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**FILED**

**NOV 16 2009**

*Jim Ruby, Executive Secretary  
Environmental Quality Council*

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

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

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**DEQ'S MOTION FOR SUMMARY JUDGMENT**

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Respondent Wyoming Department of Environmental Quality (DEQ) by and through its undersigned counsel, and pursuant to WYO. R. CIV. P. Rules 7(b)(1), 56, 56.1 and the Environmental Quality Council Rules, Chapter II, Sections 3 and 14, hereby moves the Environmental Quality Council (EQC) for summary judgment in the above-captioned matter. The DEQ moves for summary judgment on the following five issues in this matter as more fully set forth in DEQ's Memorandum in Support of Motion for Summary Judgment submitted herewith:

I. Did the DEQ properly calculate the Facility's Potential to Emit (PTE) by excluding cold-start flaring emissions, which are not part of the Facility's normal operations, establish the startup/shutdown emission minimization (SSEM) plan as BACT, and address malfunction emissions pursuant to Chapter 1, Section 5 of the Wyoming Air Quality Standards and Regulations (WAQSR)?

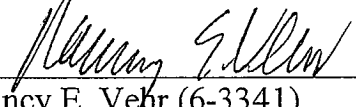
**MEDICINE BOW  
EXHIBIT III  
PRE-HRG MEMO**

- II. Did the DEQ comply with the law, including Wyoming's SIP, by using EPA's PM<sub>10</sub> Surrogate Policy to analyze PM<sub>2.5</sub> emissions?
- III. Did the DEQ properly calculate fugitive Hazardous Air Pollutant (HAP) emissions from valve, pump, compressor, and connector components, and determine that a Leak Detection and Repair (LDAR) program was BACT for such emissions?
- IV. Did the DEQ correctly determine that the Facility was a minor source of HAP emissions because methanol emissions were less than ten tons per year (10 tpy)?
- V. Did the DEQ properly model fugitive particulate matter emissions?

WHEREFORE, the DEQ respectfully requests that the EQC grant this motion for summary judgment on all issues and such other and further relief as this Council deems appropriate. A proposed order is attached.

DATED this 16<sup>th</sup> day of November, 2009.

FOR RESPONDENT DEQ:

  
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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing DEQ'S MOTION FOR SUMMARY JUDGMENT through United States mail, postage prepaid on this 16<sup>th</sup> day of November, 2009 addressed to the following:

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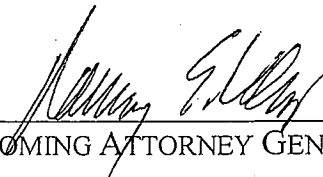
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