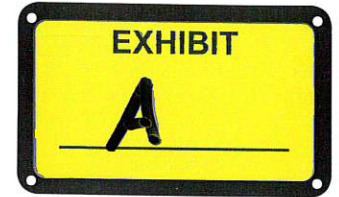


BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
OF THE STATE OF WYOMING



In the Matter of the Appeal of)
Protect Our Water Jackson Hole)
From Permit to Construct –)
Permit No. 2023-025)

Docket No. 23-3801

AFFIDAVIT IN SUPPORT OF MOTION TO SUSPEND PERMIT

Bradford Nielson hereby testifies under oath as follows:

- 1) I am over 18 years of age and otherwise competent to make this declaration. I have personal knowledge of the facts set forth herein.
- 2) I am Chair of the Board of Protect Our Water Jackson Hole (POWJH), which is a 501(c)(3) tax exempt, non-profit corporation registered in the State of Wyoming. Its mission is to serve as a powerful advocate for the protection of ground and surface waters in Teton County, Wyoming.
- 3) POWJH and its predecessor organization, Friends of Fish Creek, have invested heavily in efforts to restore and protect water quality in Fish Creek and its tributaries. For example, POWJH has invested hundreds of thousands of dollars in initiatives to improve water quality in the Fish Creek watershed, including funding for education and outreach, advocacy by POWJH staff. Specific expenditure outlays include: (1) approximately \$164,000 for water quality monitoring focusing on the Fish Creek watershed between 2014 and 2022; (2) approximately \$88,000 for stakeholder involvement in an attempt to improve water quality in the Fish Creek watershed between 2015-2019; and (3) a \$250,000 contribution to funding for the Water Quality Master Plan process that is underway in Teton County and has important implications for the Fish Creek watershed.
- 4) POWJH has filed this appeal to challenge the Permit to Construct issued to Basecamp Teton WY SPV LLC, Permit No. 2023-025 (Reference Permit Numbers: 2022-090), Teton County, issued by the Department of Environmental Quality/Water Quality Division dated July 13, 2023 (the "Permit").
- 5) The operation of the onsite wastewater system authorized by the Permit will discharge pollutants—including *E. coli* and nutrients—to Fish Creek and its tributaries, diminishing the use and enjoyment that POWJH and its supporters enjoy and appreciate, and undermining POWJH's previous efforts at mitigating pollutants entering Fish Creek.

- 6) The DEQ/WQD has determined that Fish Creek is impaired by concentrations of *E. coli* that exceed the quality standards for primary contact recreation contained in WQRR Chapter 1.
- 7) DEQ has also indicated that several lines of evidence show that Fish Creek is impaired for nutrients and that DEQ is engaged in a process to list Fish Creek as impaired for nutrients, including phosphorus, nitrogen, and related compounds. For example, see video footage of a DEQ presentation at Fish Creek Watershed Management Planning Public Stakeholder Meeting on June 7, 2023 in Wilson, WY at: <https://jhcleanwater.org/initiatives/fish-creek-watershed-management/> (at 1:00:30; 1:01:26)
- 8) High concentrations of *E. coli* that exceed applicable water quality standards, and high nutrient levels that have impaired ecosystem health, have diminished and negatively affected POWJH's use and enjoyment of Fish Creek.
- 9) POWJH and its supporters are adversely affected by the above-referenced permit and by the activities authorized thereunder, including but not limited to the construction and operation of a raised mound, pressure dosed commercial septic system in the headwaters of Fish Creek, a DEQ-designated Class 1 surface water that is heavily used by POWJH supporters for a variety of recreational, scenic, and aesthetic purposes.
- 10) Because the Permit will increase the levels of *E. coli* and nutrient pollutions in the Fish Creek watershed, it will increase the costs of POWJH's efforts to maintain and restore water quality in the area.

Bradford Nielson

THE STATE OF WYOMING)

) SS

COUNTY OF TETON)

Subscribed and sworn to before me by Bradford Nielson this 8th day of November, 2023.

Witness my hand and official seal.

Gail A. Wells

Notary Public

My Commission Expires: *May 29, 2029*

GAIL A. WELLS
Notary Public - State of Wyoming
Commission ID # 162776
My Commission Expires
May 29, 2029