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**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)

RESPONSE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

Respondent, the Department of Environmental Quality (“DEQ”)/ Air Quality Division (“AQD”) by and through its attorneys, in response to the Sierra Club, Powder River Basin Resource Council, and Wyoming Outdoor Council’s (collectively referred to hereinafter as “Protestants”) Protest and Petition for Hearing of the DEQ’s issuance of air quality construction permit CT-4631 (“Permit CT-4631”) to Basin Electric Power Cooperative (“Basin”) for the Dry Fork Station, responds as follows:

Protestants’ introductory paragraph and list of protestants appears to be for descriptive purposes and does not contain factual allegations. Therefore, a response is not required. However, to the extent this paragraph and list is deemed to contain any factual allegations, DEQ/AQD denies.

1. Deny. DEQ/AQD affirmatively alleges DEQ does not approve applications but does grant approval to construct as described in the application.

2. Deny.

3. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

4. Deny.

5. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

6. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

7. Deny.

8. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

9. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

10. DEQ/AQD is without sufficient knowledge or information to form a belief as

to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

11. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

12. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

13. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

14. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

15. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

16. DEQ/AQD asserts that the statute speaks for itself and paraphrasing statutes are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

17. DEQ/AQD asserts that the statutes speak for themselves and paraphrasing

statutes are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

18. DEQ/AQD asserts that the statutes speak for themselves and paraphrasing statutes are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

19. DEQ/AQD admits that Wyoming's State Implementation Plan (SIP) codified at 40 C.F.R. part 52, subpart ZZ includes certain EPA approved State of Wyoming Regulations. DEQ/AQD asserts that the statutes and regulations speak for themselves and paraphrasing statutes and regulations are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

20. DEQ/AQD asserts that the regulations speak for themselves and paraphrasing regulations are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

21. DEQ/AQD asserts that the regulation speaks for itself and quoting a regulation is not an allegation of fact which requires a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

22. Deny.

23. Deny.

24. DEQ/AQD asserts that the statutes and regulations speak for themselves and paraphrasing statutes or regulations are not allegations of fact which require a response. The

DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

25. DEQ/AQD asserts that the statutes and regulations speak for themselves and paraphrasing statutes or regulations are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

26. DEQ/AQD asserts that the statute and case speak for themselves and paraphrasing or quoting statutes or cases are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

27. DEQ/AQD asserts that the statutes and regulations speak for themselves and paraphrasing or quoting statutes or regulations are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph and accompanying footnote to the extent it contains any factual allegations.

28. Deny.

29. DEQ/AQD asserts that the regulation speaks for itself and paraphrasing a regulation is not an allegation of fact which requires a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

30. DEQ/AQD denies as to DEQ/AQD and is without sufficient knowledge or information to form a belief as to the truth of the matters asserted as to Basin Electric and therefore denies the same and puts Protestants on strict proof thereof.

31. DEQ/AQD asserts that the statute speaks for itself. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

32. Deny.

33. Deny.

34. DEQ/AQD asserts that the regulation speaks for itself and paraphrasing a regulation is not an allegation of fact which requires a response. The DEQ/AQD denies the remainder of this paragraph.

35. Deny.

36. Deny.

37. Deny.

38. DEQ/AQD asserts that the regulation speaks for itself and paraphrasing or quoting a regulation is not an allegation of fact which requires a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

39. Deny.

40. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

41. The DEQ/AQD denies the first and last sentence. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted in the second and third sentence and therefore denies the same and puts Protestants on strict proof thereof.

42. DEQ/AQD asserts the regulation speaks for itself and paraphrasing or quoting a regulation is not an allegation of fact which requires a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

43. Deny.

44. DEQ/AQD asserts the statute speaks for itself and paraphrasing or quoting a statute is not an allegation of fact which requires a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

45. Deny.

46. Deny.

47. Deny.

48. Deny.

49. DEQ/AQD asserts the regulation speaks for itself and paraphrasing or quoting a regulation is not an allegation of fact which requires a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

50. Deny.

51. Deny.

52. Deny.

53. Deny.

54. Deny.

55. DEQ/AQD asserts the regulations speak for themselves and paraphrasing or quoting regulations are not allegations of fact which require a response. The DEQ/AQD

denies the remainder of this paragraph to the extent it contains any factual allegations.

56. Deny.

57. Deny.

58. DEQ/AQD asserts that the regulation and documents speak for themselves and paraphrasing regulations or documents are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

59. Deny.

60. DEQ/AQD asserts the statute speaks for itself and paraphrasing or quoting a statute is not an allegation of fact which requires a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

61. The DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted and therefore denies the same and puts Protestants on strict proof thereof.

62. DEQ/AQD asserts the regulation speaks for itself and paraphrasing a regulation is not an allegation of fact which requires a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

63. DEQ/AQD asserts the regulations speak for themselves and paraphrasing or quoting regulations are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

64. Deny.

65. Deny.

66. Deny.

67. DEQ/AQD asserts the law speaks for itself and paraphrasing laws are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

68. Deny.

69. Deny.

70. DEQ/AQD asserts these are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

71. DEQ/AQD asserts these are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

72. DEQ/AQD asserts these are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

73. DEQ/AQD asserts these are not allegations of fact which require a response. The DEQ/AQD denies the remainder of this paragraph to the extent it contains any factual allegations.

74. DEQ/AQD denies each and every allegation in the Petition not specifically admitted.

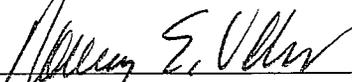
AFFIRMATIVE DEFENSES

1. Protestants have failed to state a claim upon which relief can be granted.
2. Protestant's Protest and Petition for Hearing is not a concise statement of the facts.
3. Protestants do not have standing.
4. Respondent DEQ/AQD reserves the right to assert additional affirmative defenses once discovery is completed and as additional facts are learned.
5. Protestants have not presented the requisite facts or evidence to warrant their requested relief.
6. DEQ/AQD did not violate the Wyoming Environmental Quality Act, Wyoming Air Quality Standards or Regulations, the Wyoming State Implementation Plan, the Clean Air Act, or any other law or regulation.

WHEREFORE, the DEQ/AQD respectfully requests that this Council uphold DEQ's issuance of Permit CT-4631 to Basin Electric Power Cooperative and deny Petitioners' requests for relief.

Respectfully submitted this 21st day of December, 2007.

FOR RESPONDENT DEQ/AQD:



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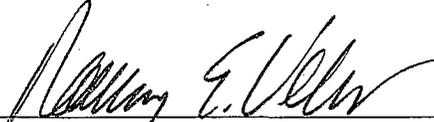
Attorneys for the State of Wyoming

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing *Response of the Department of Environmental Quality* through United States mail, postage prepaid on this the 21st day of December, 2007 to the following:

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