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FILED

APR 01 2010

**Jim Ruby, Executive Secretary
Environmental Quality Council**

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

In the Matter of the Appeal)
and Petition for Review of:)
BART Permit No. MD-6040) Docket No. 10-2801
(Jim Bridger Power Plant); and)
BART Permit No. MD-6042)
(Naughton Power Plant).)

DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE

Respondent, the Wyoming Department of Environmental Quality ("DEQ")/ Air Quality Division ("AQD"), by and through the Office of the Attorney General of the State of Wyoming, in response to PacifiCorp's Appeal and Petition for Hearing of BART Permit No. MD-6040 for the Jim Bridger Power Plant and BART Permit No. MD-6042 for the Naughton Power Plant, responds as follows:

PacifiCorp's introductory paragraph appears to be for descriptive purposes and does not contain factual allegations. Therefore, a response is not required. However, to the extent this paragraph is deemed to contain any factual allegations, the DEQ/AQD denies.

1. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted in paragraph 1 and therefore denies the same.

2. DEQ/AQD admits that on December 31, 2009, the DEQ/AQD granted Best Available Retrofit Technology (BART) Air Quality Permit MD-6042 for the three coal-fired boilers at the Naughton Power Plant located in Sections 32 and 33, T21N, R116W, approximately six miles southwest of Kemmerer in Lincoln County, Wyoming. DEQ/AQD also admits that on December 31, 2009, the DEQ/AQD granted BART Air Quality Permit MD-6040 for four existing coal-fired boilers at the Jim Bridger Power Plant located in Section 3, T20N, R101W, approximately four miles north of Point of Rocks in Sweetwater County, Wyoming. The DEQ/AQD further admits that Exhibit A includes BART Permit MD-6042 and other documents. The DEQ/AQD finally admits that Exhibit B includes BART Permit MD-6040 and other documents. DEQ/AQD denies all other allegations contained in paragraph 2.

3. In paragraph 3, including footnotes 1 and 2, PacifiCorp appears to paraphrase, summarize and make legal conclusions regarding specific parts of the Clean Air Act (CAA), the Environmental Protection Agency's (EPA) regional haze regulations, and the Wyoming Air Quality Standards and Regulations (WAQSR). DEQ/AQD asserts that the CAA, EPA regulations and the WAQSR speak for themselves and paraphrasing, summarizing and making legal conclusions are not allegations of fact which require a response. To the extent a response is required, DEQ/AQD denies any allegations contained therein.

4. DEQ/AQD admits that on January 16, 2007, it received a BART permit application from PacifiCorp for the Jim Bridger Power Plant and on February 12, 2007, it received a BART permit application from PacifiCorp for the Naughton Power Plant. DEQ/AQD also admits that during the permitting process, it received additional information from PacifiCorp and others regarding PacifiCorp's BART permit applications for the Naughton and Jim Bridger Power Plants. DEQ/AQD further admits that it conducted a BART Application Analysis for the Naughton Power Plant dated May 28, 2009 and a BART Application Analysis for the Jim Bridger Power Plant dated May 28, 2009. DEQ/AQD admits that its BART Application Analyses were put out for public comment on June 4, 2009 for the Naughton Power Plant and on June 3, 2009 for the Jim Bridger Power Plant. DEQ/AQD admits it received oral and written comments from PacifiCorp and asserts that such comments speak for themselves. DEQ/AQD admits that on December 31, 2009, on the basis of comments received during the public comment period, an analysis of those comments, and representations made by PacifiCorp, DEQ/AQD granted BART Air Quality Permit MD-6042 for the three coal-fired boilers at the Naughton Power Plant and BART Air Quality Permit MD-6040 for the four existing coal-fired boilers at the Jim Bridger Power Plant. DEQ/AQD denies all other allegations contained in paragraph 4.

5. Section II's introductory paragraph and subsequent headings appear to be for descriptive purposes and do not contain factual allegations. Therefore, a response is

not required. However, to the extent this introductory paragraph and subsequent headings are deemed to contain any factual allegations, the DEQ/AQD denies.

6. DEQ/AQD denies the allegations in the first sentence of paragraph 5. In the second sentence of paragraph 5, DEQ/AQD admits that SCR at Naughton Unit 3 is cost effective. In footnote 3, DEQ/AQD admits that the cost-effectiveness for Naughton Unit 2 BART NO_x control is \$357 per ton. In the third, fourth, and fifth sentences of paragraph 5, PacifiCorp purports to quote and paraphrase portions of the federal register. DEQ/AQD asserts that the federal register speaks for itself and paraphrasing and quoting a federal register is not an allegation of fact which requires a response. DEQ/AQD denies the sixth sentence and all other allegations contained in paragraph 5 and footnote 3.

7. In the first sentence of paragraph 6, PacifiCorp purports to quote a portion of DEQ/AQD's Decision document for the Naughton BART Air Quality Permit MD-6042. DEQ/AQD asserts that the Decision document speaks for itself and quoting the document is not an allegation of fact which requires a response. The second sentence of paragraph 6 calls for a legal conclusion for which no response is required. In the third sentence of paragraph 6, PacifiCorp purports to paraphrase and quote a portion of the federal register. DEQ/AQD asserts that the federal register speaks for itself and paraphrasing and quoting a federal register is not an allegation of fact which requires a

response. DEQ/AQD denies the fourth and fifth sentences and all other allegations contained in paragraph 6.

8. The first sentence of paragraph 7 calls for a legal conclusion for which no response is required. In the second sentence of paragraph 7 and in footnote 4, PacifiCorp purports to paraphrase and quote a portion of the WAQSR and Colorado Air Quality Regulations. DEQ/AQD asserts that the WAQSR and the Colorado Air Quality Regulations speak for themselves and paraphrasing and quoting regulations are not allegations of fact which require a response. DEQ/AQD denies all other allegations contained in paragraph 7 and footnote 4.

9. In the first four sentences of paragraph 8, PacifiCorp purports to paraphrase and quote portions of the federal register and EPA regulations. DEQ/AQD asserts that the federal register and EPA regulations speak for themselves and paraphrasing and quoting regulations are not allegations of fact which require a response. The last sentence of paragraph 8 calls for a legal conclusion for which no response is required. To the extent a response is required, DEQ/AQD denies the last sentence and all other allegations contained in paragraph 8.

10. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted in the first two sentences of paragraph 9 and therefore denies the same. In the third and fourth sentences of paragraph 9, PacifiCorp purports to paraphrase and quote a letter. DEQ/AQD asserts that the letter speaks for

itself and paraphrasing and quoting a letter is not an allegation of fact which requires a response. In the fifth sentence of paragraph 9, PacifiCorp purports to paraphrase Wyoming's DRAFT State Implementation Plan for Regional Haze, dated August 25, 2009 ("DRAFT RH SIP"). DEQ/AQD asserts that the DRAFT RH SIP speaks for itself and paraphrasing the DRAFT RH SIP is not an allegation of fact which requires a response. The last sentence of paragraph 9 calls for a legal conclusion for which no response is required. DEQ/AQD denies all other allegations contained in paragraph 9 and footnote 5.

11. DEQ/AQD denies the allegations in the first sentence of paragraph 10. In the second and third sentences of paragraph 10, PacifiCorp purports to paraphrase its comments and DEQ's Decision document for the Jim Bridger BART Air Quality Permit. DEQ/AQD asserts that PacifiCorp's comments and the Decision document for the Jim Bridger BART Air Quality Permit speaks for themselves and paraphrasing PacifiCorp's comments and the Decision document are not allegations of fact which require a response, and denies that the Decision document for the Jim Bridger BART Air Quality Permit is the Decision document for the Naughton BART Air Quality Permit. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted in the fourth sentence of paragraph 10 and therefore denies the same. The fifth sentence of paragraph 10 calls for a legal conclusion for which no response is required and also purports to quote and paraphrase the Code of Federal

Regulations (CFR). DEQ/AQD asserts that quoting and paraphrasing the CFR is not an allegation of fact which requires a response. As to the sixth sentence of paragraph 10, DEQ/AQD admits that it accurately modeled the emissions, including NO_x, and identified the degree of visibility impact for the Naughton Plant. DEQ/AQD denies all other allegations contained in paragraph 10.

12. DEQ/AQD denies the allegations in the first sentence of paragraph 11. In the second sentence of paragraph 11, PacifiCorp purports to paraphrase the BART Application Analysis for the Naughton Power Plant. DEQ/AQD asserts that the Analysis speaks for itself and paraphrasing the Analysis is not an allegation of fact which requires a response. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted in the third, fourth and fifth sentences of paragraph 11 and therefore denies the same. As alleged in the sixth sentence of paragraph 11, DEQ/AQD denies that it was required to consider information that PacifiCorp did not include in its Application or that PacifiCorp or others failed to submit regarding PacifiCorp's BART permit application for the Naughton Plant. DEQ/AQD denies all other allegations contained in paragraph 11.

13. DEQ/AQD denies the allegations in the first and third sentences of paragraph 12. In the second sentence of paragraph 12, PacifiCorp purports to paraphrase EPA regulations and Wyoming's DRAFT RH SIP. DEQ/AQD asserts that the DRAFT RH SIP speaks for itself and paraphrasing the DRAFT RH SIP is not an allegation of fact

which requires a response. DEQ/AQD denies all other allegations contained in paragraph 12.

14. DEQ/AQD denies the allegations in the first sentence in paragraph 13. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted in the second sentence of paragraph 13 and therefore denies the same. In footnote 6, PacifiCorp purports to quote and paraphrase portions of the WAQSR and CFR. DEQ/AQD asserts that the WAQSR and CFR speak for themselves and paraphrasing regulations is not an allegation of fact which requires a response. DEQ/AQD denies the allegations in the fourth sentence of paragraph 13. In the fifth sentence of paragraph 13, PacifiCorp purports to paraphrase DEQ's Decision document for the Jim Bridger BART Air Quality Permit. DEQ/AQD asserts that the Decision document for the Jim Bridger BART Air Quality Permit speaks for itself and paraphrasing the Decision document is not an allegation of fact which requires a response, and denies that the Decision document for the Jim Bridger BART Air Quality Permit is the Decision document for the Naughton BART Air Quality Permit. The sixth sentence of paragraph 13 calls for a legal conclusion for which no response is required. DEQ/AQD denies all other allegations contained in paragraph 13 and footnote 6.

15. DEQ/AQD denies the allegations in the first sentence of paragraph 14. In the second and third sentences of paragraph 14, PacifiCorp purports to paraphrase DEQ's Decision document for the Jim Bridger BART Air Quality Permit. DEQ/AQD asserts

that the Decision document for the Jim Bridger BART Air Quality Permit speaks for itself and paraphrasing the Decision document is not an allegation of fact which requires a response, and denies that the Decision document for the Jim Bridger BART Air Quality Permit is the Decision document for the Naughton BART Air Quality Permit. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the matters asserted in the fourth, fifth and sixth sentences of paragraph 14 and therefore denies the same. In footnote 7, PacifiCorp purports to paraphrase Wyoming's DRAFT RH SIP. DEQ/AQD asserts that the DRAFT RH SIP speaks for itself and paraphrasing the DRAFT RH SIP is not an allegation of fact which requires a response. DEQ/AQD denies all other allegations contained in paragraph 14 and footnote 7.

16. DEQ/AQD admits the allegations in the first sentence of paragraph 15. In the second, third and fourth sentences of paragraph 15, PacifiCorp purports to paraphrase DEQ's Decision document for the Naughton BART Air Quality Permit. DEQ/AQD asserts that the Decision document speaks for itself and paraphrasing the Decision document is not an allegation of fact which requires a response. DEQ/AQD denies all other allegations contained in paragraph 15.

17. DEQ/AQD denies all allegations contained in paragraph 16.

18. DEQ/AQD denies the allegations in the first and second sentences of paragraph 17. In the third sentence of paragraph 17 and in footnote 8, PacifiCorp purports to paraphrase BART Air Quality Permit MD-6040 for the Jim Bridger Plant.

DEQ/AQD asserts that BART Air Quality Permit MD-6040 speaks for itself and paraphrasing Air Quality Permit MD-6040 is not an allegation of fact which requires a response. The fourth sentence calls for a legal conclusion for which no response is required. In footnote 9, PacifiCorp purports to paraphrase Air Quality Permit MD-6040 and Wyoming's DRAFT RH SIP. DEQ/AQD asserts that Permit MD-6040 and the DRAFT RH SIP speak for themselves and paraphrasing Permit MD-6040 and the DRAFT RH SIP are not allegations of fact which require a response. DEQ/AQD denies all other allegations contained in paragraph 17 and footnotes 8 and 9.

19. The first sentence of paragraph 18 calls for a legal conclusion for which no response is required. In the remaining sentences of paragraph 18, PacifiCorp purports to paraphrase portions of the CFR and Wyoming's DRAFT RH SIP. DEQ/AQD asserts that the CFR and the DRAFT RH SIP speak for themselves and paraphrasing the CFR and the DRAFT RH SIP are not allegations of fact which require a response. DEQ/AQD denies all other allegations contained in paragraph 18.

20. The first and third sentences of paragraph 19 call for legal conclusions for which no response is required. In the second and fourth sentences of paragraph 19, PacifiCorp purports to paraphrase and quote portions of the CFR or Wyoming's DRAFT RH SIP. DEQ/AQD asserts that the CFR and the DRAFT RH SIP speak for themselves and paraphrasing the CFR and DRAFT RH SIP are not allegations of fact which require a

response. DEQ/AQD denies the allegations in the fifth sentence and all other allegations contained in paragraph 19.

21. In the first sentence of paragraph 20 and in footnote 10, PacifiCorp purports to paraphrase portions of Wyoming's DRAFT RH SIP. DEQ/AQD asserts that the DRAFT RH SIP speaks for itself and paraphrasing the DRAFT RH SIP is not an allegation of fact which requires a response. DEQ/AQD denies all other allegations contained in paragraph 20 and footnote 10.

22. In the first and second sentences of paragraph 21, PacifiCorp purports to paraphrase and quote portions of the CFR and DEQ's Decision document for the Jim Bridger BART Air Quality Permit. DEQ/AQD asserts that the CFR and Decision Document speak for themselves and paraphrasing the CFR or Decision Document are not allegations of fact which require a response. The third and fourth sentences of paragraph 21 call for legal conclusions for which no response is required. DEQ/AQD denies all other allegations contained in paragraph 21.

23. DEQ/AQD denies any allegations in the first sentence of paragraph 22. In the second and third sentences of paragraph 22, PacifiCorp purports to paraphrase and quote portions of Wyoming's DRAFT RH SIP or the CFR. DEQ/AQD asserts that the DRAFT RH SIP and the CFR speak for themselves and paraphrasing the DRAFT RH SIP or CFR are not allegations of fact which require a response. The fourth sentence of paragraph 22 calls for a legal conclusion for which no response is required. To the extent

a response is required, DEQ/AQD denies this and all other allegations contained in paragraph 22.

24. DEQ/AQD denies the allegations in the first sentence of paragraph 23. In the second sentence of paragraph 23, PacifiCorp purports to paraphrase portions of the CFR. DEQ/AQD asserts that the CFR speaks for itself and paraphrasing the CFR is not an allegation of fact which requires a response. The third and fourth sentences of paragraph 23 call for legal conclusions for which no response is required. DEQ/AQD denies all other allegations contained in paragraph 23.

25. DEQ/AQD denies the allegations in paragraph 24.

26. The first and sixth sentences of paragraph 25 call for legal conclusions for which no response is required. In the second, third, and fourth sentences of paragraph 25, PacifiCorp purports to paraphrase portions of DEQ's Decision document for the Jim Bridger BART Air Quality Permit or the WAQSR. DEQ/AQD asserts that the Decision document and the WAQSR speak for themselves and paraphrasing the Decision document or the WAQSR are not allegations of fact which require a response. DEQ/AQD denies the allegations in the seventh sentence and all other allegations contained in paragraph 25.

27. In the first sentence of paragraph 26, PacifiCorp purports to paraphrase or quote portions of the CFR. DEQ/AQD asserts that the CFR speaks for itself and paraphrasing the CFR is not an allegation of fact which requires a response. The second

sentence of paragraph 26 calls for a legal conclusion for which no response is required. DEQ/AQD denies all other allegations contained in paragraph 26.

28. In the first sentence of paragraph 27, PacifiCorp purports to paraphrase portions of DEQ's Decision document for the Jim Bridger BART Air Quality Permit. DEQ/AQD asserts that the Decision document speaks for itself and paraphrasing the Decision document is not an allegation of fact which requires a response. DEQ/AQD denies the allegations in the second sentence and all other allegations contained in paragraph 27.

29. DEQ/AQD denies the allegations in paragraph 28.

30. DEQ/AQD denies the allegations in the first and third sentences of paragraph 29. In the second sentence of paragraph 29, PacifiCorp purports to paraphrase portions of the CFR. DEQ/AQD asserts that the CFR speaks for itself and paraphrasing the CFR is not an allegation of fact which requires a response. DEQ/AQD denies all other allegations contained in paragraph 29.

31. DEQ/AQD denies the allegations in paragraph 30.

32. The allegations in paragraph 31 appear to be for descriptive purposes and do not require a response. To the extent a response is required, DEQ/AQD denies. DEQ/AQD denies all other allegations contained in paragraph 31.

33. DEQ/AQD denies each and every allegation in PacifiCorp's Appeal and Petition for Review not specifically admitted.

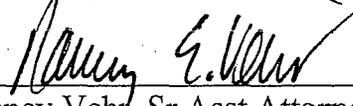
AFFIRMATIVE DEFENSES

1. PacifiCorp has failed to state a claim upon which relief can be granted.
2. PacifiCorp's Appeal and Petition for Review does not contain a concise statement of the facts.
3. PacifiCorp has not presented the requisite facts or evidence to warrant their requested relief.
4. DEQ/AQD reserves the right to assert additional affirmative defenses after discovery is completed and as additional facts are learned.
5. DEQ/AQD's actions were in accordance with the law and supported by the evidence.

WHEREFORE, the DEQ/AQD respectfully requests this Council uphold DEQ/AQD's issuance of Permits MD-6040 and MD-6042 to PacifiCorp and deny PacifiCorp's requested relief.

Respectfully submitted this 1st day of April, 2010.

FOR RESPONDENT DEQ:



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CERTIFICATE OF SERVICE

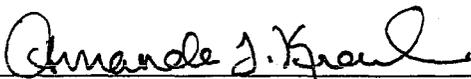
I hereby certify that on the 1st day of April, 2010, a true and correct copy of the foregoing *Department of Environmental Quality's Response* was served by placing the same in the United States mail, postage pre-paid, addressed to:

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