

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

JUL 12 2007
Terri A. Lorenzon, Director
Environmental Quality Council

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

DOCKET NO. 06-3814

PRE-HEARING CONFERENCE ORDER

THIS Order arises out of the pre-hearing conference conducted by the Environmental Quality Council (Council) on June 22, 2007.

1. Motions.

(a) Arguments were heard on Respondent, Worthington Group of Wyoming, LLC's (Respondent) MOTION TO DISMISS PETITIONERS' PETITION FOR REVIEW. The Council finds that the Petitioners have standing because they are adjoining landowners with valid State of Wyoming Groundwater permits and those interests may be harmed by the subject permit.

Therefore, Respondent's motion to dismiss is denied.

(b) Arguments were heard on Respondent's MOTION FOR DISQUALIFICATION OF ENVIRONMENTAL QUALITY COUNCILMAN MARK GIFFORD. The Council finds that the Respondent did not establish that Mr. Gifford has bias or prejudice with respect to this matter.

Additionally, the Council finds that there is no right for peremptory disqualification of a Council member. Instead, the proper mechanism for disqualification is to voir dire the panel member and establish actual bias. *Board of Trustees, Laramie County School Dist. No. 1 v. Spiegel*, 549 P.2d 1161, 1166 (Wyo. 1976). Respondent was not prepared to and did not voir dire Mr. Gifford at the pre-hearing conference. Respondent may still voir dire the members of the Council at the hearing.

Therefore, Respondent's motion to disqualify is denied.

2. Issues. At the conference the parties agreed that the primary issue was that identified by the Department of Environmental Quality (DEQ):

“Does the Division’s decision to issue a permit to construct a water supply system to Worthington comply with applicable Wyoming law as set forth in Chapters 3 and 12 of the WQRR?”

3. Witnesses.

- (a) The DEQ may call as witnesses, Jeff Hermansky, and John Passehl.
- (b) Petitioners may call as witnesses, Gretchen L. Hurley, Craig Cooper, David Jamison, Robert Hoszwa, Jeff Hermansky, and John Passehl.
- (c) Respondent may call as witnesses Jeremy Easum, Tom Pilch, Todd Rhodes, and the Worthington Group of Wyoming, LLC, by and through its principals.

The parties shall have the witnesses identified above in attendance at the hearing and available to testify. If a party plans to call any other witness at the hearing, that party is responsible for subpoenaing such witness.

4. Exhibits. The parties have agreed to meet and discuss exhibits.

The parties shall file by June 29, 2007, a list identifying which exhibits the parties have stipulated to for admission into evidence and reserving objections to the remaining exhibits, setting forth their specific objection.

5. Order of Proceeding.

The order for the presentation of evidence shall be as follows:

- 1. Department of Environmental Quality
- 2. Petitioners
- 3. Respondent
- 4. Petitioners (rebuttal)

However, the parties and the Council have agreed that Mr. Todd Rhoades may be called out of order on either July 9th or the morning of July 10th.

6. Objections to Pre-Hearing Conference Order.

The parties shall have two days from the date of service to serve and deliver any objections to this Order.

SO ORDERED this 2nd day of July, 2007.


Sara M. Flitner, Presiding Officer
Environmental Quality Council

CERTIFICATE OF SERVICE

I, Kim McGee, certify that at Cheyenne, Wyoming, on the 2nd day of July, 2007, I served a copy of the foregoing **ORDER** by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to;

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Park County Courthouse
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Cody, WY 82414

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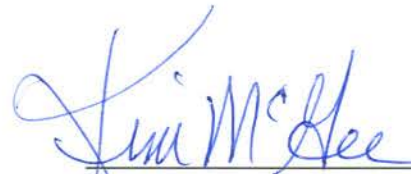
Debra J. Wendtland
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also to the following persons via interoffice mail:

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