

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

FILED

JUN 30 2010

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

Docket No. 10-2801

Jim Ruby, Executive Secretary
Environmental Quality Council

**PETITIONER PACIFICORP'S STATEMENT OF UNDISPUTED FACTS IN OF ITS
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Wyo. R. Civ. P. 56.1 Petitioner, PacifiCorp, through its counsel of record, respectfully submits the following Undisputed Statement of Facts in Support of its Motion for Partial Summary Judgment:

1. As required by DAQ's BART regulations, PacifiCorp timely submitted a BART permit application for its Bridger power plant on January 16, 2007. PacifiCorp also submitted subsequent information and amendments to DAQ in support of the application. *See* DEQ Notice of Publication for Permit Application 6040, attached as Exhibit "A."

2. DAQ published BART Application Analysis AP-6040 for the Bridger plant on May 29, 2009 and solicited public comment. *Id.* A public hearing was held in August of 2009. *See* Bridger BART Permit, attached as Exhibit "B."

3. PacifiCorp submitted both oral and written comments (which are supportive of PacifiCorp's Petition) on August 4, 2009 regarding the proposed Bridger BART Permit. *See* Exhibit "C." After reviewing and responding to comments by PacifiCorp and others, DAQ issued the final Bridger BART Permit on December 31, 2009. *See* DAQ Response to PacifiCorp's Appeal at ¶ 2; *see also* Exhibit B.

4. The Bridger BART Permit contains “NO_x BART” requirements for the four Bridger units, including NO_x emissions limits of 0.26 lb/MMBtu on a 30-day rolling average and the installation and operation of low-NO_x burners with over-fire air. Bridger BART Permit, Conditions 5, 7, and 16

5. Condition 17, one of two non-BART provisions in the Bridger BART Permit, requires PacifiCorp to submit “a permit application for installation of selective catalytic reduction (SCR) on Jim Bridger Units 3 and 4 to the Division under the Long-Term Strategy of the Wyoming § 308 Regional Haze State Implementation Plan. . . .” Condition 17 further requires that SCR is to be installed on Unit 3 by December 31, 2015 and Unit 4 by December 31, 2016. *See* Exhibit B, ¶ 17.

6. In addition, Condition 18, the second of the non-BART provisions in the Bridger BART Permit, requires that PacifiCorp “submit a permit application for installation of additional add-on NO_x control on Jim Bridger Units 1 and 2 to the Division no later than January 1, 2015, under the Long-Term Strategy of the Wyoming §308 Regional Haze State Implementation Plan.” *Id.* at ¶ 18. The application required by Condition 18 must include “an analysis of the four statutory factors and the associated visibility impacts from the application of each proposed NO_x control and resulting emissions level” and shall address “each add-on NO_x control as a system of continuous emissions reduction achieving the lowest viable NO_x emission, not to exceed a maximum of 0.07 lb/MMBtu on a 30-day rolling average.” Finally, the Bridger BART Permit requires that additional add-on NO_x controls be installed and operational on Bridger Unit 1 and 2 by December 31, 2023. *See id.*

7. DAQ issued for public comment, on August 25, 2009, a draft Wyoming State Implementation Plant for Regional Haze (“Regional Haze SIP”) intended, in part, to address NO_x

emission controls at the Bridger Power plant. *See* Exhibit “D” at 97. The Regional Haze SIP, however, has neither been proposed for final approval by DAQ nor in fact approved by the Wyoming Environmental Quality Council, the Director of the Wyoming Department of Environmental Quality, the Wyoming Governor, or by the EPA. DAQ’s website, as of June 30, 2010, states that DAQ is

currently addressing regional haze (under 40 CFR 51.309(g)) in Wyoming (and neighboring states) with the focus on impairment caused by sources of nitrogen oxides and particulate matter. Earlier work listed below under “Work Completed” dealt primarily with impairment caused by sulfur dioxide. The AQD held a SIP hearing on October 27, 2009 in Casper, Wyoming at the Casper DEQ Field Office. The comment period has closed. The Division is currently reviewing public comments.

8. At this point in time, the Regional Haze SIP is in draft form and unapproved. No other Wyoming SIP has authorized DAQ to require SCRs be installed at the Bridger power plant as part of a Long-Term Strategy.

9. Several years ago, Wyoming adopted a Long Term Strategy for regional haze, as evidenced by WDAQ’s 2003 Long Term Strategy Report. *See* Exhibit “E.” However, the 2003 Long Term Strategy Report does not contain any SCR-related requirements for the Bridger power plant and, to PacifiCorp’s knowledge, no revisions to Wyoming’s Long Term Strategy have been made that would give DAQ authority to impose Long Term Strategy requirements in Bridger’s BART permit.

DATED this 30th day of June 2010.

PACIFICORP

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of June, 2010, a true and correct copy of the foregoing PETITIONER PACIFICORP'S UNDISPUTED STATEMENT OF FACTS IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT was served as follows:

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