

FILED

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL **OCT 27 2006**
OF THE STATE OF WYOMING

Terri A. Lorenzon, Director
Environmental Quality Council

IN THE MATTER OF THE APPEAL)
OF THE COPPERLEAF SUBDIVISION WATER)
SUPPLY, TREATMENT, STORAGE, AND) Docket No. _____
BOOSTER PUMPING SYSTEMS,)
Permit No. 06-274RR / Reference No. 06-236RR)

PETITION FOR REVIEW / REQUEST FOR CONTESTED CASE HEARING

COMES NOW the Northfork Citizens for Responsible Development, David Jamison and Robert Hoszwa (hereafter collectively referred to as "Northfork Group"), by and through their undersigned attorneys of record and pursuant to W. S. § 35-11-1001, and the Wyoming Department of Environmental Quality General Rules of Practice and Procedure, Ch 1 §§ 2 and 3 hereby petitions the Environmental Quality Council of the State of Wyoming as follows:

1. Name and Address of Petitioners and Petitioners' Attorney. The names and addresses of the Petitioners are: Northfork Citizens for Responsible Development, a Nonprofit Corporation organized under the laws of the State of Wyoming. Northfork Citizens for Responsible Development is comprised of landowners that adjoin the location for the proposed Copperleaf Subdivision and other interested residents of Park County, Wyoming. Its President is Hans Johnson. Mr. Johnson's address is P.O. Box 62, Wapiti, Wyoming 82450. David Jamison and Robert Hoszwa are both members of the Northfork Citizens for Responsible Development and individual landowners that adjoin the location for the proposed Copperleaf Subdivision. As such, Petitioners are aggrieved parties and are uniquely positioned to be adversely impacted by the final decision for which review is requested. Mr. Jamison's address is P.O. Box 2254, Cody,

Wyoming 82414. Mr. Hoszwa's address is c/o Debra J. Wendtland, Wendtland & Wendtland, LLP, 2161 Coffeen Ave., Suite 301, Sheridan, Wyoming 82801.

2. Action Upon Which Hearing Is Requested. This is an appeal from the final decision by the Administrator of the Water Quality Division of the Wyoming Department of Environmental Quality ("DEQ") and the Director of the DEQ to grant a permit to construct the Copperleaf Subdivision Water Supply, Treatment, Storage, and Booster Pumping System. A copy of the permit to construct is marked as "Exhibit A".

3. Statement of Facts.

a. W.S. § 35-11-301 mandates the necessity of Developer to obtain a permit to construct the Copperleaf Subdivision Water Supply, Treatment, Storage, and Booster Pumping System pursuant to WDEQ-WQD Rules and Regulations ("WDEQ-WQD Rules") Chapter 3.

b. Worthington Group of Wyoming, LLC. ("Developer") is the developer of a proposed subdivision in Wapiti Valley, Park County, Wyoming called: Copperleaf Subdivision.

c. Developer's Permit to Construct, Permit No. 06-274RR (Reference No. 06-236RR) fails to meet the requirements of the WDEQ-WQD Rules Chapters 3, 12 and likely 22.

d. To assist the Northfork Group in reviewing and responding to Developer's applications, the Northfork Group retained the following experts: Licensed Wyoming Professional Geologist, Gretchen Hurley, and Licensed Wyoming Professional Engineers: Joe Tamburini, and Sherri Jones.

e. Pursuant to W.S. § 16-2-107(b)(iv) Petitioners provide the following general statement of the matters asserted: Permit No. 06-274RR (Reference No. 06-236RR) violates WDEQ-WQD Chapters 3, 12 and likely 22. Because the requirements of WDEQ-WQD Chapters 3 and 12 were not satisfied, to grant the subject permit is action by the WDEQ that is unlawful, arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law, in excess of statutory jurisdiction, authority or limitations or lacking statutory right, without observance of procedure required by law; or unsupported by substantial evidence. Petitioners request the opportunity to more fully list all applicable violations by the WDEQ-WQD, but for purposes of notice pleading do assert the following general issues as evidence of a permit based upon an incomplete application. The permit at issue is appealable in that it is based upon an inadequate application in the following areas:

i. Failure to provide support for applicant's assumption that certain wells proposed for use draw from the alluvial aquifer and not the terrace aquifer, as well as a general failure to properly characterize the aquifer proposed to supply three Public Water Supply wells.

ii. Failure to acknowledge and list all possible sources of recharge to the applicable aquifer.

iii. Failure to discuss or analyze prior rights of existing senior water wells in the area.

iv. Failure to provide analysis of groundwater quality flowing towards and beneath the proposed Copperleaf Subdivision area from upgradient areas.

v. Failure to provide properly certified, complete and current pump test methods and data for the aquifer and well sites proposed to be used as a Public Water Supply.

vi. Failure to properly characterize, develop and present geological cross section information. (WDEQ-WQD Ch 3 § 6(i) and W.S. § 33-29-101 et. seq., and W.S. § 33-41-101 et. seq.).

vii. Failure to characterize, discuss or properly map the Chinese Wall igneous dike that acts as a barrier to recharge and groundwater flow.

viii. Failure to provide site specific measured data on hydraulic conductivity and gradient in the applicable aquifer.

ix. Failure to provide a complete and satisfactory response to the WDEQ-WQD geologist requests for more information.

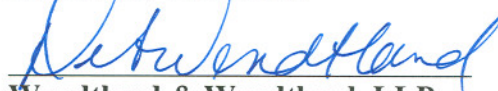
x. Failure to establish adequate groundwater quality, quantity and dependability relative to the three wells proposed.

xi. Failure to discuss, analyze or mitigate potential deleterious effects, such as aquifer dewatering, of the three proposed Public Water Supply wells on existing users of groundwater for domestic purposes in the area adjacent to the proposed subdivision.

4. Request for Contested Case Hearing. The Northfork Group requests a contested case hearing before the Environmental Quality Council and requests that the Council reverse the October 5, 2006 decision of the Administrator of the Water Quality Division and the Director of the Department of Environmental Quality as represented in Permit No. 06-274RR.

DATED this 26th day of October, 2006.

Counsel for Petitioners



Wendtland & Wendtland, LLP

Debra J. Wendtland

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Attorney for Petitioners

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CERTIFICATE OF SERVICE

I, Debra J. Wendtland, attorney for the Petitioners, in the above-entitled and numbered cause do hereby certify that on the 26th day of October, 2006, I caused a true and correct copy of the Petition For Review / Request For Hearing to be served as follows:

VIA CERTIFIED MAIL / RETURN RECEIPT REQUESTED:

CERTIFIED MAIL #: 7005 1160 0001 6439 8243

Mark Gordon
Chairman of the Environmental Quality Council
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