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Jim Ruby, Executive Secretary
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Attorney for the State of Wyoming,
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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).)

**JOINT MOTION FOR PROTECTIVE ORDER AND TO FILE CERTAIN
DOCUMENTS UNDER SEAL**

The Department of Environmental Quality (DEQ), by and through the Office of the Attorney General, and PacifiCorp, pursuant to DEQ/EQC Rules of Practice and Procedure, Ch. II, §§ 3 and 14, jointly move this Council for entry of a Protective Order and an Order allowing DEQ to file under seal: 1) certain affidavits submitted in support of DEQ's Response Brief; 2) certain exhibits to those affidavits; and 3) DEQ's Response Brief referencing those affidavits or exhibits. In support of this Motion, the DEQ/AQD and PacifiCorp state as follows:

1. During the normal course of its regulatory affairs, the DEQ/AQD received certain information and documents from PacifiCorp purporting to contain confidential commercial and trade secret information relating to the Jim Bridger BART Permit MD-

6040. Schlichtemeier Aff. at ¶¶ 31, 33, 37; Potter Aff. at ¶¶ 14, 16, 20-21; Cole Anderson at ¶¶ 7, 9; Ex. 18.

2. The DEQ/AQD has maintained and treated such information as confidential commercial and trade secret information since its receipt pursuant to WYO. STAT. ANN. § 16-4-202 through – 203 and § 35-11-1101. Schlichtemeier Aff. at ¶ 33.

3. The DEQ/AQD contends it considered and relied upon such information during the permitting process for Permit MD-6040. Schlichtemeier Aff. at ¶¶ 31-37; Potter Aff. at ¶¶ 14-21; Cole Anderson Aff. at ¶¶ 7, 9. PacifiCorp does not concede the facts in this paragraph.

4. PacifiCorp has made certain factual allegations and arguments in its Motion for Partial Summary Judgment which the DEQ/AQD asserts are refuted by such confidential commercial and trade secret information. *See* DEQ's Response to PacifiCorp's Motion for Summary Judgment, and DEQ's Response to PacifiCorp's Statement of Facts. PacifiCorp does not concede the facts in this paragraph.

5. Certain affidavits submitted in support of DEQ's Response Brief reference such trade secrets, privileged information or confidential commercial or financial information obtained by DEQ/AQD from PacifiCorp during the permitting process for Permit MD-6047. *See* Schlichtemeier Aff. at ¶¶ 31, 33, 37; Potter Aff. at ¶¶ 14, 16, 20-21; Cole Anderson Aff. at ¶¶ 7, 9.

6. Certain exhibits to those affidavits contain such trade secrets, privileged information or confidential commercial or financial information. *See* Ex. 18.

7. Certain portions of DEQ's Response Brief reference those affidavits or exhibits containing trade secrets, privileged information or confidential commercial or financial information. See DEQ's Response to PacifiCorp's Motion for Summary Judgment, and DEQ's Response to PacifiCorp's Statement of Facts.

8. Disclosure of such information is prohibited at law. WYO. STAT. ANN. §§ 16-4-203(d)(v), 35-11-1101(a).

9. Because PacifiCorp has already disclosed such information to the DEQ/AQD, the proposed Order would govern use of such information.

10. Pending entry of an Order granting this motion, DEQ/AQD has filed the above mentioned documents under seal with the EQC.

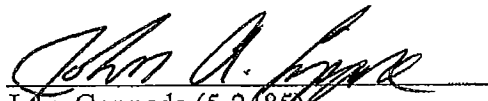
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WHEREFORE, the DEQ/AQD and PacifiCorp request the EQC retain and maintain the documents under seal until such time as the EQC rules on this Motion;

AND WHEREFORE, the DEQ/AQD and PacifiCorp request an Order Granting Motion for Protective Order and to File Certain Documents Under Seal. A proposed Order is attached hereto.

Respectfully submitted this 6th day of August, 2010.

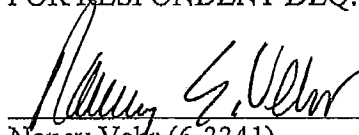
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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of August, 2010, a true and correct copy of the foregoing *Joint Motion for Protective Order and to File Certain Documents Under Seal* was served by placing the same in the United States mail, postage pre-paid, addressed to:

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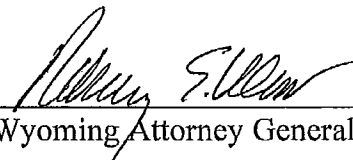
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