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FILED

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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)

DEQ'S MOTION FOR SUMMARY JUDGMENT

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:

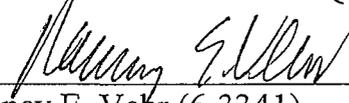
I. Did the DEQ properly calculate the Facility's Potential to Emit (PTE) by excluding cold-start flaring emissions, which are not part of the Facility's normal operations, establish the startup/shutdown emission minimization (SSEM) plan as BACT, and address malfunction emissions pursuant to Chapter 1,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

- II. Did the DEQ comply with the law, including Wyoming's SIP, by using EPA's PM₁₀ Surrogate Policy to analyze PM_{2.5} 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 16th 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 16th day of November, 2009 addressed to the following:

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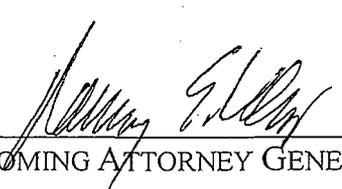
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