

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

FEB 26 2010

Jim Ruby, Executive Secretary
Environmental Quality Council

In the Matter of the Appeal)
and Petition for Review of:)
BART Permit No. MD-6040) Docket No. _____
(Jim Bridger Power Plant); and)
BART Permit No. MD-6042)
(Naughton Power Plant).)

APPEAL AND PETITION FOR REVIEW OF BART PERMITS

Pursuant to the Wyoming Department of Environmental Quality Rules of Practice and Procedure, Chapter 1, Section 3, PacifiCorp hereby files this Appeal and Petition for Review (“Petition”) of specific requirements and conditions in BART Permit No. MD-6042 (regarding the Naughton power plant) and BART Permit No. MD-6040 (regarding the Jim Bridger power plant). PacifiCorp appeals these BART Permits and petitions for their review because the Wyoming Department of Environmental Quality’s (“WDEQ”) Division of Air Quality (“WDAQ”) acted outside its statutory authority and regulatory guidelines, and lacked a sufficient evidentiary basis, when WDAQ established certain emission controls and limitations for Nitrogen Oxides (“NOx”) and Particulate Matter (“PM”). Specifically, PacifiCorp is appealing the BART permit requirements to:

Naughton Plant

- install and operate selective catalytic reduction equipment (“SCR”) at Naughton Unit 3 and meet the associated 0.07 lb/MMBtu NOx emissions limit by December 31, 2014;
- install and operate a full-scale fabric filter at Naughton Unit 3 with an emissions limit of 0.015 lb/MMBtu;

Bridger Plant

- install and operate SCRs at Bridger Units 3 and 4 and meet the associated 0.07 lb/MMBtu NOx emissions limits by December 15, 2015 and December 31, 2016, respectively; and
- submit a permit application for Jim Bridger Units 1 and 2 for the installation of additional add-on NOx controls and meet the associated 0.07 lb/MMBtu NOx emissions limits by December 31, 2023.

PacifiCorp also will be seeking a stay, or “suspension,” of the BART permit conditions identified above. In support of this Petition, PacifiCorp advises the Environmental Quality Council as follows:

A. NAME AND ADDRESS OF PETITIONER AND PETITIONER’S COUNSEL

1. The name of Petitioner is PacifiCorp. The addresses of the two PacifiCorp facilities subject to this appeal are: Naughton Plant, P.O. Box. 191, Kemmerer, Wyoming, 83101; and Bridger Plant, P.O. Box 158, Point of Rocks, Wyoming, 82942. Legal counsel for PacifiCorp is Paul Hickey, Hickey and Evans, LLP, 1800 Carey Avenue, Suite 700, Cheyenne, Wyoming 82001. Also, PacifiCorp intends for its additional legal counsel (Blaine Rawson, Holme Roberts & Owens, 299 South Main Street, Suite 1800, Salt Lake City, Utah 84111) to seek admission *pro hac vice* to practice before the Environmental Quality Council in the near future.

B. PERMITS UPON WHICH APPEAL AND PETITION FOR REVIEW ARE MADE

2. As noted above, this Petition concerns two BART permits issued by WDAQ on December 31, 2009: BART Permit No. MD-6042 and BART Permit No. MD-6040. The permits are attached respectively as Exhibits “A” and “B.”

C. BASIS FOR PETITION

I. Background

3. The Clean Air Act's regional haze program is intended to improve visibility in designated federally protected areas. The program is to be implemented by Wyoming in two general phases. The first phase includes requiring an analysis and implementation of the appropriate Best Achievable Retrofit Technology ("BART") to be installed on certain sources constructed between 1962 and 1977.¹ The second phase requires further emission reductions from sources that will improve visibility. This second phase, which includes Wyoming's long-term regional haze strategy, is to be implemented over multiple time periods.² The Long-Term Strategy is intended to meet periodic reasonable progress goals set by the state towards the ultimate goal of achieving natural background visibility conditions by 2064.

4. As required by WDAQ, PacifiCorp timely submitted BART permit applications for its BART-eligible facilities, including an application for PacifiCorp's Bridger power plant on January 16, 2007 and an application for PacifiCorp's Naughton power plant on February 12, 2007. Subsequent information and amendments also were submitted by PacifiCorp to WDAQ in support of the applications. WDAQ published BART Permit Application Reviews for each plant on May 28, 2009 and solicited public comment. Public hearings were held in August of 2009. PacifiCorp submitted both oral and written comments (which are supportive of PacifiCorp's Petition) on August 4, 2009 for the proposed Naughton BART Permit and on August 8, 2009 for the proposed Jim Bridger BART permit. After reviewing and responding to comments by

¹ Wyoming's BART regulations are found at Wyoming Air Quality Standards and Regulations, Chapter 6, Section 9.

² The Long-Term Strategy regulations, as well as some BART regulations, are found in 40 CFR 51.306 and .308.

PacifiCorp and others, WDAQ issued the BART permits for the Bridger power plant and the Naughton power plant on December 31, 2009.

II. Grounds For Appeal and Petition For Review Of BART Permits

PacifiCorp appeals and seeks review of the permit requirements described above on the following grounds:

Naughton Plant Unit 3: SCR and NOx control limits

(a) WDAQ Erred By Finding SCR Is “Cost Effective.”

5. WDAQ erred when concluding that installing SCR at Naughton Unit 3 would be “cost effective,” which caused WDAQ to reach an incorrect result regarding SCR as BART. For example, WDAQ found that SCR at Naughton Unit 3 is cost effective at \$2,830 per ton.³

However, in the preamble to the regional haze rules, EPA indicated that 75% of the electrical generating units (“EGUs”), such as Naughton, would have BART NOx removal costs between \$100 and \$1,000 per ton, and almost all of the remaining EGUs could install sufficient BART NOx control technology for less than \$1,500 per ton. 70 FR 39135. EPA also recognized in the preamble that SCR was generally not cost effective for EGUs, except for EGUs with cyclone boilers (where the cost per ton was less than \$1,500 per ton, with an average of \$900 per ton). *Id.* at 39135-36. Based upon EPA’s preamble, BART NOx control technology that costs more than \$1,500 per ton is not considered “cost effective.” WDAQ’s “cost-effectiveness” analysis also is flawed because it failed to consider “dollars per deciview” (WDAQ’s Response to Comments for Naughton BART Permit, IV.1), an important metric recognized by EPA and other states, such as Oklahoma.

³ By comparison, the cost-effectiveness for the BART NOx controls (LNB/OFA) chosen for Naughton Units 1 and 2 is \$425 and \$357 per ton, respectively.

(b) WDAQ Erred When It Failed To Consider Naughton’s Coal Characteristics When Setting BART For NOx.

6. In its responses to public comments, WDAQ stated that “PacifiCorp’s analysis of coal composition was not a factor in the Division’s” Naughton Unit 3 NOx BART determination. *See* WDAQ’s Response to Comments for Naughton BART permit, II.5. Understanding Naughton’s coal characteristics, however, is a critical part of a proper BART analysis. In the preamble to the revised final Regional Haze Rule and Appendix Y (EPA’s BART guideline for power plants, attached as Exhibit “C”), EPA recognized “both cost effectiveness and post-control rates for NO[X] do depend largely on boiler design and type of coal burned.” 70 FR 39104, 39134. At a minimum, WDAQ’s analysis of “cost-effectiveness” and emissions rates for BART NOx controls at Unit 3 should have taken into account the type of coal burned at Naughton Unit 3. WDAQ erred in not considering this evidence and issue when setting the BART NOx limits for Naughton Unit 3.

(c) WDAQ Erred By Requiring NOx Post Combustion Controls (SCRs) As Part Of BART.

7. Under Wyoming and federal law, a BART determination involves the setting of an emissions limit, which is set by reference to a particular emissions control technology, or group of technologies. Wyoming’s BART rules refer to this as “control equipment”, “control technology”, and “BART technology.” Wyo. Reg., Chp. 6, Sec. 9(e)(i)(E), Sec. 9(e)(iii) and (e)(viii).⁴

8. Regardless of the term used, EPA’s preamble and other guidance are clear that low NOx burners (“LNBS”) and over-fire air (“OFA”) are “BART technology” for the tangentially fired

⁴ In Colorado’s BART rules, it lists the applicable technologies as “Control Types. Colorado Air Quality Regulations, Part F, VI.B. All of the listed “Control Types” for NOx for EGUs in Colorado were LNBS, OFA, or some combination of the two. *Id.*

boilers at PacifiCorp's Naughton power plant. In the preamble to Appendix Y and the Regional Haze rules, EPA stated that, except for cyclone boilers, the "types of current combustion control technology options assumed include low NOx burners, over-fire air, and coal reburning." 70 FR 39134; *see also* 39144 ("For all other coal-fired units, our analysis assumed these units will install current combustion control technology."). EPA's preamble to the Regional Haze Rule and Appendix Y identify post-combustion controls for NOx, such as SCR and SNCR, as "BART technology" for only "cyclone" units. EPA made it clear that for "other units, we are not establishing presumptive limits based on the installation of SCR." 70 FR 39136. Therefore, EPA's presumptive "BART technology" is LNBs and some type of OFA.

9. Several states, including Oklahoma, North Dakota, Colorado, and Utah, have reached the same conclusion. Oklahoma's recent regional haze SIP found that LNBs and OFA were BART for the coal-fired power plants in that state. In a letter addressing BART issues, Colorado's Air Quality Division explained that "Colorado's BART rule does not allow for post combustion NOx controls. This provision is based upon the preamble to the final EPA BART rule and Appendix Y." *See* January 11, 2008 letter to Vickie Patton from Colorado Division of Air Quality, pg. 3.⁵ WDAQ also determined that LNB and/or OFA were BART at PacifiCorp's Dave Johnston, Wyodak, Jim Bridger (although SCRs were required as part of LTS), and Naughton units 1 and 2, as well as the other coal-fired power plants in Wyoming. *See* Wyoming's Proposed Regional Haze State Implementation Plan ("RH SIP"), dated August 25, 2009, at 92. Therefore, WDAQ should not have determined that SCR is BART for Naughton Unit 3.

⁵ It is puzzling how one state (Colorado) could interpret the BART regulations to not require post-combustion controls while another state (Wyoming), interpreting the same BART regulations, requires post-combustion controls.

(d) WDAQ Erred By Overestimating Naughton’s Emissions In Its Visibility Modeling.

10. WDAQ erred in its visibility modeling because it assumed PacifiCorp’s sources will operate at maximum capacity all of the time, leading to an inherent bias and exaggeration. PacifiCorp stated as much in its comments to the BART permits. WDAQ responded that this presumption is appropriate because the plants at issue (including Naughton) are base-loaded facilities. WDAQ’s Response to Comments for Bridger BART Permit, IV.6. However, even base-loaded facilities have “down time” due to planned and unscheduled maintenance, as well as curtailments due to demand. As part of its BART analysis, WDAQ needs to evaluate “the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.” 40 CFR 51.308(e)((ii)(A). WDAQ cannot accurately identify the NOx contributions by the Naughton plant, and the related degree of visibility impact, unless it accurately models that plant’s emissions.

(e) WDAQ Erred By Not Considering The Potential Dramatic Effects Of Climate Change Regulation and Legislation On The Naughton Plant.

11. WDAQ erred in its “cost of compliance” and “useful life” analyses (which are required as part of the BART analysis, 40 CFR 51.308(e)) because it failed to consider the impact of existing and future greenhouse gas reduction regulations and legislation. WDAQ’s BART analysis for Naughton Unit 3 did not properly account for recent and prospective climate change regulations. For example, in the fourth quarter of 2009, the EPA issued its final greenhouse gas endangerment finding and the proposed greenhouse gas tailoring rule, both of which may have a significant impact on the longevity of PacifiCorp coal-fueled units (including Naughton Unit 3). When greenhouse gas reduction requirements are put into place, likely compliance will require retirement, retrofit, and/or fuel switching at existing coal units. If these changes are required by or before the end of the depreciation life of Naughton Unit 3, the life of the SCR investments

assumed in the economic analysis will likely be incorrect. WDAQ failed to consider and plan for these potential changes when it required the installation of SCR at Naughton Unit 3.

(f) WDAQ Erred By Imposing A NOx Emission Rate More Stringent Than The Presumptive Appendix Y Emission Rate.

12. WDAQ erred in setting the NOx emissions limits for Naughton Unit 3 because it ignored the presumptive limits and underlying guidance in Appendix Y. The limit of 0.071b/MMBtu on a thirty-day rolling average is much more stringent than the presumptive limit identified in Appendix Y and much lower than any other similar facility in Wyoming. *See* RH SIP at 92. The large difference between Naughton Unit 3's BART NOx limit and the NOx emissions limits found in Appendix Y or used by WDAQ at other similar Wyoming facilities highlights the disparate treatment of Naughton Unit 3.

(g) WDAQ Erred Because NOx Emissions From Naughton Unit 3 Are Not "Significant Contributors" To Regional Haze Nor Will The Controls Make A "Perceptible" Improvement.

13. WDAQ erred in not determining what standard must be met for a "perceptible" visibility improvement. Based upon state and federal regulations,⁶ PacifiCorp contends that WDAQ should consider whether a visibility improvement associated with BART is perceptible to the human eye. Thus, WDAQ must first define what is a "humanly perceptible change in visibility" before it can make BART determinations (like the Naughton Unit 3 SCR decision) to resolve that visibility impairment. WDAQ has failed to defined the threshold for "perceptibility." WDAQ's Response to Comments for the Bridger BART permit, II.9 ("The Division did not attempt to endorse a particular threshold for human eye 'perceptibility' since the level of

⁶ Wyoming's definition of "Adverse impact on visibility", used to determine "BART eligible" sources, is defined as "visibility impairment which interferes with management, protection, preservation or enjoyment of the *visitor's visual experience* of the Federal Class I area." Wyo. Air Quality Regulations, Chp. 6, Sec. 9(b). "Visibility impairment" is as "a humanly perceptible change in visibility." 40 CFR 51.301.

perceptibility has long been disputed.”). Therefore, if a BART limit or control would not result in a humanly perceptible change or improvement (which Wyoming must still define), then it should not be required, particularly given the great expense.

14. WDAQ also erred in ordering SCR to be installed at Naughton Unit 3 because SCR will not make a “perceptible” improvement in regional haze. In its response to certain BART comments, the WDAQ stated that only 6.21% of the visibility degradation at the Bridger Wilderness Area (“BWA”) is attributable to nitrates. WDAQ’s Response to Comments for Bridger BART permit, IV.7. Additionally, WDAQ stated that modeling shows that only 19% of those nitrates come from Wyoming sources. *Id.* In other words, approximately 1% of the visibility degradation at BWA is due to nitrate emissions from Wyoming sources. Considering that Naughton Unit 3 is only a fraction of total nitrate emissions in Wyoming, that means that Naughton Unit 3’s nitrate emissions contribute to only a fraction of 1% of the visibility degradation at BWA during the 20 worse days. In other words, because other sources⁷ are a much larger part of visibility degradation at BWA, WDAQ should not require SCR at an extremely high cost (estimated \$170 million) and a relatively low, visibility improvement return at Naughton Unit 3, while allowing large NOx emissions sources in Wyoming to avoid reductions.

⁷ In the RH SIP (Section 8.3.6), Wyoming admitted that “natural sources such as wildfires and dust, international sources in Mexico and Canada, global transport of emissions and off shore shipping in the Pacific Ocean all appear to offset improvements in visibility from controls on manmade sources.” Increasing NOx emissions from oil and gas sources are discussed in footnote 10.

Naughton Plant Unit 3: Fabric Filter and PM Emissions Limit

(h) WDAQ Erred Because WDAQ's Own Analysis Does Not Justify The Baghouse as BART.

15. The Naughton Unit 3 BART permit requires the installation of a full-scale fabric filter. Ironically, the WDAQ concluded that "the costs of a fabric filter for Naughton Unit 3 was not reasonable." *See* Response to Comments for Naughton Power Plant, V.16. The WDAQ noted that it included the fabric filter in the BART permit because PacifiCorp had "committed to installing this control device and has permitted" its installation. The WDAQ "accepted" the fabric filter as BART because it is "the most stringent PM/PM10 control technology."

16. Based upon WDAQ's own BART analysis, the full-scale fabric filter should not be required. Whether or not PacifiCorp installs a full-scale fabric should have no bearing on WDAQ's BART requirements. Therefore, the installation of the fabric filter at Naughton Unit 3 (with its associated PM emissions rate of 0.015 lb/MMBtu) requirement should be replaced with a requirement to use existing technology with an emissions rate of 0.040 lb/MMBtu, similar to Naughton Units 1 and 2.

Bridger Plant: SCR As Part Of LTS

(i) WDAQ Erred When It Ordered Bridger To Install SCR As Part Of Its "Long Term Strategy" Because WDAQ Failed to Undertake The Required Analysis.

17. WDAQ found that LNB and OFA were BART for NOx emissions at all the Bridger units. That should have been the end of WDAQ's analysis. Instead, WDAQ has ordered, directly and indirectly,⁸ the installation of SCRs at all Bridger units as part of a regional haze "Long Term

⁸ Paragraph 17 of the December 31, 2009 BART Permit for the Jim Bridger Plant requires that SCRs be installed and in operation on Jim Bridger Unit 3 by December 31, 2015 and Jim Bridger Unit 4 by December 31, 2016. Paragraph 18 of that same BART permit requires that the "lowest viable" NOx emissions controls (with a maximum rate of .07 lbs/mmbtu) be installed on Jim Bridger Units 1 and 2 by December 31, 2023.

Strategy" ("LTS") to control NOx under the regional haze rules. *See* paragraphs 17 and 18 of the December 31, 2009 BART permit for the Jim Bridger plant. Contrary to applicable requirements, the Bridger BART permit does not identify what analysis WDAQ employed and what procedure it followed in determining that installation of SCRs at Bridger should be part of the LTS.⁹

18. The federal regional haze rules require the regional haze SIP to include a LTS to demonstrate how the states will reach their reasonable progress goals ("RPG"). The LTS is to be included in each states' RH SIP, not individual BART permits, and must be approved by EPA. 40 CFR 51.308. The federal regional haze rules, specifically, 40 CFR 51.308(d)(3)(v), outline the factors that WDAQ must consider, which include:

(A) Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (B) Measures to mitigate the impacts of construction activities; (C) Emissions limitations and schedules for compliance to achieve the reasonable progress goal; (D) Source retirement and replacement schedules; (E) Smoke management techniques for agricultural and forestry management purposes including plans as they currently exist within the State for these purposes; (F) Enforceability of emissions limitations and control measures; and (G) The anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy.

See also 40 CFR 51.306(e); RH SIP, Sec. 8.2. Additionally, 40 CFR 51.306(g) requires WDAQ to "take into account . . . the cost of compliance, the time necessary for compliance, the energy and non-air quality impacts of compliance, and the remaining useful life of any affected existing source and equipment therein" when developing a LTS.

⁹ The Bridger BART permit contains SCR-related LTS requirements, but does not contain a detailed discussion of how WDAQ determined these LTS requirements fit within the BART permit. The LTS analysis for SCRs at Jim Bridger is found in Section 8.3.3 of the RH SIP, although it does not include an analysis of these factors either.

19. The requirements to install SCR and/or the “lowest viable” NOx emissions controls at the Bridger plant as part of Wyoming’s LTS are not supported by the required factors, listed above. By way of example, 40 CFR 51.308 requires WDAQ to consider the “anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy.” The analysis done by WDAQ, which is found only in the RH SIP, does not support the SCR/LTS requirements for the Bridger plant. For example, in its RH SIP (Section 8.3.6), WDAQ acknowledged that emissions from natural sources and sources outside Wyoming “all appear to offset improvements in visibility from controls on manmade sources.” In other words, the installation of SCRs at Bridger will not improve visibility in Wyoming’s Class I areas, nor will it help Wyoming meet its RPGs.

20. Additionally, WDAQ recognizes in its RH SIP that oil and gas-related nitrate emissions will continue to increase, essentially cancelling any gains made by Bridger’s SCRs.¹⁰ Therefore, since WDAQ has admitted that natural events and factors outside Wyoming, as well as oil and gas nitrate emissions within Wyoming, will negate anything done inside by PacifiCorp to control nitrate emissions, the “anticipated net effect on visibility” of controlling nitrate sources within Wyoming is zero. PacifiCorp should not be required to spend hundreds of millions of dollars on SCRs that will not improve visibility nor help Wyoming achieve its RPGs, particularly when the entire oil and gas industry is not shouldering any of the burden.

21. Also, 40 CFR 51.306(g) states that WDAQ “must take into account . . . the energy and non-air quality environmental impacts of compliance” when setting the LTS. WDAQ stated in

¹⁰ The RH SIP notes that oil and gas sources will increase nitrate emissions by 132% by 2018, outweighing any gains achieved through SCRs in that period. RH SIP at 41. Wyoming claims it is not regulating oil and gas sources at this time because “specific strategies are not ready for incorporation into this first round of regional haze SIPs,” even though the SIP admits Wyoming has been studying the issue since 2005. RH SIP at 125, 165-167.

its response to comments for the Bridger BART permit, II.6, that, in part, it was the “lack of non-air quality environmental impacts that led WDAQ to conclude that LNB/OFA [low NO_x burners and overfire air] would be BART for NO_x control at the Jim Bridger Plant and for Units 1 and 2 at the Naughton plant.” If the “non-air quality environmental impacts” were enough to justify not requiring SCR as BART, WDAQ must provide justification for how that might change with respect to the LTS. Based upon WDAQ’s BART analysis, this factor (which is identical for the LTS analysis) suggests that SCR should not be required as part of LTS.

22. Additionally, PacifiCorp challenges WDAQ's thoroughness in analyzing the required factors. For example, in its RH SIP (Section 8.2.1.) WDAQ claimed that, regarding existing air quality programs, it did not “attempt to estimate the actual improvements in visibility that will occur, as many of the benefits are secondary to the primary air pollution objective of these programs/rules, and consequently it would be extremely difficult to quantify due to the technical complexity and limitations in current assessment techniques.” However, the regulations require WDAQ to “consider, at a minimum, . . . (e)mission reductions due to ongoing air pollution control programs.” 40 CFR 51.308(d)(3)(v)(A). Therefore, since WDAQ failed to analyze this essential factor, the LTS analysis is incomplete and the SCR-installation BART permit requirements should be revoked.

23. Bridger’s future LTS NO_x emissions limits, imposed in the Bridger BART permit, also are premature. Federal regional haze rules require that the LTS be flexible, consistently reevaluated, and changed when required to improve visibility. 40 CFR 51.306 and .308. WDAQ’s requirement that Bridger Units 1 and 2 meet the “lowest viable” NO_x emission rate (with a maximum rate of .07 lbs/mmbtu) by December 31, 2023, is not flexible and leaves no opportunity for reevaluation. Moreover, there is no proof in the record that Bridger Units 1 and

2 meeting the “lowest viable” NO_x emission rate in 2023 meets the required regulatory analysis, will improve visibility, or assists Wyoming in meeting its RPGs.

24. WDAQ’s LTS analysis for SCRs at Bridger also did not properly evaluate the other required factors.

(j) WDAQ Erred Because LTS Requirements Do Not Belong In A BART Permit.

25. Additionally, Wyoming BART permits are not the proper legal mechanisms to set SCR-related LTS requirements. Although WDAQ included the SCR-related LTS requirements in the Bridger BART permit, the permit actually found that SCR is not BART. WDAQ’s Response to Comments for Bridger BART permit, II.1, (“ . . . SCR was not determined to be BART.”).

Wyoming’s BART regulations suggest that BART permits should include only BART requirements. Wyo. Air Quality Regulations, Ch. 6, Sec. 9(e)(viii). For example, Wyoming’s BART regulations suggest that requirements in BART permits must be completed within 5 years. Wyo. Air Quality Regulations, Ch. 6, Sec. 9(e)(viii). The SCR-related LTS requirements have installation dates that greatly exceed 5 years. Additionally, nothing in the state or federal regional haze regulations support inserting LTS requirements in a BART permit. For these and other reasons, WDAQ did not comply with the applicable law when placing SCR-related LTS requirements in the Bridger BART permit.

(k) WDAQ Erred Because SCR Is Not “Cost Effective.”

26. Wyoming’s LTS must take into account “costs of compliance.” 40 CFR 51.306(g). For the same reasons SCR should not be considered “cost effective”, and therefore BART for Naughton Unit 3 (described above in paragraph 5), SCR should not be considered “cost effective” for Wyoming’s LTS/SCR requirement for Bridger, either.

(l) WDAQ Erred When It Failed To Consider Coal Characteristics When Setting SCR-Related LTS Requirements For Jim Bridger.

27. In its responses to public comments, WDAQ stated that “PacifiCorp’s analysis of coal composition was not a factor in the Division’s” Bridger BART NO_x determination, presumably including the LTS/SCR-related analysis. *See* WDAQ’s Response to Comments for Bridger BART Permit, II.5. For the same reasons WDAQ erred by not considering coal characteristics when determining SCR is BART for Naughton Unit 3 (described above in paragraph 6), WDAQ erred by not considering coal characteristics at the Bridger plant when establishing SCRs would be part of the Wyoming LTS.

(m) WDAQ Erred By Overestimating Bridger’s Emissions In Its Visibility Modeling.

28. WDAQ erred in its visibility modeling related to the Bridger facility because it assumed PacifiCorp’s sources will operate at maximum capacity all of the time, leading to an inherent bias and exaggeration. For the same reasons WDAQ erred by overestimating the Naughton plants NO_x emissions (described above in paragraph 10), WDAQ erred by overestimating the Bridger plant’s NO_x emissions.

(n) WDAQ Erred By Not Considering The Potential Dramatic Effects Of Climate Change Regulation and Legislation On The Bridger Plant.

29. WDAQ erred in its “cost of compliance,” “useful life” and “source retirement and replacement” analyses because it failed to consider the impact of existing and future greenhouse gas reduction regulations and legislation that may affect the Bridger power plant. As stated above, Wyoming’s LTS analysis must be developed by evaluating the “costs of compliance,” the “useful lives” of the plants, and “source retirement and replacement.” 40 CFR 51.308(d)(3)(v); and 51.306(e), (g). WDAQ erred in not considering the effect of future greenhouse gas reduction

regulations and legislation on these factors for the Bridger plant, much like it erred in a similar analysis involving the Naughton plant (described in paragraph 11).

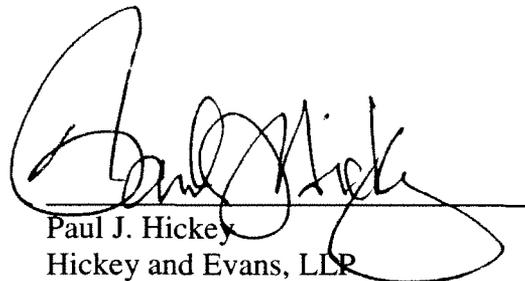
(o) WDAQ Erred Because NOx Emissions From The Bridger Units Individually Are Not "Significant Contributors" To Regional Haze Nor Will The SCRs Make A "Perceptible" Improvement.

30. As explained above in paragraph 13, WDAQ erred in not determining what standard must be met for a "perceptible" visibility improvement. Also, WDAQ erred in ordering SCR to be installed at Bridger as part of the LTS because the SCRs, on an individual basis, will not make "perceptible" improvements in regional haze because of their extremely tenuous relationship to the problem. The same "perceptibility" arguments made for Naughton Unit 3 (found in paragraphs 13-14) also apply for the Bridger LTS requirements to install SCRs.

D. REQUEST FOR HEARING BEFORE COUNSEL AND STAY OF CONTESTED PERMIT CONDITIONS.

31. PacifiCorp hereby requests that these matters be heard before the Environmental Quality Council and that the Council modify the BART permits, and/or remand to WDAQ, to resolve the concerns identified in this Petition. PacifiCorp also provides notice that it will be seeking a stay, or "suspension," of the BART permit conditions identified in this Petition.

Dated this 26th day of February, 2010.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 26th day of February, 2010, in accordance with the requirements of Chapter 1, Section 3(b) of the Wyoming Department of Environmental Quality Rules of Practice and Procedure, this Appeal and Petition for Review was served as follows:

Two copies were served upon the Chairman of the Environmental Quality Council, 122 West 25th Street, Herschler Building, Room 1714, Cheyenne, Wyoming, 82002, by registered mail, return receipt requested, and by hand delivery of a copy to the offices of the Council mentioned above.

Two copies were served upon the Director of the Department of Environmental Quality, 122 West 25th Street, Herschler Building, 4th Floor West, Cheyenne, Wyoming 82002, by registered mail, return receipt requested and by hand delivery of a copy to the Office of the Director mentioned above.

Copies were also served by registered mail, return receipt requested and hand delivery to the following:

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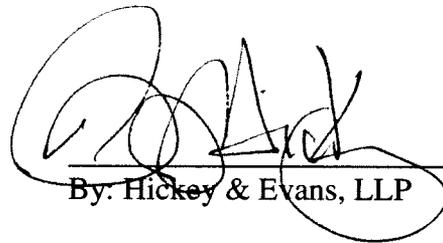
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