

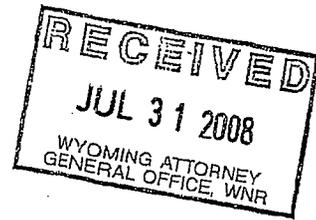
BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF:)
BASIN ELECTRICAL POWER COOPERATIVE)
DRY FORK STATION,) Docket No. 07-2801
AIR PERMIT CT-4631)

**RESPONDENT DEPARTMENT OF ENVIRONMENTAL QUALITY'S
MEMORANDUM IN SUPPORT OF MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Exhibit No. 8 – Protestants Response to DEQ's Discovery Request

James S. Angell (WY Bar No. 6-4086)
Robin Cooley
Andrea L. Zaccardi
Earthjustice
1400 Glenarm Place, Suite 300
Denver, CO 80202
Tel: (303) 623-9466
Fax: (303) 623-8083



Attorneys for Protestants

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
OF THE STATE OF WYOMING

IN THE MATTER OF:)
BASIN ELECTRIC POWER COOPERATIVE)
DRY FORK STATION,) Docket No. 07-2801
AIR PERMIT CT – 4631) Presiding Officer, F. David Searle

**PROTESTANTS' RESPONSE TO
RESPONDENT DEQ'S FIRST COMBINED DISCOVERY REQUEST INCLUDING
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
SERVED ON PROTESTANTS**

Protestants hereby submit the following answers and responses to Wyoming Department of Environmental Quality's ("WYDEQ") First Combined Discovery Request Including Interrogatories and Requests for Production of Documents Served on Protestants. Protestants' answers and responses are based on Protestants' reasonable inquiries and the information known to them as of the date of these responses. Protestants' responses, therefore, are not intended to be, nor shall be deemed to be, a representation that no other facts or contentions other than those specified in the responses do or do not exist. Discovery and other investigation or research concerning this action is continuing. Protestants reserve the right, therefore, to amend or supplement their responses at any time in light of further investigation, research, or analysis to the extent permitted or required by law and to introduce at trial any and all such evidence.

GENERAL COMMENTS AND OBJECTIONS

1. Protestants object to the requests to the extent they request information that is subject to the attorney-client privilege, work product privilege, or any other privileges or immunities.
2. Protestants object to the production of documents where the request is unreasonably cumulative or duplicative, or where the requested documents are obtainable from some other source that is more convenient, less burdensome or less expensive.

3. Protestants object to the production of documents where the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of this case, the amount in controversy, the parties' resources, the importance of the issues at stake in this litigation, and the importance of the proposed discovery in resolving the issues.
4. Protestants object to the production of any documents that are immaterial and irrelevant to the issues presented by Protestants' claims in this case or do not seek information which appears reasonably calculated to lead to the discovery of admissible evidence.
5. Protestants object to requests that are so broad, uncertain and/or unintelligible that Protestants are unable to determine what information is being requested.
6. All specific responses to the Discovery Requests are provided without waiver of and with express reservation of: (a) all objections as to competency, relevancy, materiality and admissibility of the responses and the subject matter thereof as evidence in any further proceeding in this action, including trial, or any other action; (b) all privileges including the attorney-client and work-product privileges; (c) the right to object on any ground at any time to a request for further responses to these or other discovery requests; and (d) the right to move for additional protective order or to protect the confidentiality of any information disclosed or for any other purpose provided by law.
7. Protestants inadvertent production of any privileged document is not a waiver of any applicable privilege.
8. These general comments and objections are intended to apply whenever appropriate to all discovery responses herein.

INTERROGATORIES

INTERROGATORY NO. 1: State the full name, address, phone number, and occupation of each person providing information or answering these Interrogatories and Requests for Production.

ANSWER: The following persons provided information in response to one or more interrogatories or requests for production of documents.

- 1) James Angell, Managing Attorney, Earthjustice, 1400 Glenarm Place, Suite 300, Denver, CO 80202.
- 2) Robin Cooley, Staff Attorney, Earthjustice, 1400 Glenarm Place, Suite 300, Denver, CO 80202.
- 3) Andrea Zaccardi, Associate Attorney, Earthjustice, 1400 Glenarm Place, Suite 300, Denver, CO 80202.
- 4) Reed Zars, Attorney at Law, 910 Kearney Street, Laramie, WY 82070.
- 5) Mike Fowler, Technical Coordinator, Coal Transition Project, Clean Air Task Force, 18 Tremont Street, Suite 530, Boston, MA 02108.

- 6) Ranajit (Ron) Sahu, PhD., QEP, CEM, Consultant, Environmental and Energy Issues, 311 North Story Place, Alhambra, CA 91801.
- 7) Khan T. Tran, Principal, AMI Environmental, 206 Black Eagle Ave., Henderson, NV 89015.

INTERROGATORY NO. 2: Describe each person having any knowledge of the relevant facts relating to the claims and allegations contained in the Protest and Petition for Hearing. Such description shall include, but is not limited to: the subject matter on which the person is expected to, or may, testify; the substance of the facts to which the person is expected to, or may, testify, and; any documents relating to such person's knowledge.

ANSWER:

Protestants object to Interrogatory No. 2 on the grounds that it is vague, overbroad and unduly burdensome. Without waiving the foregoing objections, Protestants respond as follows:

- 1) James Angell
- 2) Robin Cooley
- 3) Andrea Zaccardi
- 4) Reed Zars
- 5) Mike Fowler may testify with respect to facts and opinions related to Protestants' claim that WYDEQ failed to consider IGCC as the Best Available Control Technology ("BACT"). Mr. Fowler is expected to testify with respect to facts established in the Administrative Record as provided in WYDEQ's Responses to Protestants' First Set of Interrogatories, Requests for Production of Documents and Requests for Admission, dated February 4, 2008 (hereinafter "Administrative Record"), his Expert Report, and his Rebuttal Expert Report.
- 6) Khanh Tran may testify with respect to facts and opinions related to Protestants' claim that the Dry Fork facility will cause prevention of significant deterioration ("PSD") increment violations. Mr. Tran is expected to testify with respect to facts established in the Administrative Record, WYDEQ's Supplemental Responses to Protestants' First Set of Interrogatories, Requests for Production of Documents and Requests for Admission, dated March 17, 2008 (hereinafter "Supplemental Administrative Record"), his Expert Report, and his Rebuttal Expert Report.
- 7) Ranajit Sahu may testify with respect to facts and opinions related to Protestants' claims that (1) WYDEQ failed to consider a supercritical or ultra-supercritical boiler as BACT, (2) WYDEQ's BACT limits for NO_x and SO₂ are flawed, (3) WYDEQ's mercury BACT limit is flawed, (4) WYDEQ's PM₁₀ BACT limits are flawed, and (5) WYDEQ failed to regulate PM_{2.5} emissions. Mr. Sahu is expected to testify with respect to facts established in the Administrative Record, his Expert Report, his Rebuttal Expert Report, and his Supplemental Expert Report.

8) Bernadette Barlow is generally familiar with the Dry Fork Station's anticipated emissions, and may testify as to how operation of the Dry Fork Station will affect her. Ms. Barlow may testify with respect to facts established in the Administrative Record and in the Affidavit of Bernadette Barlow, dated January 28, 2008.

9) Christina Gerrits is generally familiar with the Dry Fork Station's anticipated emissions, and may testify as to how construction and operation of the Dry Fork Station will affect her. Ms. Gerrits may testify with respect to facts established in the Administrative Record and in the Affidavit of Christina Gerrits, dated January 18, 2008.

10) Karla Oksanen is generally familiar with the Dry Fork Station's anticipated emissions, and may testify as to how construction and operation of the Dry Fork Station will affect her. Ms. Oksanen may testify with respect to facts established in the Administrative Record and in the Affidavit of Karla Oksanen, dated January 25, 2008.

11) Jill Morrison is generally familiar with the Dry Fork Station's anticipated emissions, and may testify as to how construction and operation of the Dry Fork Station will affect her. Ms. Morrison may testify with respect to facts established in the Administrative Record and the Affidavit of Jill Morrison, dated January 24, 2008.

12) Dave Clarendon is generally familiar with the Dry Fork Station's anticipated emissions, and may testify as to how operation of the Dry Fork Station will affect him. Mr. Clarendon may testify with respect to facts established in the Administrative Record and in the Affidavit of Dave Clarendon, dated January 25, 2008.

13) Wayne Gilbert is generally familiar with the Dry Fork Station's anticipated emissions, and may testify as to how operation of the Dry Fork Station will affect him. Mr. Gilbert may testify with respect to facts established in the Administrative Record and in the Affidavit of Wayne Gilbert, dated January 18, 2008.

14) Frank Keim is generally familiar with the Dry Fork Station's anticipated emission of greenhouse gases, and may testify as to how operation of the Dry Fork Station will affect him. Mr. Gilbert may testify with respect to facts established in the Administrative Record and in the Affidavit of Frank Keim, dated February 8, 2008.

INTERROGATORY NO. 3: Identify all facts you rely on that support your claim that "WYDEQ Failed to Consider a Supercritical or Ultra-supercritical Boiler as BACT" described in Paragraph Nos. 33 through 36 in your Protest and Petition for Hearing.

ANSWER: The facts supporting Protestants' claim that "WYDEQ Failed to Consider a Supercritical or Ultra-supercritical Boiler as BACT" include the following:

Supercritical boiler systems are a production process and available method, system, or technique for control of pollutants from coal-fired power plants. Supercritical boiler technology is an inherently lower-emitting control alternative. Supercritical boiler technology, like subcritical technology, relies on combustion of pulverized coal in the boiler, which produces hot steam that later expands in turbines, producing electrical power.

Supercritical boiler systems are more efficient than subcritical boilers, using less coal to produce the same amount of energy. Since pollutant emissions are directly proportional to the amount of coal burned, plants that are more efficient will emit less pollutants, including criteria pollutants and greenhouse gas emissions. Supercritical boiler systems are readily available and are standard equipment for many existing and proposed coal plants throughout the West. The major boiler and turbine suppliers provide supercritical boiler systems. Supercritical boiler systems are available for boilers smaller than 500 MW. There are currently operating coal plants using supercritical boilers less than 500 MW. These plants have higher efficiencies than what is anticipated at the Dry Fork Station. Supercritical boiler technology would provide a net efficiency gain for a unit the size of the Dry Fork Station.

WYDEQ did not require Basin Electric to include a supercritical boiler system in the BACT evaluation for the Dry Fork Station. The Administrative Record does not contain a BACT analysis that evaluates supercritical boiler technology.

Additional facts are contained in the Administrative Record and Ranajit Sahu's Expert Report, Rebuttal Expert Report, and exhibits to those reports.

INTERROGATORY NO. 4: Identify all facts you rely on that support your claim that "WYDEQ Failed to Consider IGCC as BACT" described in Paragraph Nos. 37 through 41 in your Protest and Petition for Hearing.

ANSWER: The facts supporting Protestants' claim that "WYDEQ Failed to Consider IGCC as BACT" include the following:

IGCC is a production process and available method, system, or technique for the control of pollutants from coal-fired power plants. IGCC is an innovative fuel combustion technique for control of pollutants from coal-fired power plants. IGCC is an inherently lower-emitting control alternative. IGCC and pulverized coal technology are both designed and intended to harness the energy in coal for use in generating electricity. Both pulverized coal and IGCC power plants have equipment for coal storage, coal handling, coal preparation, production of steam, and steam turbine generator sets. Emission from IGCC and pulverized coal plants are regulated under the same subpart of EPA's New Source Performance Standards.

When generating electricity from coal, IGCC results in lower emissions than pulverized coal technology, including lower emissions of criteria pollutants, mercury, and greenhouse gases. IGCC would have air pollutant emissions lower than those specified in the existing air quality permit for the Dry Fork Station. IGCC is also the only coal-fueled electricity generation technology for which capture of CO₂ emissions for potential sequestration is currently available at a commercial scale.

IGCC is a demonstrated technology. There are currently 16 IGCC plants in operation worldwide, including at least 9 IGCC plants using solid fuel feedstock, such as coal. IGCC is an available, technically feasible, and cost-effective option at the Dry Fork site.

WYDEQ failed to require consideration of IGCC in the BACT analysis for the Dry Fork Station. Basin Electric's "Equivalent BACT Analysis" is flawed.

Additional facts are contained in the Administrative Record, Mike Fowler's Expert Report, Rebuttal Expert Report, and exhibits to those reports.

INTERROGATORY NO. 5: Identify all facts you rely on that support your claim that “WYDEQ’s Mercury BACT limit is flawed” described in Paragraph Nos. 48 through 53 in your Protest and Petition for Hearing.

ANSWER: The facts supporting Protestants’ claim that “WYDEQ’s Mercury BACT limit is flawed” include the following:

WYDEQ concedes that mercury is subject to BACT review under Wyoming law. WYDEQ has failed to set an enforceable and immediate BACT limit for mercury. WYDEQ relies on the fact that mercury emissions are limited by federal New Source Performance Standards to 0.000090 pounds per megawatt-hour. This standard does not impose any limitation on emissions from the Dry Fork Station. It is greater than the highest uncontrolled value of mercury emissions that Basin Electric has indicated is possible from the Dry Fork Station. Rather than requiring emissions limitations from the commencement of emissions from the plant, WYDEQ is requiring Basin Electric to implement a one-year study with an unenforceable target emission of 0.000020 pounds per megawatt-hour. This target rate represents a 68% to 80% reduction in mercury emissions. Sorbent injection is an available and effective control measure for reducing mercury emissions. Reductions of mercury emissions by at least 90% are achievable with sorbent injection systems.

Additional facts are contained in the Administrative Record, Ranajit Sahu’s Expert Report, Rebuttal Expert Report, and exhibits to those reports.

INTERROGATORY NO. 6: Identify all documents you provided or made available to or for Mike Fowler.

ANSWER: Protestants object to Interrogatory No. 6 on the grounds that it is overbroad, unduly burdensome, and seeks documents that are only relevant to claims or issues that have already been addressed by the Council and are therefore no longer relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence and documents protected from disclosure by the attorney work product privilege. Without waiving and subject to these objections, Protestants provided Mike Fowler with a copy of the Administrative Record and other documents included in response to WYDEQ’s Request for Production of Documents No. 1.

INTERROGATORY NO. 7: Identify all documents Mike Fowler provided or made available to you.

ANSWER: Protestants object to Interrogatory No. 7 on the grounds that it is overbroad, unduly burdensome and seeks documents that are only relevant to claims or issues that have already been addressed by the Council and are therefore no longer relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence. Without waiving and subject to these objections, Mike Fowler provided Protestants with documents included in response to DEQ’s Request for Production of Documents No. 1.

INTERROGATORY NO. 8: List each opinion to which Mike Fowler will or may testify.

ANSWER: The opinions to which Mike Fowler may testify are contained in Mike Fowler's Expert Report and his Rebuttal Expert Report. Mr. Fowler also may testify to other relevant opinions elicited during subsequent discovery, testimony, and rebuttal in this case.

INTERROGATORY NO. 9: Separately identify: the basis and reason for each opinion listed in response to Interrogatory No. 8; the data or other information considered by Mike Fowler in forming each opinion listed in response to Interrogatory No. 8; any exhibits to be used as a summary of or support for each opinion listed in response to Interrogatory No. 8; Mike Fowler's qualifications, including a list of all publications he has authored within the preceding ten years; the compensation you will or anticipate paying to Mike Fowler for his study and testimony; and a listing of any other cases in which Mike Fowler has testified as an expert at trial or by deposition within the preceding ten years.

ANSWER: The bases and reasons for Mike Fowler's expert opinions are contained in Mike Fowler's Expert Report, Rebuttal Expert Report, and exhibits to these reports. Mike Fowler reviewed documents listed or cited in his Expert Report and Rebuttal Expert Report as well as documents in the Administrative Record. Mike Fowler's qualifications are listed in his resume, attached as Exhibit 1 to his Expert Report. Mike Fowler's publications over the last ten years are listed below:

- 1) Spivakovsky, C.M., J.A. Logan, S.A. Montzka, Y.J. Balkanski, M. Foreman-Fowler, D.B.A. Jones, L.W. Horowitz, A.C. Fusco, C.A.M. Brenninkmeijer, M.J. Prather, S.C. Wofsy, and M.B. McElroy, 2000, Three-dimensional climatological distribution of tropospheric OH: Update and evaluation, J. Geophys. Res., 105 (D7), 893 1-8980.
- 2) Fowler, M., 2008, The role of carbon capture and storage technology in attaining global climate stability targets: A literature review, web publication available at: <http://www.catf.us/project/power~sector/advanced~coal~CATF~CCS~Review.pdf>.
- 3) Fowler, M., 2008, Comparison of IGCC & Pulverized Coal Generation Technologies in a BACT Analysis, Powerpoint presentation available at: <http://www.gasification.org/Docs/Workshops/2008/Tamp~owler%20-%20Tampa%2014%20March%202008.pdf>.

We do not anticipate paying Mike Fowler for his study and testimony. Mike Fowler has not testified as an expert at trial or by deposition in any case in the preceding ten years.

INTERROGATORY NO. 10: Identify all documents you provided or made available to or for Ranajit Sahu.

ANSWER: Protestants object to Interrogatory No. 10 on the grounds that it is overbroad, unduly burdensome, and seeks documents that are only relevant to claims or issues that have already been addressed by the Council and are therefore no longer relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence and documents protected from disclosure by the attorney work product privilege. Without waiving and subject to these objections, Protestants provided Ranajit Sahu with a copy of the Administrative Record and other documents included in response to WYDEQ's Request for Production of Documents No. 1.

INTERROGATORY NO. 11: Identify all documents Ranajit Sahu provided or made available to you.

ANSWER: Protestants object to Interrogatory No. 11 on the grounds that it is overbroad, unduly burdensome, and seeks documents that are only relevant to claims or issues that have already been addressed by the Council and are therefore no longer relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence. Without waiving and subject to these objections, Ranajit Sahu provided Protestants with documents included in response to WYDEQ's Request for Production of Documents No. 1.

INTERROGATORY NO. 12: List each opinion to which Ranajit Sahu will or may testify.

ANSWER: The opinions to which Ranajit Sahu may testify are contained in Ranajit Sahu's Expert Report, Rebuttal Expert Report, and Supplemental Expert Report. Mr. Sahu also may testify to other relevant opinions elicited during subsequent discovery, testimony, and rebuttal in this case.

INTERROGATORY NO. 13: Separately identify: the basis and reason for each opinion listed in response to Interrogatory No. 12; the data or other information considered by Ranajit Sahu in forming each opinion listed in response to Interrogatory No. 12; any exhibits to be used as a summary of or support for each opinion listed in response to Interrogatory No. 12; Ranajit Sahu's qualifications, including a list of all publications he has authored within the preceding ten years; the compensation you will or anticipate paying to Ranajit Sahu for his study and testimony; and a listing of any other cases in which Ranajit Sahu has testified as an expert at trial or by deposition within the preceding ten years.

ANSWER: The bases and reasons for Ranajit Sahu's expert opinions are contained in Ranajit Sahu's Expert Report, Rebuttal Expert Report, Supplemental Expert Report, and exhibits to these reports. Ranajit Sahu reviewed documents listed or cited in his Expert Report, Rebuttal Expert Report, and Supplemental Expert Report as well as documents in the Administrative Record. Ranajit Sahu's qualifications are listed in his resume, attached as Exhibit A to his Expert Report. Ranajit Sahu's publications over the last ten years are listed below:

- 1) "From Purchase of Landmark Environmental Insurance to Remediation: Case Study in Henderson, Nevada," with Robin E. Bain and Jill Quillin, presented at the AQMA Annual Meeting, Florida (2001).
- 2) "The Jones Act Contribution to Global Warming, Acid Rain and Toxic Air Contaminants," with Charles W. Botsford, presented at the AQMA Annual Meeting, Florida (2001).

Ranjit Sahu's expert fees are \$100 per hour for non-testimonial work and \$125 per hour for testimonial work. Ranajit Sahu has testified as an expert at trial or by deposition in the following cases in the preceding ten years:

- 1) Deposition on behalf of Rocky Mountain Steel Mills, Inc. located in Pueblo, Colorado – dealing with the manufacture of steel in mini-mills including methods of air pollution control and BACT in steel mini-mills and opacity issues at this steel mini-mill.

- 2) Affidavit for Rocky Mountain Steel Mills, Inc. located in Pueblo Colorado – dealing with the technical uncertainties associated with night-time opacity measurements in general and at this steel mini-mill.
- 3) Expert reports and depositions (2/28/2002 and 3/1/2002; 12/2/2003 and 12/3/2003; 5/24/2004) on behalf of the US Department of Justice in connection with the Ohio Edison NSR Cases. *United States, et al. v. Ohio Edison Co., et al.*, C2-99-1181 (S.D. Ohio).
- 4) Expert reports and depositions (5/23/2002 and 5/24/2002) on behalf of the US Department of Justice in connection with the Illinois Power NSR Case. *United States v. Illinois Power Co., et al.*, 99-833-MJR (S.D. Ill.).
- 5) Expert reports and depositions (11/25/2002 and 11/26/2002) on behalf of the US Department of Justice in connection with the Duke Power NSR Case. *United States, et al. v. Duke Energy Corp.*, 1:00-CV-1262 (M.D.N.C.).
- 6) Expert reports and depositions (10/6/2004 and 10/7/2004; 7/10/2006) on behalf of the US Department of Justice in connection with the American Electric Power NSR Cases. *United States, et al. v. American Electric Power Service Corp., et al.*, C2-99-1182, C2-99-1250 (S.D. Ohio).
- 7) Expert reports and depositions (10/31/2005 and 11/1/2005) on behalf of the US Department of Justice in connection with the East Kentucky Power Cooperative NSR Case. *United States v. East Kentucky Power Cooperative, Inc.*, 5:04-cv-00034-KSF (E.D. KY).
- 8) Deposition (10/20/2005) on behalf of the US Department of Justice in connection with the Cinergy NSR Case. *United States, et al. v. Cinergy Corp., et al.*, IP 99-1693-C-M/S (S.D. Ind.).
- 9) Affidavits and deposition on behalf of Basic Management Inc. (BMI) Companies in connection with the BMI vs. USA remediation cost recovery case.
- 10) Expert report on behalf of Penn Future and others in the Cambria Coke plant permit challenge in Pennsylvania.
- 11) Expert report on behalf of the Appalachian Center for the Economy and the Environment and others in the Western Greenbrier permit challenge in West Virginia.
- 12) Expert report, deposition (via telephone on 1/26/07) on behalf of various Montana petitioners (Citizens Awareness Network (CAN), Women's Voices for the Earth (WVE) and the Clark Fork Coalition (CFC)) in the Thompson River Cogeneration LLC Permit No. 3175-04 challenge.
- 13) Expert report and deposition (2/2/07) on behalf of the Texas Clean Air Cities Coalition at the Texas State Office of Administrative Hearings (SOAH) in the matter of the permit challenges to TXU Project Apollo's eight new proposed PRB-fired PC boilers located at seven TX sites.

- 14) Expert reports and deposition (12/13/2007) on behalf of Commonwealth of Pennsylvania – Dept. of Environmental Protection, State of Connecticut, State of New York, and State of New Jersey (Plaintiffs) in connection with the Allegheny Energy NSR Case. *Plaintiffs v. Allegheny Energy Inc., et al.*, 2:05cv0885 (W.D. Pennsylvania).
- 15) Expert reports and pre-filed testimony before the Utah Air Quality Board on behalf of Sierra Club in the Sevier Power Plant permit challenge.
- 16) Expert reports and deposition (October 2007) on behalf of MTD Products Inc., in connection with General Power Products, LLC v MTD Products Inc., 1:06 CVA 0143 (S.D. Ohio, Western Division).
- 17) Experts report and deposition (June 2008) on behalf of Sierra Club and others in the matter of permit challenges (Title V: 28.0801-29 and PSD: 28.0803-PSD) for the Big Stone II unit, proposed to be located near Milbank, South Dakota.

INTERROGATORY NO. 14: Identify all documents you provided or made available to or for Khanh Tran.

ANSWER: Protestants object to Interrogatory No. 14 on the grounds that it is overbroad, unduly burdensome, and seeks documents protected from disclosure by the attorney work product privilege. Without waiving and subject to these objections, Protestants provided Khanh Tran with a copy of the Administrative Record, Supplemental Administrative Record, and other documents included in response to WYDEQ's Request for Production of Documents No. 1.

INTERROGATORY NO. 15: Identify all documents Khanh Tran provided or made available to you.

ANSWER: Protestants object to Interrogatory No. 14 on the grounds that it is overbroad and unduly burdensome. Without waiving and subject to these objections, Khanh Tran provided Protestants with documents included in response to WYDEQ's Request for Production of Documents No. 1.

INTERROGATORY NO. 16: List each opinion to which Khanh Tran will or may testify.

ANSWER: The opinions to which Khanh Tran may testify are contained in Khanh Tran's Expert Report and Rebuttal Expert Report. Mr. Tran also may testify to other relevant opinions elicited during subsequent discovery, testimony, and rebuttal in this case.

INTERROGATORY NO. 17: Separately identify: the basis and reason for each opinion listed in response to Interrogatory No. 16; the data or other information considered by Khanh Tran in forming each opinion listed in response to Interrogatory No. 16; any exhibits to be used as a summary of or support for each opinion listed in response to Interrogatory No. 16; Khanh Tran's qualifications, including a list of all publications he has authored within the preceding ten years; the compensation you will or anticipate paying to Khanh Tran for his study and testimony; and a listing of any other cases in which Khanh Tran has testified as an expert at trial or by deposition within the preceding ten years.

ANSWER: The bases and reasons for Khanh Tran's expert opinions are contained in Khanh Tran's Expert Report and Rebuttal Expert Report and exhibits to those reports. Khanh Tran reviewed documents listed or cited in his Expert Report and Rebuttal Expert Report as well as documents in the Administrative Record. Khanh Tran's qualifications, his publications, and his fee rate are listed in his resume, attached as Exhibit 1 to his Expert Report.

Khanh Tran has testified as an expert at trial or by deposition in the following cases in the preceding ten years:

- 1) Montana Highwood Generating Station before the Montana DEQ.
- 2) Georgia Longleaf Energy Station before an administrative law judge.

INTERROGATORY NO. 18: Identify each and every judicial or administrative case in the past four years in which Ranajit Sahu, Khanh Tran, or Mike Fowler has been retained as an expert and then failed to testify as an expert, qualify as an expert, or had an opinion excluded, at trial or by deposition.

ANSWER:

- 1) Mike Fowler – None.
- 2) Ranajit Sahu – None.
- 3) Khanh Tran – None.

INTERROGATORY NO. 19: Identify each and every Integrated Gasification Combined Cycle ("IGCC") power generating unit in the United States that is currently or has ever operated at an elevation of 4250 feet or more above mean sea level using only subbituminous coal from the Powder River Basin.

ANSWER: Protestants are not aware of any.

INTERROGATORY NO. 20: Identify each and every 12 month rolling average NOx emission limit for a pulverized coal boiler in the United States that is lower than the emission limit of 0.05 lb/MMBtu established for the Dry Fork Station Pulverized Coal Boiler in DEQ Permit CT-4631.

ANSWER: Protestants object to Interrogatory No. 20 on the grounds that it is vague, overbroad and unduly burdensome. To the extent the question refers to NOx permit limits, Protestants have not exhaustively searched every permit in the United States, but are not presently aware of any.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Produce a copy of every document relied upon in answering these Interrogatories and Request to Admit.

RESPONSE: Subject to the objections articulated previously, documents are attached. Copies of the Administrative Record, Supplemental Administrative Record, expert reports, rebuttal expert reports, supplemental expert report, and exhibits to those reports are in WYDEQ's possession and are therefore not attached here.

REQUEST NO. 2: Produce a copy of all documents identified in your answer to Interrogatory No. 2 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 3: Produce a copy of all documents identified in your answer to Interrogatory No. 3 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 4: Produce a copy of all documents identified in your answer to Interrogatory No. 4 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 5: Produce a copy of all documents identified in your answer to Interrogatory No. 5 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 6: Produce a copy of all documents identified in your answer to Interrogatory No. 6 served herewith.

RESPONSE: Protestants object to Request No. 6 on the grounds that it is overbroad, unduly burdensome, and seeks documents that are only relevant to claims or issues that have already been addressed by the Council and are therefore no longer relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence and documents protected from disclosure by the attorney work product privilege. Without waiving and subject to these objections, responsive documents are included in the response to Request No. 1.

REQUEST NO. 7: Produce a copy of all documents identified in your answer to Interrogatory No. 7 served herewith.

RESPONSE: Protestants object to Interrogatory No. 7 on the grounds that it is overbroad, unduly burdensome, and seeks documents that are only relevant to claims or issues that have already been addressed by the Council and are therefore no longer relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence. Without waiving and subject to these objections, responsive documents are included in the response to Request No. 1.

REQUEST NO. 8: Produce a copy of all documents identified in your answer to Interrogatory No. 8 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 9: Produce a copy of all documents identified in your answer to Interrogatory No. 9 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 10: Produce a copy of all documents identified in your answer to Interrogatory No. 10 served herewith.

RESPONSE: Protestants object to Request No. 10 on the grounds that it is overbroad, unduly burdensome, and seeks documents that are only relevant to claims or issues that have already been addressed by the Council and are therefore no longer relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence and documents protected from disclosure by the attorney work product privilege. Without waiving and subject to these objections, responsive documents are included in the response to Request No. 1.

REQUEST NO. 11: Produce a copy of all documents identified in your answer to Interrogatory No. 11 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 12: Produce a copy of all documents identified in your answer to Interrogatory No. 12 served herewith.

RESPONSE: Protestants object to Interrogatory No. 12 on the grounds that it is overbroad, unduly burdensome, and seeks documents that are only relevant to claims or issues that have already been addressed by the Council and are therefore no longer relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence. Without waiving and subject to these objections, responsive documents are included in the response to Request No. 1.

REQUEST NO. 13: Produce a copy of all documents identified in your answer to Interrogatory No. 13 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 14: Produce a copy of all documents identified in your answer to Interrogatory No. 14 served herewith.

RESPONSE: Protestants object to Request No. 14 on the grounds that it is overbroad, unduly burdensome, and seeks documents protected from disclosure by the attorney work product privilege. Without waiving and subject to these objections, responsive documents are included in the response to Request No. 1.

REQUEST NO. 15: Produce a copy of all documents identified in your answer to Interrogatory No. 15 served herewith.

RESPONSE: Protestants object to Request No. 14 on the grounds that it is overbroad and unduly burdensome. Without waiving and subject to these objections, responsive documents are included in the response to Request No. 1.

REQUEST NO. 16: Produce a copy of all documents identified in your answer to Interrogatory No. 16 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 17: Produce a copy of all documents identified in your answer to Interrogatory No. 17 served herewith.

RESPONSE: Responsive documents are included in the response to Request No. 1.

REQUEST NO. 18: Produce a copy of all documents identified in your answer to Interrogatory No. 18 served herewith.

RESPONSE: None.

REQUEST NO. 19: Produce a copy of all documents identified in your answer to Interrogatory No. 19 served herewith.

RESPONSE: None.

REQUEST NO. 20: Produce a copy of all documents identified in your answer to Interrogatory No. 20 served herewith.

RESPONSE: None.

REQUEST NO. 21: Produce a copy of each and every document which you rely on to support your claim that "WYDEQ's BACT limits for NOx and SO2 are Flawed" as set forth in Paragraph Nos. 42 through 47 of your Protest and Petition for Hearing.

RESPONSE: Protestants intend to rely on documents in the Administrative Record, Ranajit Sahu's Expert Report, Expert Rebuttal Report, Supplemental Expert Report, and exhibits to those reports, which are already in WYDEQ's possession and are therefore not attached here.

REQUEST NO. 22: Produce a copy of each and every document which you rely on to support your claim that "WYDEQ's PM10 BACT Limits are Flawed" as set forth in Paragraph Nos. 54 through 60 of your Protest and Petition for Hearing.

RESPONSE: Protestants intend to rely on documents in the Administrative Record, Ranajit Sahu's Expert Report, Rebuttal Expert Report, Supplemental Expert Report, and exhibits to those reports, which are already in WYDEQ's possession and are therefore not attached here.

REQUEST NO. 23: Produce a copy of each and every document which you rely on to support your claim that "WYDEQ Failed to Regulate PM2.5 Emissions" as set forth in Paragraph Nos. 61 through 66 of your Protest and Petition for Hearing.

RESPONSE: Protestants intend to rely on documents in the Administrative Record, Ranajit Sahu's Expert Report, Rebuttal Expert Report, Supplemental Expert Report, and exhibits to those reports, which are already in WYDEQ's possession and are therefore not attached here. Protestants intend to rely on additional documents, which are attached.

REQUEST NO. 24: Produce a copy of each and every document which you rely on to support your claim that "WYDEQ's SO2 Increment Analysis is Flawed" as set forth in Paragraph Nos. 67 through 69 of your Protest and Petition for Hearing.

RESPONSE: Protestants intend to rely on documents in the Administrative Record, Supplemental Administrative Record, Khanh Tran's Expert Report, Rebuttal Expert Report, and exhibits to those reports, which are already in WYDEQ's possession and are therefore not attached here.

REQUEST NO. 25: Produce all documents which the Protestants have made or created regarding any of the allegations in the Protest and Petition for Hearing.

RESPONSE: Protestants object to Request No. 25 on the grounds that it is vague, overbroad, and unduly burdensome. Protestants also object to the extent the request seeks information protected by the attorney-client privilege or work product privilege. Without waiving and subject to these objections, responsive documents are in WYDEQ's possession or are provided in response to Request No. 1.

REQUEST NO. 26: Produce a copy of each and every document, which in any way relates to the claims and allegations set forth in the Protest and Petition for Hearing.

RESPONSE: Protestants object to Request No. 26 on the grounds that it is vague, overbroad, and unduly burdensome. Protestants also object to the extent the request seeks information protected by the attorney-client privilege or work product privilege. Without waiving and subject to these objections, responsive documents are in WYDEQ's possession or are provided in response to Request No. 1.

As to Answers to Interrogatories Nos. 7, 8, 9, 18, 19, and Requests for Production of Documents Nos. 7, 8, 9:

Michael S. Foreman-Fowler
Michael S. Foreman-Fowler

7/30/08
Date

State of Massachusetts)
County of Suffolk)SS:

The foregoing instrument was subscribed and sworn to before me by Michael S. Foreman-Fowler on the 30 day of July, 2008.

Nancy Spolsino
Notary Public



NANCY E. SPOLSINO
Notary Public
Commonwealth of Massachusetts
My Commission Expires:
July 2, 2015

My Commission Expires: _____

As to Answers to Interrogatories Nos. 15, 16, 17, 18 and Requests for Production of Documents Nos. 15, 16, 17:

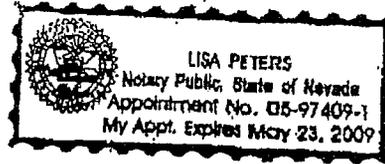
Khanh Tran
Khanh Tran

7/30/2008
Date

State of Nevada)
County of Clark)
JSS:

The foregoing instrument was subscribed and sworn to before me by Khanh Tran on the 30 day of July, 2008.

Lisa Peters
Notary Public



My Commission Expires: May 23, 2009

As to all other requests and objections:

s/ Robin Cooley

Robin Cooley

James S. Angell

Andrea L. Zaccardi

Earthjustice

1400 Glenarm Place, Suite 300

Denver, CO 80202

Tel: (303) 623-9466

Fax: (303) 623-8083

Email: rcooley@earthjustice.org

jangell@earthjustice.org

azaccardi@earthjustice.org

Attorneys for Protestants

CERTIFICATE OF SERVICE

I certify that on this day of July 30, 2008, I served a copy of the foregoing Response of Protestants to Basin Electric's First Set of Interrogatories via e-mail and Federal Express:

Nancy Vehr
Jay A. Jerde
Kristen Dolan
Luke J. Esch
Office of the Attorney General
123 State Capitol
Cheyenne, WY 82002
nvehr@state.wy.us
jjerde@state.wy.us
kdolan@state.wy.us
Lesch@state.wy.us

Patrick R. Day
Mark R. Ruppert
Holland & Hart LLP
2515 Warren Avenue, Suite 450
Cheyenne, WY 82003
pday@hollandhart.com
mruppert@hollandhart.com

/s/ Robin Cooley