

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

IN THE MATTER OF THE APPEAL OF )  
THE COPPERLEAF SUBDIVISION WATER )  
SUPPLY, TREATMENT, STORAGE, AND ) Docket No. 06-3814  
BOOSTER PUMPING SYSTEMS, )  
Permit No. 06-274RR/Reference No. 06-236RR )

---

**INTERVENOR’S SUPPLEMENTAL DESIGNATION  
OF WITNESSES AND OBJECTIONS  
TO PETITIONER’S LISTED EXHIBITS**

---

COMES NOW, the Intervenor, Worthington Group of Wyoming, LLC, f/k/a Northfork Communities, Inc., by and through its counsel, Laurence W. Stinson of Bonner Stinson, P.C., and pursuant to the Council’s instruction at the Pretrial Hearing of June 21, 2007 submits its supplemental witness designation and objections to Petitioner’s listed exhibits.

**I. SUPPLEMENTAL WITNESSES.**

A. Jim Evans, P.E., Sage Engineering, 2824 Big Horn Avenue, Cody, Wyoming 82414. Mr. Evans is a member of Sage Engineering and principally designed the water distribution system which was authorized by the permit to construct. If called, Mr. Evans will testify as an expert to any and all communication with the DEQ; the data and specifics contained in the construction drawings of the Worthington water distribution system; the research and on-site work performed in preparation of the Worthington application; design and construction of the water supply and treatment system approved by Permit No. 06-27-4RR; his communication with other professionals in support of the Worthington application; his opinions and conclusion regarding impact, if any, to downstream or

surrounding users of water rights as a result of the full-scale development of Copperleaf; and any other relevant matters.

B. Mike Ebsen or other representative of the State Engineer's Office, Herschler Building 4-E, Cheyenne, Wyoming 82002. 307-777-7354. If called, Mr. Ebsen, or another individual from his office, will testify to the issuance of Intervenor's water rights, including the basis for such rights, and any other relevant matters.

## II. OBJECTIONS TO EXHIBITS.

A. DEQ's Listed Exhibits. Intervenor does not likely have any objection to the DEQ's listed exhibit, but has not yet had an opportunity to review the listed exhibit (the DEQ application of Intervenor) because the DEQ is "out of money" for its copying budget until the new fiscal year, July 1. As such, Intervenor reserves all objections to the same.

B. Petitioner's Listed Exhibits.

1. Intervenor reserves all objections to Petitioner's exhibits numbers 1, 2, 3, 4, 5, 6, 7, 9, 13, 14, 19 (with all attachments), 30, 32 and 33.

2. Intervenor reserves objections of foundation, relevance and hearsay to exhibits 10, 11, 12, 15, 16, 22, 24 and 27 pending testimony.

## III. OTHER MATTERS AND MOTIONS.

1. Petitioner's have challenged the Permit to Construct, No. 06-274RR, Reference No. 06-236RR, which authorizes the Intervenor to construct an infiltration gallery, pumps and pipeline and other *distribution* mechanisms for water. However, Petitioner's Petition for Review, Section 3(e), including subparts i through xi, challenge the adequacy of the water *source*, not the construction of the distribution system. During the pretrial hearing, Petitioner indicated that their

challenge was to the adequacy of the water source. A review of the Petition confirms this fact. Petitioner states that the DEQ failed to address circumstances like: recharge of the aquifer, groundwater quality; groundwater flow; and groundwater quality, quantity and dependability. *See Petition for Review, Section 3(e)(i) through 3(e)(xi)*. At no point in the Petition, or in any of the supplemental filings, does Petitioner challenge the method the distribution system is to be constructed.

This being the case, Petitioner should have challenged the issuance of Intervenor's water rights and permits from the State of Wyoming, State Engineer's Office by filing a Petition for Review with the Board of Control. The DEQ has issued the permit to construct, based on the water rights issued to Intervenor by the State Engineer. Petitioner did not file such a challenge with the Board of Control and to challenge adequacy of water is not actually to challenge the Permit to Construct. Intervenor moves the Council to determine whether Petitioner's challenger is appropriately before this council.

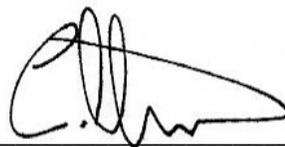
2. As noted above, Petitioner challenges the adequacy of water. By challenging adequacy, Petitioner is challenging quantity. During the pretrial conference, Chairman Richard Moore asked whether the Attorney General's Formal Opinion No. 2006-001, April 12, 2006, precluded the Council's consideration of the Petition for Review. Generally, the Attorney General opined that that Environmental Quality Act does not grant authority to the Council to regulate *quality* unless *quality* is affected by *quantity*. In other words, the EQA grants the council the right to administer quantity and not quality, unless the two are intertwined.

Moreover, W.S. Sec. 35-11-302(a)(xi) (LexisNexis 2005) only requires that the administrator of the EQA shall prescribe standards for subdivision applications under W.S. 18-5-306(a)(vi) is the only portion of that statute applicable to potable water systems. That section simply requires that subdivision permits issued by a board of county commissioners rely on a “study evaluating the proposed water supply system....” Intervenor respectfully submits that nothing contained in the EQA or W.S. Sec. 18-5-306 creates a right for quantify of water to a subdivision is properly challenged in front of this council. Intervenor respectfully moves for a formal ruling on whether the EQA and the Attorney General’s Formal Opinion No. 2006-001 preclude Council consideration of this contested case.

3. Counsel for all parties have agreed to meet at the office of the undersigned on July 9, 2007 to further review exhibits, particularly the exhibit of the DEQ.

4. Mr. Ebsen, or another individual from the State Engineer’s office, will likely need to testify by phone and Intervenor requests permission for the same.

DATED this 29th day of June, 2007.



---

**Laurence W. Stinson**  
BONNER STINSON P.C.  
P. O. Box 799  
Powell, Wyoming 82435-0799  
(307) 754-4950  
FAX (307) 754-4961

**CERTIFICATE OF SERVICE**

I, Laurence W. Stinson, attorney for the Worthington Group of Wyoming, LLC, hereby certify that on the 29th day of June, 2007, I served a true and correct copy of the foregoing correctly addressed to the following:

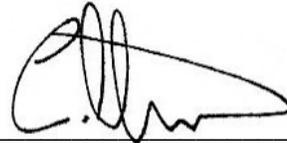
Terri A. Lorenzon  
Director of the EQC  
122 West 25th Street  
Herschler Building, Room 1714  
Cheyenne, Wyoming 82002

John S. Burbridge  
Office of the Wyoming  
Attorney General  
123 Capitol Building  
Cheyenne, Wyoming 82002

John Wagner, Director DEQ  
122 West 25th Street  
Herschler Building  
Cheyenne, Wyoming 82002

Debra J. Wendtland  
Wendtland & Wendtland, LLP  
2161 Coffeen Avenue, Suite 301  
Sheridan, Wyoming 82801

Bryan Skoric  
Park County Attorney  
1002 Sheridan Avenue  
Cody, Wyoming 82414



---

**Laurence W. Stinson**