and shall do so within one (1) year of entry into this Agreement.

5. Management, Maintenance, and Section 8(d). Grantee acknowledges that the Premises shall be used for trail and compatible public purposes and subject to reactivation for rail use upon appropriate order by the Interstate Commerce Commission

pursuant to section 8(d). Grantor retains the right of first refusal for any reactivation for rail use. In the event of reactivation for rail serve, Grantee shall be compensated for all cost incurred by Grantee for trail or trail-related structures displaced by rail reactivation. Grantee assumes full and complete responsibility for management, operation and maintenance of the Premises, and under no circumstances shall Grantor be required to manage, operate or maintain the Premises, except as to those portions reconveyed to Grantor for resumption of rail use. Grantee shall assume full responsibility for management of the Premises and for any and all legal liability arising out of the transfer or use of the Premises, and, further, Grantee shall pay all taxes which may be levied or assessed against the Premises, from the date of transfer of the Premises. To the extent provided by law, Grantee shall indemnify and hold Grantor harmless from any and all loss, damage, injury, death, liability, cost or expense, including attorneys' fees, or claim of violation of any law, ordinance or regulation, arising after the date of closing. This Agreement and any subsequent conveyance or agreement shall be interpreted to conform to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). Grantee warrants that any use of the corridor for utility purposes will be compatible with interim trail and railbanking.

6. Bridges and similar structures and historic preservation. Grantee shall submit an historian's evaluation of the Premises, in accordance with section 106, within three years of the execution of the Agreement to the Wyoming state Historic Preservation Officer for comment, with a copy to the Interstate Commerce Commission. Grantor shall be responsible for the first \$1500.00 in costs for the analysis, payable upon proof of incurring of the cost, and Grantee shall be responsible for all remaining costs. Grantee shall retain all structures conveyed on the Premises intact, with the intent of preserving them against deterioration. Grantee shall not modify any potentially historic structures (i.e., structures over 50 years old) other than the roadbed without approval by the SHPO architecture specialist for harmony and congruity of design and materials. Any actions affecting any historic or potentially historic structure should be in accordance with the Secretary of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" as revised in 1990.

7. Government approvals. This donation shall be dependent upon Grantor obtaining authority to abandon and to railbank the Premises from the Interstate Commerce Commission (ICC), and to otherwise consummate the transfer and transaction envisioned in the Agreement. No obligations accrue under this agreement until all necessary approvals from ICC have been obtained. In the event ICC or any other government agency with jurisdiction declines to authorize this transaction, or imposes additional terms and conditions unknown at the current time, either party may terminate this Agreement without liability to the other. In the event any authority where the Premises are located requires a survey, or plat, or has a subdivision ordinance, the Grantee shall obtain such survey or plat, at Grantee's expense. That survey or plat shall be submitted by Grantee to Grantor for review and approval prior to recording and within a period of forty-five (45) days after the date of Grantor's acceptance of this Agreement.

8. Title. Grantor makes no warranties or representations as

to the quality of title to the Premises.

9. Closing. The Closing shall occur as soon as practicable after satisfaction of the conditions precedent or waiver as said conditions by the parties and after final authority from the ICC, including lifting of any stays imposed by the ICC. Either party may terminate this Agreement without liability to the other party if Closing has not incurred within 120 days after final authority and the lifting of any stays imposed by the ICC, or if ICC does not issue final authority or lift any stays within 30 days of entry into this agreement.

10. Assignment of Leases, etc. All leases, licenses, permits and easements of any kind whatsoever in the Premises, whether or not of record, shall be assigned to the grantee, or canceled, at Grantor's option, upon transfer of the Premises to the Grantee.

11. Real estate and Transfer taxes. Real estate taxes payable or paid in the year the deed is delivered shall be prorated as of the date the deed is delivered. Grantee shall be responsible for all transfer taxes.

12. Access for Salvage Purposes. Grantee agrees to allow Grantor reasonable access to and across the property to conduct salvage operations.

13. Notices. All notices, demands, and other instruments required or permitted to be given or served by either party shall be in writing and deemed to have been given or served by either party if sent by registered or certified mail, addressed to the other party at the address shown herein, or hand delivered with verification of service.

14. Successors. This Agreement is binding on any and all successors, assigns, heirs or designees.

15. Authority. By their signatures below, the signators to this Agreement warrant and attest that they have authority to bind their respective principals.

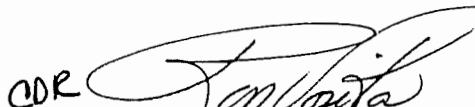
Date: May 10, 1991



Fremont County, Grantee

Tom Satterfield, County Commissioner

Date: 5/10/91



Ron Vosika, Bad Water Line, Grantor
Chief Executive Officer

APR 10 1991

INTERSTATE COMMERCE COMMISSION

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-346X

BAD WATER LINE--ABANDONMENT EXEMPTION--
IN FREMONT COUNTY, WY

Decided: April 8, 1991

Bad Water Line (BWL) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon its 22.544-mile line of railroad between milepost 703.068, near Shoshoni, and milepost 725.612, at the end of the line in Riverton, Fremont County, WY. A notice of exemption was served and published in the Federal Register (56 FR 10573) on March 13, 1991. The exemption is scheduled to become effective April 12, 1991.

The notice of exemption included a request for a notice of interim trail use (NITU) filed by Fremont County, WY, so that it could negotiate with BWL for use of the line as a recreational trail.¹ BWL indicated in the notice of exemption (reaffirmed by letter filed March 19, 1991) its willingness to negotiate with Fremont County for interim trail use.

In light of BWL's willingness to enter into negotiations, a NITU will be issued under 49 CFR 1152.29. The parties may negotiate an agreement during the 180-day period prescribed below. If no agreement is reached within 180 days, BWL may fully abandon the line. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

The Wyoming State Historic Preservation Officer has informed the Commission's Section of Energy and Environment (SEE) that the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470, has not been completed. SEE recommends that a condition be imposed requiring BWL to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process. The recommended condition will be imposed.

A notice of intent to file an offer of financial assistance (OFA) was tendered for filing on April 1, 1991, by KCT Railway Corporation (KCT). The notice of intent was rejected in a separate decision.

As conditioned, this action will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The notice of exemption published in the Federal Register on March 13, 1991, exempting the abandonment of the line described above, is modified to the extent necessary to implement interim trail use/rail banking as set forth below and is further

¹ By letter filed March 25, 1991, the Fremont County Association of Governments Joint Powers Board, comprising all six of Fremont County's incorporated municipalities and Fremont County (through its county commissioners), supports the abandonment subject to the NITU.

subject to the condition that Bad Water Line retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act.

3. Subject to the condition set forth above, Bad Water Line may discontinue service, cancel tariffs for the line on not less than 10 days' notice to the Commission, and salvage track and track materials consistent with interim trail use/rail banking after the effective date of this decision and notice. Tariff cancellations must refer to this decision and notice by date and docket number.

4. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, any liability arising out of the transfer of use (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and the payment of any taxes that may be levied or assessed against the right-of-way.

5. Interim trail use/rail banking is subject to the future restoration of rail service.

6. If the user intends to terminate trail use, it must send the Commission a copy of this decision and notice and request that it be vacated on a specified date.

7. If an agreement for interim trail use/rail banking is reached by the 180th day after service of this decision and notice, interim trail use may be implemented. If no agreement is reached by the 180th day, Bad Water Line may fully abandon the line.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

(SEAL)

Sidney L. Strickland, Jr.
Secretary

DO

SERVICE DATE

MAY 17 1991

INTERSTATE COMMERCE COMMISSION

DECISION

Docket No. AB-346X

BAD WATER LINE--ABANDONMENT EXEMPTION--
IN FREMONT COUNTY, WY

Decided: May 14, 1991

In a decision served April 10, 1991, a trail use/rail banking condition was imposed at the joint request of Bad Water Line (BWL) and Fremont County, WY (Fremont), as well as a condition requiring BWL to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act.

The Wyoming State Historic Preservation Officer has informed the Commission's Section of Energy and Environment (SEE) that, in light of an interim trail use agreement between BWL and Fremont executed May 10, 1991, the abandonment proposal will have no adverse effect on historic properties. SEE recommends that the historic preservation condition be removed. Accordingly, the proceeding will be reopened and the condition removed.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the historic preservation condition imposed in the decision served April 10, 1991, is removed.
3. This decision is effective on its service date.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.
Secretary

(SEAL)

PETITIONERS EXHIBIT B



FREMONT COUNTY ASSESSOR
TARA BERG
450 N 2ND ST ROOM 200A
LANDER, WY 82520-0002
PHONE: (307) 332-1188 FAX: (307) 332-1810
OFFICE HOURS: 8AM - 5PM

2024 NOTICE OF ASSESSMENT

This is NOT a Bill.

The Tax Bill will be sent to you by the County Treasurer

In case of a dispute over values of your property, your first obligation is to discuss the problem with the Assessor's Office. If not resolved, any person wishing to contest the assessment of their property shall file a statement with the County Assessor no later than thirty (30) days after the Date Mailed shown on this notice. The statement shall specify the reasons why the assessment is incorrect. Please contact the Assessor's Office for more information on the appeal process.

NAME OF OWNER AS OF JANUARY 1, 2024

19007*39**G50**0.8295**5/6*****AUTO5-DIGIT 82633
STETLER JACOB Z & KARLINE Z
PO BOX 61
SHOSHONI WY 82649-0061

Date Mailed	Date of Assessment	GEO - Pin Number	Account Number	Parcel #
04/18/24	01/01/24	38942830032600	R0040039	
PROPERTY ADDRESS		TAX DISTRICT	TOTAL LAND SIZE	
12663 HWY 789		2400	Acres 155.048876	

LEGAL DESCRIPTION OF PROPERTY BEING ASSESSED

TWP 38N RNG 94W SEC 28: PARCEL IN SW¼ WD 2021-1427326

PREVIOUS YEAR'S PROPERTY BREAKDOWN

Fair Value	X	Level of Assessment	=	Assessed Valuation	X	Last Year's Mill Levy	=	Last Year's Tax
\$0		9.5%				0		\$0

CURRENT YEAR'S ASSESSMENT

DESCRIPTION	FAIR VALUE	X	LEVEL OF ASSESSMENT	=	ASSESSED VALUATION
Residential Improvements	\$174,864		0.095		\$16,612
AG Range Land	\$8,283		0.095		\$787
Total Valuation Used to Calculate Tax:	\$183,147		Assessed Value:	\$17,399	Estimated Tax Using Previous Year's Levy: \$1,277
Exemptions:	Fair Market Value:		Assessed Value:		Est. Tax Savings:
000132					
Late Filing Fee:			Estimated Tax Using Previous Year's Levy After App		1,277

Veterans: YOU must notify the Assessor's Office each year before the 4th Monday in May by tel pursuant to W.S. 39-13-105(m) that you wish to use your Veterans Exemption this year.

PETITIONER EXHIBIT C

Detail of R0040254

Parcel

PIDN: 38942930042200

Tax ID: 00000000R0040254 Property Taxes

Tax District: 2400

Property Owner(s): HERBST THOMAS LEE & MICHELE E

Mailing Address: 6121 ROAD 38

TORRINGTON, WY 82240-5111

Street Address: 10 YELLOW BRICK RD

Deed: 1453968, 02/09/2024

Location: TWP 38N RNG 94W SEC 29: S½SE¼, SE¼SW¼ SEC 32: NE¼NW¼, NE¼
QCD 2024-1453966

2025 Actual Value: \$ 306,516 (\$ 18,938 Land + \$ 287,579 Improvements)

*2025 Adjusted Actual Value: \$ 239,580 (\$ 18,224 Land + \$ 221,356 Improvements)

2025 Assessed Value: \$ 22,760

**The difference between Actual Value and Adjusted Actual Value above is property tax exemption legislation from the 2024 and 2025 legislative sessions.*

Please contact our office for clarification.

Land

Acres	Square Feet	Class
240.49	10,475,744	Agricultural R-3
2.00	87,120	Residential
76.30	3,323,628	Agricultural R-4
318.79	13,886,492	Total

Residential 1	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built*	Sketch(s)	Photo(s)
Ranch 1 Story	1.0	1260	Frame Stucco	Preformed Metal	2	1950	<u>1</u> sketch(s)	<u>2</u> photo(s)
1 bath with 3 fixtures								
Add On Heat - Wood Stove		1						
Porch Encl Solid Wall		256						
Porch Open Slab		156						

Residential 2	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built*	Sketch(s)	Photo(s)
1½ Story Fin	1.0	1440	Frame Hardboard	Composition Shingle	2	1906	<u>1</u> sketch(s)	<u>2</u> photo(s)
1 bath with 3 fixtures								
Basement Bsmnt Conc 8 ft		336						
Porch Wood Deck		20						
Porch Wood Deck		64						

Out Building 9000	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built*	Sketch(s)	Photo(s)
Grain Bin	0.0	1			0	1940	<u>1</u> sketch(s)	<u>1</u> photo(s)



1834

1931341**G50**0.6375**3/4*****AUTO**ALL FOR AADC 820
HERBST THOMAS LEE & MICHELE E
6121 ROAD 38
TORRINGTON WY 82240-5111

PHONE: (507) 338-1111
OFFICE HOURS: 8AM - 5PM

In case of a dispute over values of your property, your first obligation is to discuss the problem with the Assessor's Office. If not resolved, any person wishing to contest the assessment of their property shall file a statement with the County Assessor no later than thirty (30) days after the Date Mailed shown on this notice. The statement shall specify the reasons why the assessment is incorrect. Please contact the Assessor's Office for more information on the appeal process.

Date Mailed	Date of Assessment	Parcel ID Number	Account Number	Local ID Number
04/24/25	01/01/25	38942930042200	R0040254	
PROPERTY ADDRESS			TAX DISTRICT	LAND SIZE
10 YELLOW BRICK RD			2400	Acres 318.79

LEGAL DESCRIPTION OF PROPERTY BEING ASSESSED

TWP 38N RNG 94W SEC 29: S½SE¼, SE¼SW¼ SEC 32: NE¼NW¼, NE¼ QCD 2024-1453966



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AUTHORIZATION CODE
FRE-7F869JWG

PREVIOUS YEAR PROPERTY BREAKDOWN

Fair Value	x	Level of Assessment	=	Assessed Valuation	x	Last Year's Mill Levy	=	Last Year's Tax
\$305,960		9.5%		\$29,066		76.773		\$2,231

CURRENT YEAR'S ASSESSMENT

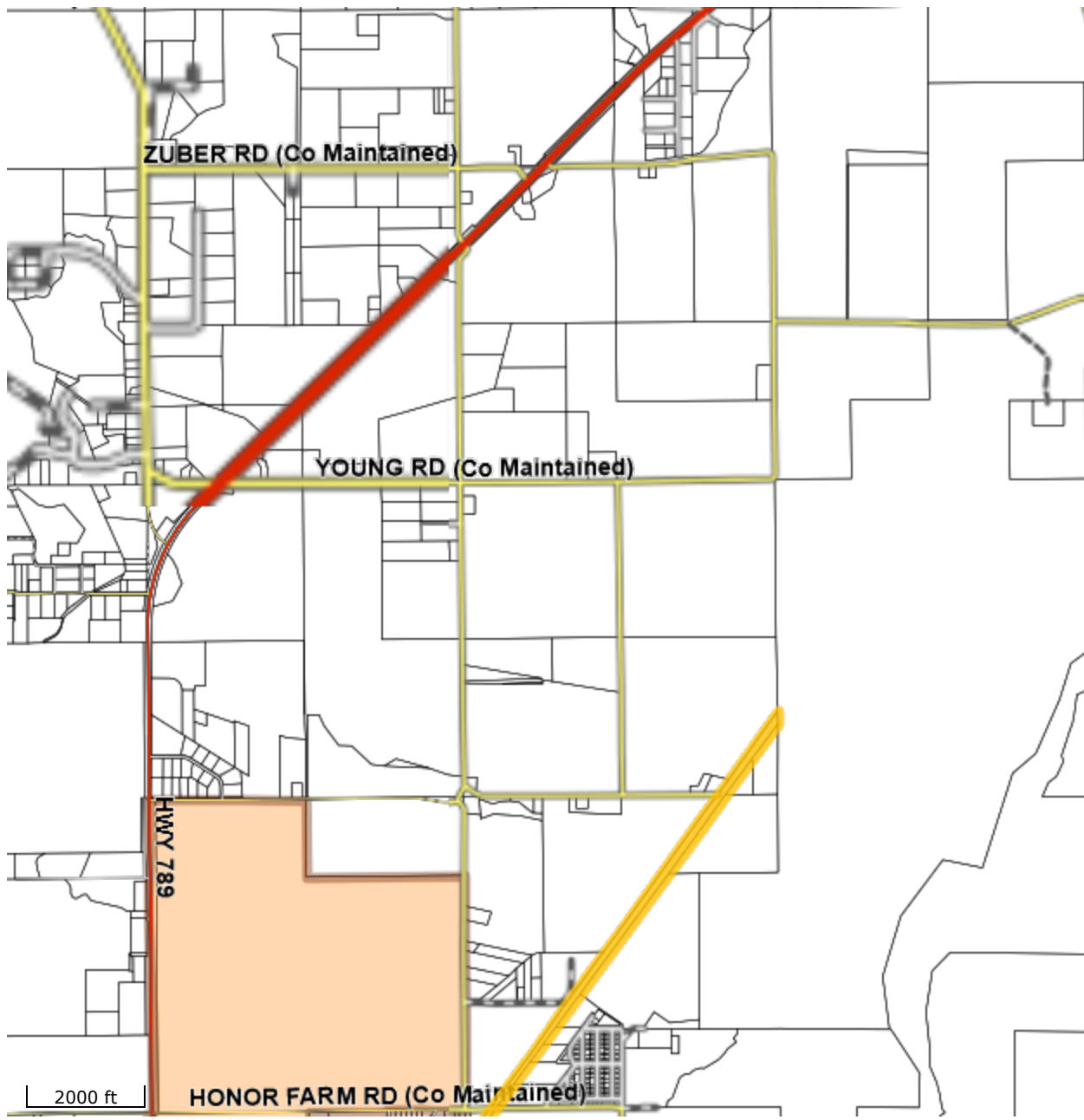
DESCRIPTION	FAIR VALUE	x	LEVEL OF ASSESSMENT	=	ASSESSED VALUATION
Residential Land	\$2,853		0.095		\$271
Residential Structure	\$264,892		0.095		\$25,165
Commercial Improvements	\$22,687		0.095		\$2,155
AG Range Land	\$16,084		0.095		\$1,528

Total Valuation Used to Calculate Tax:	\$306,516	Assessed Value:	\$29,119	Estimated Tax Using Previous Year's Levy	\$2,236
<u>Exemptions:</u>		<u>Assessed Value</u>		<u>Est. Tax Savings</u>	
Homeowners		\$-6,359		\$-488	
<u>Total Assessed Value Exempted:</u>		\$-6,359		<u>Est. Tax Savings</u>	
				\$-488	
Late Filing Fee:		Estimated Tax Using Previous Year's Levy After Applicable Exemptions:			\$1,748

Veterans: YOU must notify the Assessor's Office each year by the first Monday in May by telephone, mail, or other communication pursuant to W.S. 39-13-105(m) that you wish to use your Veterans Exemption this year.

See Department of...

22 19313



Layers Info

1 Parcel(s) [Zoom to parcel\(s\)](#)

- Parcel: 91143340008600
- Account#: R0020878 [Property Detail](#)
- Owner: FEE OWNERSHIP UNKNOWN EASEMENT HELD BY FREMONT COUNTY
- Mail Addr:
- Location: EASEMENT QCD 452-306 (8/7/1991)
- Tax Classification: Exempt
- 2.00 acres

* Where more than one Site Address exists within a parcel, we cannot guarantee the Primary Site Address will be displayed.

Lat / Lon N: 43.06944°, W: 108.34570°
 NAD83 UTM Zone 12 X: 716109,
 Y: 4771946
 NAD83 Wyoming West Central USft
 N: 936505, E: 2076530



Outlook

RE: Rails to Trails - Stetler Property

From Nathan Maxon <nathan.maxon@fremontcountywy.gov>

Date Thu 9/21/2023 11:05 AM

To Marshall Keller <marshall@kellerlawpc.com>

Mr. Keller,

In my opinion, there is no question that the County has a right of way through the Stetler property (SW ¼ of Section 28) for the Heritage trail. The right of way is 100 feet on either side of centerline of the old rail bed for a total of 200 feet. The fencing does need to be addressed, but for now, the trail needs to be reopened to the public.

Has Mr. Stetler removed the barriers?

Mr. Stetler left me a voicemail the other day. As I understand it, you are representing him and therefore I'll need your consent before I can speak with him. Do you consent or perhaps we can schedule a phone call?

Thank you,

Nathan Maxon
Deputy Civil Attorney
Fremont County Attorney's Office
(307) 332-1159
Fax: (307) 332-1029
nathan.maxon@fremontcountywy.gov

From: Marshall Keller [mailto:marshall@kellerlawpc.com]

Sent: Friday, September 15, 2023 9:16 AM

To: Nathan Maxon <nathan.maxon@fremontcountywy.gov>

Subject: Re: Rails to Trails - Stetler Property

Nathan,

Just for clarity, it is the County's opinion the County has the easement and the county is moving forward with fencing off the old railroad bed?

Respectfully,
Marshall Keller

From: Nathan Maxon <nathan.maxon@fremontcountywy.gov>

Sent: Thursday, September 14, 2023 2:16 PM

To: Marshall Keller <marshall@kellerlawpc.com>

Cc: Patrick LeBrun <patrick.lebrun@fremontcountywy.gov>

Subject: RE: Rails to Trails - Stetler Property

received
5-10-24

Fremont County Assessors

Tara Berg

We are disputing our taxes for account number R0040039. On December 30, 1991, Fremont County took possession of the abandoned railroad right of way by use of the Rails to Trails act of 1983. According to the Rails to Trails Act of 1983 title 16 ss 1247 sub D on page 1248 "If a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such transfer or use, and for the payment of any and all taxes that may be levied or assessed against such rights-of-way". We cannot find where the county assumed liability for the taxes associated with the abandoned railroad right of way. We are requesting a refund on the taxes paid since December 30, 1991 on the approximately 11 acres that Fremont County has taken from land owners. Fremont County has not been in compliance with the federal law you are using to take our land. We respectfully request a written response.

Courteously,

Jacob Z and Karline Z Stetler

Jacob Z Stetler

Karline Z Stetler

5/3/2024

County Clerk
Julie Freese
450 North 2nd Street room 220

Fremont County Assessor's
Tara Berg
450 North 2nd Street room 200A

We formally protested taxes for 2024 on account R0040039. We also requested a refund of tax money that has been collected for the land being taken by Fremont County through the Rails to Trails act of 1983. We were informed that the issue has been corrected for 2024 as well as future years, but any refund for taxes improperly taken by the county from December of 1990 until now would need to be determined by the commissioners. Today we are officially requesting a formal hearing with the County Commissioners to receive a refund for the taxes paid out over the years.

Respectfully,

Jacob Z Stetler and Karline Z Stetler

Jacob Z Stetler 5/28/2024
Karline Z Stetler 5/28/2024



Fremont County Assessor

Tara Berg
450 N 2nd Room 200A
Lander, WY 82520
(307)332-1188
tara.berg@fremontcountywyo.gov

May 16, 2024

Jacob Z & Karline Z Stetler
PO Box 61
Shoshoni WY 82649-0061

Dear Mr. & Mrs. Stetler,

I am in receipt of your letter "disputing" your taxes. The taxes are set each year on the 1st Monday in August by the Fremont County Commission. The Fremont County Assessor does not calculate the taxes, rather the classification and value of the land. I have reviewed that.

Enclosed please find an amended notice, and map, reflecting the adjustment for the land under the easement for both the Rails to Trails and the Highway Right of Way.

The easement was in place when you purchased the property. Each year you received an assessment notice which indicated you had 30 days to appeal the property value and address your concerns. This is the first year I have heard your concerns, and addressed them immediately.

The agricultural classification for your property will need to be reviewed for the future as the loss of the use of this much acreage causes the possible capability to fall well below the statutory minimum of \$500.

Sincerely,

Tara Berg
Fremont County Assessor



XC: Tara B.

OFFICE OF THE FREMONT COUNTY COMMISSIONERS

Fremont County Government: Working To Best Serve You.

450 No. 2nd Street, Room 205
LANDER, WYOMING
82520
PHONE (307) 332-1130
(307) 857-3682
FAX (307) 332-1132
www.fremontcountywy.gov

becky.enos
@fremontcountywy.gov

LARRY ALLEN

Chairman

3925 Badwater Drive
Lysite, WY 82642

MICHAEL JONES

Vice-Chairman

P O Box 1812
Lander, WY 82520

JENNIFER McCARTY

46 Lower Iiams Road
Lander, WY 82520

ARENCE THOMAS

P O Box 41

Fort Washakie, WY 82514

RON FABRIZIUS

27 Country Acres Road
Riverton, WY 82501

JULIE A. FREESE

County Clerk

and

Clerk of the Board

MARGY IRVINE

Deputy Clerk

June 4, 2024

Jacob and Karline Stetler
P O Box 61
Shoshoni, WY 82649

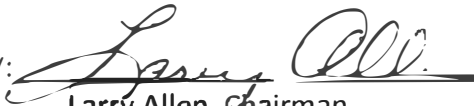
Dear Mr. and Mrs. Stetler:

The Board of Fremont County Commissioners received your letter, dated May 28, 2024, in which you requested a hearing to receive a refund for the taxes paid on your property. The only mechanism by which you can be granted a hearing before the Fremont County Board of Equalization is by filing an appeal within the specified deadline each year.

County Assessor Tara Berg has notified you, through her letter dated May 16, 2024, that the Highway Right-of-Way and the portion of the Heritage Trail that crosses your property will not be included in your taxable acreage for 2024 or subsequent years. The Assessor also notified you that "[e]ach year you received an assessment notice which indicated you had 30 days to appeal the property value and address your concerns." Regarding those prior years, no appeal was filed, therefore the County Board is unable to grant you a hearing.

Sincerely,

BOARD OF FREMONT COUNTY COMMISSIONERS

BY: 
Larry Allen, Chairman

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF	)	
JACOB STETLER	)	Docket No. 2025-03
FROM A DECISION BY THE FREMONT	)	
COUNTY BOARD OF EQUALIZATION	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER

APPEARANCES

Marshall E. Keller, Keller Law Firm, PC, attorney for Petitioner Jacob Stetler (hereafter Stetler).

Terrance Martin, Deputy Fremont County and Prosecuting Attorney, attorney for Assessor Tara Berg (hereafter Assessor).

DIGEST

[¶ 1] The Fremont County Board of Equalization (County Board)¹ certified this property tax dispute to the State Board of Equalization (State Board) pursuant to Wyoming Statutes section 39-13-102(c) (2025). Stetler seeks refunds of property taxes on agricultural property paid from 2021 through 2023. That land included a right-of-way for which Fremont County was responsible. Assessor, having reduced Stetler’s property taxes for 2024, responds that Stetler is not entitled to refunds for prior years because he did not appeal those assessments. It also asserts that the County Board of Equalization lacks jurisdiction to preside over the dispute. Assessor objected to certification following a hearing before the County Board.

[¶ 2] The State Board, Chairman E. Jayne Mockler, Vice-chairman Martin L. Hardsocg, and Board Member Karl D. Anderson², conducted a contested case. The parties declined

¹ The distinction between the Fremont County Board of Equalization and the Fremont County Board of Commissioners, although comprised of the same persons, is an important one. *See* Wyo. Stat. Ann. §§ 39-13-102 and 39-13-109 (2025). “County Board” in this ruling refers to the former, as it is the Fremont County Board of Equalization that certified this appeal. *See infra* ¶ 14.

² Mr. Anderson joined the Board after the hearing date, but he participated in the Board’s deliberation and decision.

to submit briefs. We conclude that the County Board lacked subject matter jurisdiction to consider Stetler's refund claims and, consequently, the State Board lacks jurisdiction to consider the matter on certification. We therefore withdraw our Order of Certification and return the appeal to the County Board, which we hold must dismiss for lack of subject matter jurisdiction. Stetler's recourse lies with the Fremont County Board of Commissioners, or appropriate district court, pursuant to Wyoming Statutes section 39-13-109(c) (2025).

ISSUES

[¶ 3] Stetler frames the issues as:

1. Whether Jacob Stetler was erroneously taxed[?].
2. Whether the Board of Equalization can determine if Fremont County's assessment and collection from the Stetler's was an erroneous tax[?].
3. Whether Fremont County was to take responsibility for all taxes from the moment they signed the Rails to Trails agreement[?].

(Stetler's Updated Sum. of Contentions, pp. 1-2).

[¶ 4] Assessor asks:

1. May the CBOE circumvent the Wyoming Constitution, Wyoming Statute §§ 39-13-101 et seq. and relevant case law by merely certifying questions to the SBOE for any real estate in which Fremont County possesses a subservient easement or right of way.
2. Whether Taxpayer's real estate, which contains Fremont County easement, is tax exempt?
3. Is a County Assessor a necessary party in an action where a taxpayer is claiming a property tax refund?

(Assessor's Updated Summary of the Contentions, p. 4).

[¶ 5] The County Board certified the following questions for resolution:

Question A. May Fremont County assess and/or impose ad valorem taxes on Stetler for the Rails to Trails Easement land acquired by Fremont County pursuant to the National Trails System Act, 16 U.S.C. § 1247(d)?

Question B. If the answer to Question A is no, are the assessments and/or impositions of taxes for tax years prior to 2024 considered to be “erroneous or illegal” for purposes of a refund under W.S. § 39-13-109(c)(ii)?

JURISDICTION

[¶ 6] The County Board certified this property tax appeal pursuant to Wyoming Statutes sections 39-11-102.1(c), 39-13-102(c)(iv), and section 35, chapter 2 of the State Board’s rules. The State Board shall adjudicate property tax appeals that county boards of equalization certify when a county board determines that the county itself may be liable. Wyo. Stat. Ann. § 39-13-102(c)(iv) (2025). Stetler claims that Fremont County was liable for property taxes in dispute and, consequently, Assessor erroneously or illegally assessed Stetler’s property taxes for Fremont County’s property. *Infra* ¶ 8. The State Board is authorized to hear local property tax appeals that county boards of equalization certify. Wyo. Stat. § 39-11-102.1(c) (2025); Rules, Wyo. St. Bd. of Equalization, Ch. 2 § 35 (2021). The County Board complied with procedural guidelines to certify the appeal.

[¶ 7] After the County Board certified the appeal, however, Assessor claimed the State Board could not hear the dispute. We examine Assessor’s objections to the State Board’s exercise of jurisdiction below.

PROCEEDINGS AND EVIDENCE BEFORE THE COUNTY BOARD

[¶ 8] Stetler purchased property and lands used for residential and agricultural purposes in 2021. (Stetler Exh. 105). Following a 2024 property tax assessment of Stetler’s property, Stetler sent Assessor a letter “disputing” the tax liability. (Assessor Exhs. 500 and 501). He objected that Fremont County had, years ago, assumed responsibility for 11 acres of abandoned railway easement that cut across a portion of his agricultural land. *Id.* He demanded a refund of property taxes. *Id.*

[¶ 9] A little more than ten days later, May 15, 2024, Assessor issued an Amended Assessment Notice for 2024 decreasing taxable value by \$696 (\$8,282 to \$7,587) to account for two distinct easements, the portion of Stetler’s agricultural property occupied by the railway in question, and a separate highway easement that Stetler did not raise in his refund claim. (Assessor Exhs. 502-503). Assessor explained:

Enclosed please find an amended notice, and map, reflecting the adjustment for the land under the easement for both the Rails to Trails and Highway Right of Way.

The easement was in place when you purchased the property. Each year you received an assessment notice which indicated you had 30 days to appeal the property value and address your concerns. This is the first year I have heard your concerns, and addressed them immediately.

(Assessor's Exh. 503).

[¶ 10] Stetler (and his wife) then wrote a letter to both the Assessor and County Clerk "officially requesting a formal hearing with the County Commissioners to receive a refund for the taxes paid out over the years." (Assessor's Exh. 504).

[¶ 11] The Chairman of the Fremont County Board of Commissioners wrote back to the Stetlers on June 4, 2024, informing them that their failure to timely appeal each assessment prevented the County Board from granting a hearing to consider the refund request. (Assessor's Exh. 505). The chairman did so without convening the board.

[¶ 12] Although the chairman's letter did not constitute a county board of equalization decision, Stetler appealed to the State Board on June 24, 2024, to secure property tax refunds for the railway easement that passed through his property. (Assessor's Exh. 506). Assessor moved to dismiss the appeal on grounds that Stetler's demands for refunds were too late. She asserted that both the Fremont County Board of Equalization and State Board lacked jurisdiction. (Assessor's Mot. to Dismiss dated July 12, 2024).

[¶ 13] Without considering the merits of Stetler's refund claims, or Assessor's responsive motion to dismiss, the State Board remanded the matter to Assessor. We found that the Chairman of the Fremont County Board of Commissioners had not issued an appealable decision. *In re Appeal of Jacob Stetler*, 2024 WL 3758584, Doc. No. 2024-16, * 2, ¶¶ 7-11 (Wyo. St. Bd. of Equalization, Aug. 1, 2024). We ordered that the proceedings begin anew to ensure compliance with the statutory tax appeal process, i.e. convene as a board of equalization, give notice to the parties, and proceed as required under applicable rules. *Id.*; see Wyo. Stat. Ann. 39-13-109(b) (2025).

[¶ 14] Thereafter, the County Board conducted proceedings to consider whether it had jurisdiction to hear an appeal from Assessor's denial of Stetler's refund claim, and to receive evidence on the claim's merits. The County Board, upon consideration of the parties' respective positions and evidence, certified the appeal to the State Board pursuant to Wyoming Statutes section 39-13-102(c)(iv) (2025). It reasoned that because resolution of the appeal could result in tax liability to Fremont County, certification was necessary. (Cty. Board rec. at 00059-71). The County Board further determined that it lacked subject matter jurisdiction under either Wyoming Statutes sections 39-13-109(c)(i), or (c)(ii). It proffered two questions:

May Fremont County assess and/or impose ad valorem taxes on Stetler for the Rails to Trails Easement land acquired by Fremont County pursuant to the National Trails System Act, 16 U.S.C. § 1247(d)?

If the answer to Question A is no, are the assessments and/or impositions of taxes for tax years prior to 2024 considered to be “erroneous or illegal” for purposes of a refund under W.S. § 39-13-109(c)(ii)?

Id.

[¶ 15] After the State Board accepted certification on February 3, 2025, Assessor moved to remand the matter back to the County Board. (Assessor’s Mot. to Remand to Cty. Bd., dated March 18, 2025). Assessor argued that she removed the taxable value arising from the easement property in Stetler’s 2024 assessment. *See supra* ¶ 9. *Id.* Assessor insisted that she was not a proper party to the prior year refund claims and that Stetler had to pursue those in district court rather than before the Fremont County Board of Equalization or State Board. *Id.* Stetler objected to Assessor’s remand motion. (Stetler’s Obj. to Remand, dated March 26, 2025).

[¶ 16] The State Board held a contested case hearing on September 9, 2025, to resolve the certified appeal, including the jurisdiction questions Assessor raised. The facts and circumstances giving rise to Fremont County’s responsibility for the railway easement across Stetler’s agricultural land are largely undisputed. The Bad Water Railroad Line (Bad Water) owned a railroad right-of-way through property Stetler purchased in 2021. Also prior to Stetler’s 2021 acquisition, Fremont County assumed responsibility for the right-of-way in accordance with the “Rails to Trails” component of the National Trails System Act, 16 U.S.C. 1247(d). The right-of-way would become available for public recreational use.

[¶ 17] Fremont County assumed responsibility for the Bad Water right-of-way in 1991 before the Interstate Commerce Commission. Those proceedings were document-intensive and occurred over several months, which we need not detail further. Suffice to say, Bad Water conditionally abandoned its right-of-way, and Fremont County stepped into Bad Water’s shoes. Fremont County became responsible for management and maintenance of the right-of-way, agreeing that it would “pay all taxes which may be levied or assessed against the Premises” (Stetler’s Exhs. 102-104).

[¶ 18] Several exhibits revealed the precise area and status of the right-of-way at issue. (Stetler’s Exhs. 107-110). But earlier county mapping systems did not, a point Stetler seized upon to assert that he could not have reasonably known of the easement to appeal previous tax year assessments. *Id.*; (Hr’g Rec. at 1:04:00-1:10:15).

CONCLUSIONS OF LAW

[¶ 19] Upon accepting certification of an appeal from a county board of equalization, the State Board proceeds as the trial court and “consider[s] [the appeal] pursuant to [Chapter 2 of the State Board’s Rules].” Rules, Wyo. St. Bd. of Equalization, Ch. 2 § 35 (2021).

[¶ 20] “[T]ax refunds are a matter of legislative grace, and the right to such a refund does not exist in the absence of statutory authorization.” *In re Black*, 775 P.2d 484, 487 (Wyo. 1989) (citing *Atlantic Richfield Co. v. Bd. of Cty. Comm’rs. of Cty. of Sweetwater*, 569 P.2d 1267, 1271 (Wyo. 1977)).

[¶ 21] Assessor claims that only the refund claims for the past years remain disputed since she corrected Stetler’s 2024 tax assessment by removing the value associated with the easement in question. *Supra* ¶¶ 9, 12, 15. When Stetler persisted in his appeal to the County Board, Assessor resisted certification arguing that neither the County Board, nor the State Board on certification, has authority to adjudicate Stetler’s remaining refund claims. *Id.* She cites the property tax refund provisions of Wyoming Statute sections 39-13-109(c) (2025). (Assessor’s Mot. to Remand to the Cnty. Bd.).

[¶ 22] This jurisdictional question is not an issue of first impression. *See In re Appeal of Glenn Kessler*, 1988 WL 221021, Doc. No. A-87-46 (Wyo. St. Bd. of Equalization, Aug. 23, 1988) (Sheridan County Board of Equalization lacked jurisdiction to resolve past year property tax refund claims, but county board of commissioners had jurisdiction). Even so, county boards of equalization have adjudicated prior year refund denial disputes. *See e.g. In re Black*, 775 P.2d 484 (Wyo. 1989) (County board of equalization granted prior year property tax refunds, but denied claim for interest); *but see also Appeal of Paradise Valley Country Club*, 748 P.2d 298, 301-02 (Wyo. 1988) (whether county board of equalization could consider tax valuation claim for prior year). There is only one correct answer.

[¶ 23] “As an arm of the state, [a] county has only those powers expressly granted by the constitution or statutory law or reasonably implied from powers granted.” *Bd. of Trustees of Laramie Cty. v. Bd. of Cnty. Comm’rs of Laramie Cnty.*, 2020 WY 41, ¶ 12, 460 P.3d 251, 257 (Wyo. 2020) (quoting *Ford v. Bd. of Cnty. Comm’rs of Converse Cnty*, 924 P.2d 91, 95 (Wyo. 1996). An agency has no discretion to determine whether it has subject matter jurisdiction; it either exists or it does not. *Amoco Prod. Co. v. Wyo. State Bd. of Equalization*, 7 P.3d 900, 904 (Wyo. 2000) (internal citations omitted). “Subject matter jurisdiction is ‘the power to hear and determine cases of the general class to which the proceedings belong.’” *Id.*, citing *Lacey v. Lacey*, 925 P.2d 237, 238 (Wyo. 1996).

[¶ 24] Because we occupy the County Board’s role as a board of equalization on certification, we must determine whether the County Board could have adjudicated Assessor’s denial of Stetler’s refund claims *as presented*. To resolve this question, we begin with the prescribed process for challenging property tax assessments and collections

in total. A county board, sitting as a board of equalization, finds its base adjudicative authority in Wyoming Statutes section 39-13-102(c) (2025), which provides in part:

The county board of equalization shall:

...

(iv) Hear and determine the complaint of any person relative to any property assessment or value as returned by the county assessor subject to W.S. 39-13-109(b)(i). The county board of equalization may request that a case be certified directly to the state board of equalization as provided in W.S. 39-11-102.1(c). If the case involved property that may subject the county to tax liability, the county board of equalization shall certify the case directly to the state board of equalization and the state board of county commissioners shall have standing to appeal any decision made by the state board of equalization regarding the property.

Wyo. Stat. Ann. § 39-13-102(c) (2025). This statute sets in place an overall framework for not just county boards and county boards of equalization, but for property tax abstract review, approval, and conveyance of each year's assessment roll to the county treasurer's office for tax collection. *See id.* at § 39-13-102(d) through (k) (2025).

[¶ 25] More definitive are the taxpayer remedies and processes set forth in Wyoming Statutes section 39-13-109 (2025). That statute sets forth the specific process for appealing property tax assessments, as well as for seeking property tax refunds. First, taxpayers are entitled to review property tax assessments and underlying valuation materials before formally contesting a tax assessment. Wyo. Stat. Ann. § 39-13-109(a) (2025). However, taxpayers must file appeals with the county board of equalization no later than 30 days after the date of assessment. Wyo. Stat. Ann. § 39-13-109(b) (2025). Subsection 39-13-109(b)(i) sets forth the basic appeal process and responsibilities for both taxpayers and assessors. *Id.* It explains how county boards of equalization are to proceed. It references the State Board's appellate role. *Id.*

[¶ 26] The process for seeking refunds falls under the next subsection, 39-13-109(c) (2025), and raises the possibility of a different tax assessment defect and remedy: refunds following an illegal or erroneous assessment, levy, or collection. The statutory language unfortunately does not clearly answer the questions presented. But conspicuously, it does not include a role for county boards of equalization:

(i) Within one (1) year following an illegal assessment, levy or collection of taxes an action may be filed in district court to enjoin the illegal assessment, levy or collection. The action shall be against the county assessor in the case of an illegal assessment, the governmental entity which levies an illegal levy,

the county treasurer if the levy is entered on the tax list, or against the governmental entity if the taxes were collected and paid to the entity;

(ii) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid. Any refund may, at the discretion of the board of county commissioners, be made in the form of credit against future tax payments for a period not to exceed five (5) years. Unless otherwise agreed to by the taxpayer, refunds in the form of credit against future tax payments shall be made in no less than equal annual amounts. The board of county commissioners shall not provide a credit for interest on the excise tax paid unless the taxes are paid under protest due to an appeal pending before the state board of equalization and the taxpayer prevails in the appeal;

Wyo. Stat. Ann. § 39-13-109(c) (2025).

[¶ 27] In essence, the statutory refund provisions outline two scenarios: an illegal assessment, levy, or collection which must be pursued within one year, and, an illegal or erroneous tax paid and “found to have been erroneous or illegal,” after the fact. *Id.*; *supra* ¶ 26. The latter refund scenario requires that, after a taxpayer has *paid taxes and found such to be erroneous or illegal*, he or she must apply to the county board of commissioners for a refund within one year “following the final determination of value[.]” Wyo. Stat. Ann. § 39-13-109(c)(i), (ii) (2025). *Id.*; see *In re B&G Industries, LLC*, 2016 WL 4432578, Doc. Nos. 2015-43, 2015-01, ** 20-22, ¶¶ 94-103 (Wyo. State Bd. of Equalization, July 25, 2016) (discussing *Atlantic Richfield Company v. Board of County Commissioners of Sweetwater County*, 569 P.2d 1267 (Wyo. 1977)).

[¶ 28] As to whether a county board of equalization has jurisdiction over refund claims relating to previous tax years, *they do not*. A careful reading of the statutes indicates that their jurisdiction arises from a timely appeal of an assessment pursuant to subsection 109(b). *Supra* ¶ 25. A county board of equalization also exercises jurisdiction during the assessment year while an abstract or tax roll is reviewed. See Wyo. Stat. Ann. § 39-13-102 (2025), *supra* ¶ 24; see also *In re Appeal of Glenn Kessler*, *supra*, ¶ 22.

[¶ 29] Reading subsections 109(c)(i) and (ii) together, a taxpayer may seek a refund of taxes, found to have been erroneously or illegally assessed or collected, from a district court or a county board of commissioners. The language in subsection 109(c)(i) is permissive, providing that a claimant “may” file an action in district court. Yet, no authority to resolve past-year refund claims is assigned to county boards of equalization. Given this lack of statutory authority, we may not infer such. *See Board of Trustees of Laramie County v. Board of County Commissioners of Laramie County*, 2020 WY 41, ¶ 12, 460 P.3d 251, 257 (Wyo. 2020).

[¶ 30] In any event, the Wyoming Supreme Court’s analysis in *Atlantic Richfield Company*, *supra*, sufficiently answers the questions herein presented, should they now go to the Fremont County Board of Commissioners. We must, for our part, withdraw our Order of Certification, as we lack authority to accept certification in the absence of the County Board’s authority to exercise jurisdiction.

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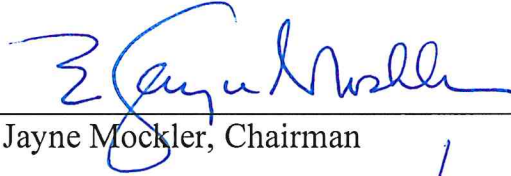
ORDER

[¶ 31] **IT IS, THEREFORE, ORDERED** that the State Board's Order of Certification is **withdrawn** or **vacated** because the State Board lacked subject matter jurisdiction, and the matter is remanded to the Fremont County Board of Equalization for **dismissal** because it lacked subject matter jurisdiction as well.

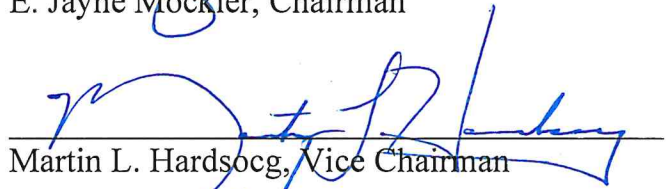
[¶ 32] Pursuant to Wyoming Statutes section 16-3-114 (2025) and Rule 12, Wyoming Rules of Appellate Procedure, any taxpayer aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days after the date of this decision.

DATED this 28 day of October 2025.

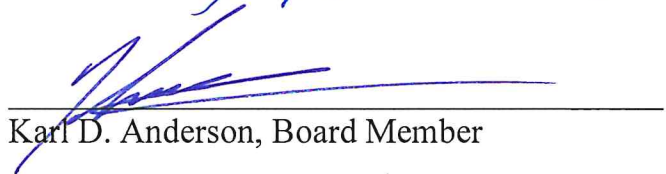
STATE BOARD OF EQUALIZATION



E. Jayne Mockler, Chairman



Martin L. Hardsocg, Vice Chairman



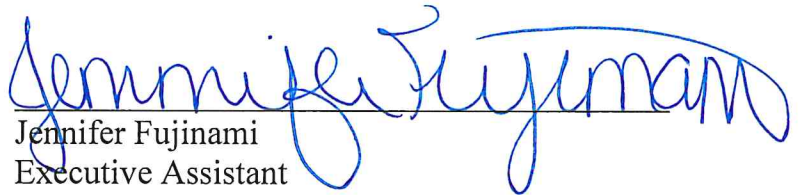
Karl D. Anderson, Board Member

CERTIFICATE OF SERVICE

I hereby certify that on the 28 day of October 2025, I served the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER** by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

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