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Attorney for the State of Wyoming,
Department of Environmental Quality

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

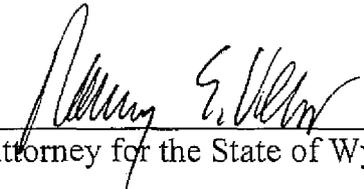
IN THE MATTER OF:)
MEDICINE BOW FUEL & POWER, LLC) Docket No. 09-2801
AIR PERMIT CT-5873)

**RESPONDENT DEQ'S RESPONSES TO
PETITIONER'S FIRST SET OF DISCOVERY REQUESTS**

Respondent, Department of Environmental Quality ("DEQ"), and for its Responses to Petitioner's First Set of Discovery Requests to Wyoming Department of Environmental Quality states as follows:

GENERAL OBJECTION TO DEFINITIONS AND INSTRUCTIONS

The DEQ objects to the "Definitions" and "Instructions" as they are not required by the Wyoming Rules of Civil Procedure. The applicable provisions in the Wyoming Administrative Procedure Act, the Wyoming Rules of Civil Procedure, and the Rules and Regulations of the Environmental Quality Council govern the requirements for responding to requests for admissions, interrogatories, requests for production of documents.



Attorney for the State of Wyoming, DEQ

RESPONSES TO REQUESTS FOR ADMISSIONS

REQUEST NO. 1: Please admit that malfunctions of the Medicine Bow Facility will occur.

RESPONSE: **Objection** – this Request for Admission seeks information subject to the DEQ’s pending Motion for Protective Order and, in accordance with Wyo. R. Civ. P. 26(c), the Request is stayed pending resolution of the Motion.

REQUEST NO. 2: Please admit that Medicine Bow did not provide a BACT analysis for emissions from the flares to WYDEQ.

RESPONSE: **Objection** – this Request for Admission seeks information subject to the DEQ’s pending Motion for Protective Order and, in accordance with Wyo. R. Civ. P. 26(c), the Request is stayed pending resolution of the Motion.

REQUEST NO. 3: Please admit that Medicine Bow did not provide a BACT analysis for emissions from fugitive components to WYDEQ.

RESPONSE: **Objection** – as to this request using undefined terms. Without waiving its objection, the DEQ denies. Medicine Bow proposed an LDAR program as BACT and DEQ determined BACT.

REQUEST NO. 4: Please admit that WYDEQ did not consider coal cleaning in its BACT analysis.

RESPONSE: Objection – as to this request using undefined terms. Without waiving its objection, the DEQ admits that coal cleaning would redefine the source so it was not considered in the DEQ's BACT analysis.

REQUEST NO. 5: Please admit that WYDEQ utilized a top-down BACT analysis pursuant to the EPA's 1990 New Source Review Workshop Manual.

RESPONSE: Objection – as to this request using undefined terms. Without waiving its objection, the DEQ admits that it generally follows EPA's 1990 DRAFT New Source Review Manual and DEQ conducted a BACT analysis as represented in the DEQ's analysis dated June 19, 2008.

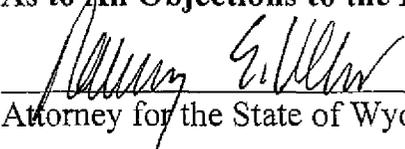
REQUEST NO. 6: Please admit that WYDEQ's Application Analysis estimated that methanol emissions would exceed 10 tpy.

RESPONSE: Objection – as to this request using undefined terms, is not relevant, and is not reasonably calculated to lead to discovery of admissible evidence. Without waiving its objection, the DEQ admits that its initial analysis of Application AP-5873, dated June 19, 2008, at page 7, Table IV, estimated methanol emissions from the Medicine Bow IGL Plant were greater than 10 tons per year but denies that its final analysis based on information submitted during and in response to public comment and as reflected in the DEQ's Decision document dated March 4, 2009, estimated methanol emissions greater than 10 tons per year.

REQUEST NO. 7: Please admit that WYDEQ did not account for CO₂ and other greenhouse gas (GHG) emissions from the Medicine Bow facility during the air permitting process.

RESPONSE: Objection - this Request for Admission seeks information subject to the Petitioners' and the DEQ's Stipulation Staying Discovery of Certain Issues and therefore this Request is stayed pending resolution of the DEQ's Motion to Dismiss CO₂ Claims. The stay notwithstanding, this Request is outside the scope of permissible discovery and not reasonably calculated to lead to the discover of admissible evidence.

As to All Objections to the Requests for Admissions



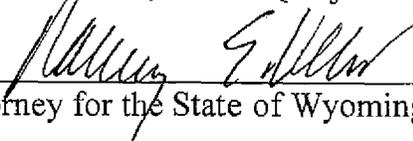
Attorney for the State of Wyoming, DEQ

INTERROGATORIES

INTERROGATORY NO. 1: For every Request For Admission that WYDEQ either denied or admitted with qualification, please state the specific basis for such denial or qualified admission, and identify all documents forming the basis for any denial or qualified admission.

ANSWER: Objection - to the extent that this Interrogatory seeks information subject to the Petitioners' and the DEQ's Stipulation Staying Discovery of Certain Issues, in particular Request for Admission No. 7, this Request is stayed pending resolution of the DEQ's Motion to Dismiss CO₂ Claims. To the extent that this Interrogatory seeks information subject to DEQ's pending Motion for Protective Order, in particular

Requests for Admission Nos. 1 and 2, in accordance with Wyo. R. Civ. P. 26(c), this Interrogatory is stayed pending resolution of the DEQ's Motion. The stay notwithstanding, to the extent this Interrogatory seeks information about carbon dioxide and greenhouse gases, the Interrogatory is outside the scope of permissible discovery and is not reasonably calculated to lead to the discovery of admissible evidence. In addition, to the extent that the Interrogatory seeks privileged information, the DEQ objects.


Attorney for the State of Wyoming, DEQ

Without waiving these objections or any other, objections,

As to Request for Admission No. 3, Medicine Bow proposed an LDAR program as BACT and DEQ determined BACT. The documents are in the administrative record which was transmitted on August 3, 2009, including pages DEQ000036-37, DEQ000045, DEQ000124, DEQ000151, DEQ000525, DEQ000595, DEQ000597, DEQ000610, DEQ000949, DEQ000951, DEQ001431-32, DEQ001440, DEQ001534-41, DEQ002219, DEQ002246, DEQ002656-57, DEQ002827-28, DEQ002836, DEQ002919, DEQ003182, DEQ003314, DEQ003330, DEQ003332.

As to Request for Admission No. 4, "coal cleaning" would redefine the source so it was not considered in the DEQ's BACT analysis. The documents are in the administrative record which was transmitted on August 3, 2009, including pages DEQ000055, DEQ001450, DEQ002846, DEQ000031, DEQ000052, DEQ000526,

DEQ000530, DEQ001447, DEQ001478, DEQ001953, DEQ001426, DEQ002822, DEQ002843, DEQ002846, DEQ003183, DEQ003187.

As to Request for Admission No. 5, the DEQ generally follows EPA's 1990 DRAFT New Source Review Manual and DEQ conducted a BACT analysis as represented in the DEQ's analysis dated June 19, 2008. The documents are in the administrative record which was transmitted on August 3, 2009, including pages DEQ000035, DEQ000040-41, DEQ000048, DEQ000052, DEQ000515-000531, DEQ001430, DEQ001435-36, DEQ001443, DEQ001447, DEQ001480, DEQ002220, DEQ002633, DEQ002826, DEQ002831-32, DEQ002839, DEQ002843, DEQ002862, DEQ003172-003188.

As to Request for Admission No. 6, the DEQ's initial analysis of Application AP-5873, dated June 19, 2008, at page 7, Table IV, estimated methanol emissions from the Medicine Bow IGL Plant were greater than 10 tons per year but the DEQ's final analysis based on information submitted during and in response to public comment and as reflected in the DEQ's Decision document dated March 4, 2009, estimated methanol emissions less than 10 tons per year. The documents are in the administrative record which was transmitted on August 3, 2009, including pages DEQ000036, DEQ000057, DEQ000058, DEQ000081, DEQ000102, DEQ000259-000266, DEQ000274-000279, DEQ000292, DEQ000311, DEQ000512, DEQ000554, DEQ000559, DEQ000603-604, DEQ000624-25, DEQ000634-000639, DEQ000667, DEQ000703, DEQ000937, DEQ000942-43, DEQ000947, DEQ000967-68, DEQ000977-000982, DEQ001193-

001195, DEQ001214-15, DEQ001223-001228, DEQ001241, DEQ001260, DEQ001419, DEQ001431, DEQ001452-53, DEQ001534-001535, DEQ001543-001544, DEQ001775, DEQ002175, DEQ002196, DEQ002246, DEQ002354-002356, DEQ002360-002361, DEQ002369-002374, DEQ002387, DEQ002406, DEQ002760-002762, DEQ002805, DEQ002827, DEQ002848-49, DEQ002918-002919, DEQ002926-002927, DEQ003130, DEQ003169, DEQ003211, DEQ003276, DEQ003312, DEQ003315, DEQ003323-003324, DEQ003328, DEQ003348-003349, DEQ003358-003363.

INTERROGATORY NO. 2: Please describe the BACT process WYDEQ undertook to reach the conclusion that the SSM plan Medicine Bow provided represented BACT for the flares. (See WYDEQ Response to Comments at p. 16). Please clearly identify the documents in the Administrative Record supporting your response, including page numbers.

ANSWER: Objection - to the extent that this Interrogatory seeks information subject to DEQ's pending Motion for Protective Order, in accordance with Wyo. R. Civ. P. 26(c), this Interrogatory is stayed pending resolution of the DEQ's Motion. The stay notwithstanding, to the extent this Interrogatory seeks information outside the scope of permissible discovery not reasonably calculated to lead to the discovery of admissible evidence, or to the extent that the Interrogatory seeks privileged information, the DEQ objects.



Attorney for the State of Wyoming, DEQ

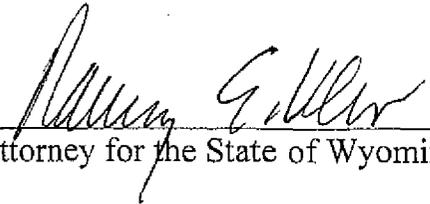
INTERROGATORY NO. 3: Please describe the BACT process WYDEQ undertook to reach the conclusion that the LDAR plan Medicine Bow provided represented BACT for the fugitive component leaks. Please clearly identify the documents in the Administrative Record supporting your response, including page numbers.

ANSWER: MBFP proposed to operate a Leak Detection and Repair (LDAR) program to minimize fugitive emissions at the plant, based on a leak detection level of 500 ppm for valves and connectors and a leak detection level of 2000 ppm for pumps. The DEQ/AQD reviewed these levels and found them to be similar to the requirements of Subpart VVa of 40 CFR part 60 (Promulgated Nov 16, 2007) and NESHAPs. NESHAP thresholds are considered to be representative of maximum achievable control technology, and typically requires greater control than BACT. Based on the proposed monitoring levels meeting NSPS/NESHAP thresholds the Division determined the proposed LDAR program to be representative of BACT for fugitive emissions.

INTERROGATORY NO. 4: Please describe the process WYDEQ undertook to reach its conclusion that CO₂ and other GHG emissions need not be considered in the air permitting process.

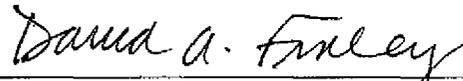
ANSWER: Objection - to the extent that this Interrogatory seeks information subject to the Petitioners' and the DEQ's Stipulation Staying Discovery of Certain Issues this Request is stayed pending resolution of the DEQ's Motion to Dismiss CO₂ Claims.

The stay notwithstanding, to the extent this Interrogatory seeks information about carbon dioxide and greenhouse gases, the Interrogatory is outside the scope of permissible discovery and is not reasonably calculated to lead to the discovery of admissible evidence. In addition, to the extent that the Interrogatory seeks privileged information, the DEQ objects.


Attorney for the State of Wyoming, DEQ

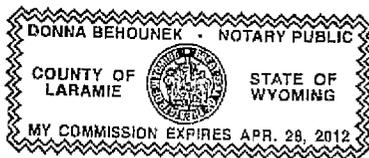
VERIFICATION

I, David Finley, verify that I have read and reviewed the above responses to interrogatories and state that they are true and correct to the best of my knowledge.


David A. Finley, Administrator
DEQ, Air Quality Division

Subscribed and sworn before me this 19th day of August, 2009.

SEAL



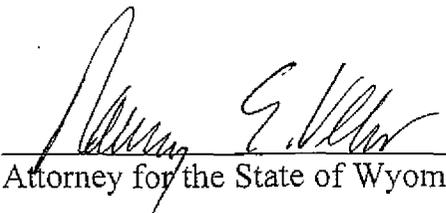

Notary Public

Commission Expires: April 28, 2012

REQUESTS FOR PRODUCTION

REQUEST NO. 1: Please produce all documents referred to, related to, relied on, or otherwise supporting WYDEQ's responses to Interrogatories 1-4. Please clearly identify the documents in the Administrative Record supporting your response, including page numbers.

RESPONSE: Objection - to the extent that this Request for Production seeks information subject to the Petitioners' and the DEQ's Stipulation Staying Discovery of Certain Issues, in particular Interrogatory No. 1 (Request for Admission No. 7) and Interrogatory No. 4, this Request is stayed pending resolution of the DEQ's Motion to Dismiss CO₂ Claims. To the extent that this Request for Production seeks information subject to DEQ's pending Motion for Protective Order, in particular Interrogatory No. 1 (Requests for Admission Nos. 1 and 2) and Interrogatory No. 2, in accordance with Wyo. R. Civ. P. 26(c), this Request for Production is stayed pending resolution of the DEQ's Motion. The stay notwithstanding, to the extent this Request for Production seeks information about carbon dioxide and greenhouse gases, the Request is outside the scope of permissible discovery and is not reasonably calculated to lead to the discovery of admissible evidence. In addition, to the extent that the Request for Production seeks privileged information, the DEQ objects.



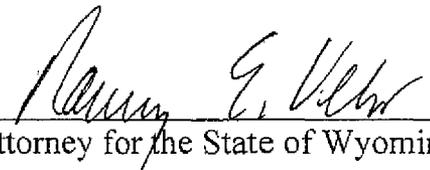
Attorney for the State of Wyoming, DEQ

Without waiving this objection or any other objections the DEQ, with respect to Interrogatory No. 3, the documents are in the administrative record which was

transmitted on August 3, 2009, including pages DEQ000036, DEQ000045, DEQ000124, DEQ000151, DEQ000525, DEQ000595, DEQ000597, DEQ000610, DEQ000949, DEQ000951, DEQ001431, DEQ001440, DEQ001535, DEQ002219, DEQ002246, DEQ002656-57, DEQ002827, DEQ002836, DEQ002919, DEQ003182, DEQ003314, DEQ003330, DEQ003332.

REQUEST NO. 2: Please provide a copy of the 1994 Memorandum of Agreement with the Environmental Protection Agency (EPA) regarding modeling of fugitive particulate matter emissions.

RESPONSE: Objection - to the extent that this Request for Production seeks information subject to DEQ's pending Motion for Protective Order, in accordance with Wyo. R. Civ. P. 26(c), this Request for Production is stayed pending resolution of the DEQ's Motion. In addition, to the extent that the Request for Production seeks privileged information, the DEQ objects.

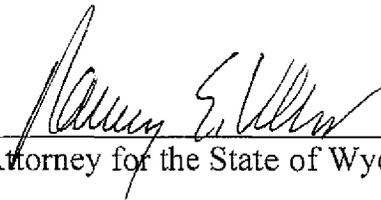


Attorney for the State of Wyoming, DEQ

REQUEST NO. 3: Please produce any communications in the last five years related to the above-referenced 1994 Memorandum of Agreement with EPA.

RESPONSE: Objection - To the extent that this Request for Production seeks information subject to DEQ's pending Motion for Protective Order, in accordance with

Wyo. R. Civ. P. 26(c), this Request for Production is stayed pending resolution of the DEQ's Motion. In addition, to the extent that the Request for Production seeks privileged information, the DEQ objects.



Attorney for the State of Wyoming, DEQ

Dated this 19th day of August, 2009.



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Department of Environmental Quality

CERTIFICATE OF SERVICE

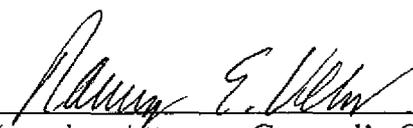
I hereby certify that I have served a true and correct copy of the foregoing *DEQ's Responses to First Discovery Request* through United States mail, postage prepaid on this the 19th day of August, 2009 to the following:

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