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

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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).)	

**AFFIDAVIT OF DARLA POTTER IN RESPONSE TO
PACIFICORP'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

STATE OF WYOMING)
) ss.
County of Laramie)

I, Darla Potter, being first duly sworn, deposes and says as follows:

1. I am over the age of 21 and am competent to make this affidavit.
2. The facts and matters stated herein are within my personal knowledge, and are true and correct.
3. I have a Bachelor of Science degree in Civil Engineering, which I received from the South Dakota School of Mines and Technology in 1992. I have a Masters of

Science degree in Civil Engineering, which I received from the South Dakota School of Mines and Technology in 1993.

4. In 1993 and 1994 I worked for the South Dakota Department of Transportation in Pierre, South Dakota and Stone & Webster Engineering Corporation in Englewood, CO performing a wide variety of work activities.

5. In 1994 and continuing into 1996, I worked for United Power Association at the Stanton Station, a coal-fired electrical generating station, in Stanton, North Dakota as an Environmental Engineer. My primary job responsibilities included implementing requirements of Title IV of the Clean Air Act which is also referred to as the Acid Rain Program and administering all aspects of the air quality program to ensure compliance.

6. In 1996, I began working for the Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD) as an Environmental Senior Analyst. I was promoted to the position of Environmental Program Principal in 1998. My job responsibilities during that time period included reviewing and assessing visibility and air quality related value monitoring data; preparing reasonably attributable visibility long term strategy reports; coordinating with federal agencies on National Environmental Policy Act (NEPA) planning and project specific actions; and conducting technical analyses for air quality permit applications. I also reviewed visibility analyses for major (Prevention of Significant Deterioration (PSD)) emitting facilities under the direction of the New Source Review (NSR) Program Manager.

7. In 2005, I was promoted to the position of Environmental Program Supervisor. I held that position until 2007. My job responsibilities during that time period included day-to-day management of the NEPA and Policy Coordination section for the DEQ/AQD; directing the operational, personnel and planning functions of the section; coordinating and communicating with federal agencies on NEPA resource management and energy development project actions; monitoring and delegating work related to reviewing NEPA documents for technical accuracy resulting in preparing comments; supervise and train staff; and provide day-to-day staff assistance regarding technical issues and regulatory interpretations. My job responsibilities also included representing the DEQ/AQD in the Western Regional Air Partnership addressing fire effects on air quality and visibility to respond to the requirements of the Regional Haze Rule.

8. In 2007, I was promoted to the position of Natural Resources Program Supervisor. I held that position until June, 2010. My job responsibilities during that time period included day-to-day management of the PSD and minor source construction and modification permitting programs which is also referred to as New Source Review (NSR); assisting the program manager in directing the operational, personnel and planning functions of the NSR program; reviewing permit analyses for technical accuracy and ensuring that all applicable requirements, rules and regulations have been addressed; monitoring and delegating work related to processing applications within the regulatory time frame; meeting with applicants to discuss DEQ/AQD's interpretation of applicable

regulations, policy and guidance; supervise and train staff; and provide day-to-day staff assistance regarding technical issues and regulatory interpretations. My job responsibilities also included conducting review of all PSD and Best Available Retrofit Technology (BART) permit applications, technical analyses, public comments, decision documents and permit, correspondence and other documents; and making recommendations to or conferring with the NSR Program Manager.

9. On July 1, 2010, I was promoted to the position I currently have of Natural Resources Program Manager for the Air Quality Resource Management (AQRM) program, which includes the ambient and emission monitoring, air resource planning, and emission inventory/regional haze sections of the DEQ/AQD. My current job responsibilities include overall management of the AQRM program; directing the operational, personnel and planning functions of the AQRM program; regulation development activities; policy development activities; managing a staff of about 18; air quality assessment activities; emissions inventory and ambient monitoring information tracking activities; and making recommendations to the DEQ/AQD Administrator.

10. As part of my former job responsibilities as NSR Program Supervisor, I routinely reviewed PSD and BART permit applications, technical analyses, public comments, decision documents and permit, correspondence and other documents. In April 2007 and continuing through June 2010, I reviewed ten (10) PSD permits applications and associated documents and eight (8) BART permit applications and associated documents.

11. Between June, 2008 and May, 2009, I recall participating in numerous meetings and telephone conferences with PacifiCorp regarding PacifiCorp's BART Permit Application AP-6040 for the Jim Bridger Plant. I also reviewed PacifiCorp's BART Permit Application; the technical analysis initially completed by Cole Anderson and Josh Nall, for technical accuracy and ensuring that all applicable requirements had been addressed; public comments; the DEQ/AQD decision documents and permit; correspondence and other documents before I concurred with Chad Schlichtemeier to proceed forward toward permit issuance.

12. In June or July, 2008, I recall meeting with PacifiCorp to discuss the DEQ/AQD preliminary BART determinations. Mr. Bill Lawson represented PacifiCorp at this meeting. In preparation for the meeting, the Division had developed a comparison of the cost to install NOx control equipment as BART versus recent BACT determinations and charts showing the visibility improvement for BART control technologies based on information provided in the BART applications. The comparison showed the average cost effectiveness (\$/ton) and incremental cost effectiveness (\$/ton) for installing low NOx burners (LNB), over-fire air (OFA) and selective catalytic reduction (SCR) on the PacifiCorp BART eligible sources and recent BACT determinations, which required LNB/OFA/SCR as BACT, for new electric generating units (EGU). The Division also put together charts showing the visibility improvement on the affected Class I areas due to the installation of NOx controls. It should be noted that PacifiCorp represented in their applications LNB/OFA for all BART eligible units as

BART for NOx. I recall DEQ/AQD distributing the comparison and charts and reviewing the DEQ/AQD's preliminary analysis of the information PacifiCorp had submitted. I also recall DEQ/AQD mentioning EPA's comments on PacifiCorp's BART analysis. True and correct copies of the comparison and charts are attached as Ex. 17.

13. During the June or July, 2008 meeting, the Division informed Mr. Lawson that the preliminary BART determination for the PacifiCorp units was as follows:

Jim Bridger Units 1-4:	LNB/OFA/SCR for all units
Naughton Units 1-3:	LNB/OFA/SCR for all units
Dave Johnston Units 3 – 4:	LNB/OFA for both units
Wyodak (Unit 1)	LNB/OFA/SCR

The DEQ/AQD preliminary determination was established, on a case-by-case basis, taking into consideration (1) the costs of compliance, (2) the energy and non-air quality environmental impacts of compliance, (3) any pollution equipment in use or in existence at the source, (4) the remaining useful life of the source, and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology as required by 40 CFR 51 Appendix Y. I also recall the DEQ/AQD emphasizing the larger degree of visibility impact on the affected Class I areas for Naughton Unit 3 in comparison and contrast to the other PacifiCorp units in Wyoming.

14. During this June or July, 2008 meeting, Mr. Lawson discussed with the Division [REDACTED]

[REDACTED]

15. During the June or July, 2008 meeting and subsequent meetings, I recall PacifiCorp discussing why it was not possible for them to install SCR during the BART period (5 years after EPA approval of SIP). The reasons given were costs, pollution control projects and not enough time to install controls. Given these issues and one of the factors in determining BART is cost of compliance, the Division discussed with Mr. Lawson the possibility of not requiring SCR as BART at Jim Bridger Units 1-4 if PacifiCorp would commit to install SCR as part the long term strategy (LTS).

16. PacifiCorp submitted a letter dated January 29, 2009, [REDACTED]

[REDACTED]

[REDACTED] A true and correct copy of PacifiCorp's letter is attached hereto as Ex. 18.

17. I recall several meetings and telephone calls between June 2008 and May 2009 discussing BART and LTS with PacifiCorp, Mid-American Energy Holdings Company, and Idaho Power staff. From the first meeting, the Division always took the position that BART and LTS controls were a package. Meaning, the Division accepted the LNB/OFA for the Jim Bridger Units as representing BART based on the fact that PacifiCorp needed further time for additional NOx controls to be installed on all units as part of LTS. It should also be noted that LTS for the other PacifiCorp units was not included in the BART permits because the installation dates fall outside the second regional haze planning period (2023). These units will be addressed in future regional haze planning periods.

18. There is nothing in the public file from PacifiCorp committing to install SCR on Units 3 and 4 and additional add-on NOx control on Units 1 and 2 as part of LTS. In hindsight, DEQ/AQD should have requested PacifiCorp to put their commitment in writing. Given DEQ/AQD dealings to date with PacifiCorp, DEQ/AQD had no reason not to believe their verbal commitment. The DEQ/AQD worked with PacifiCorp very closely through this permitting process to develop a control strategy that meets the requirements of 40 CFR 51 Appendix Y and meets PacifiCorp's long-term emissions reduction plan. I believe this control strategy was mutually agreed upon.

19. Condition 17 was developed identifying the NOx control technology and the emission level based on the agreed upon installation dates for Unit 3 in 2015 and Unit 4 in 2016. DEQ/AQD's understanding was that engineering would start approximately

five (5) to six (6) years in advance of the compliance date. Given this timeline, SCR was specified as the control technology. In developing the control level, the Division takes the position that if controls are installed they should be operated as designed. Meaning, if a control technology is designed to meet 90 percent control efficiency, the Division expects the control equipment to be operated and maintained to meet that level. The 0.07 lb/MMBtu was submitted by PacifiCorp as the control level for LNB/OFA/SCR. This is also consistent with New Mexico's BART determination for Public Service Company of New Mexico San Juan Generating Station, Units 1-4, which SCR plus sorbent injection and an emission rate between 0.03 and 0.07 lb/MMBtu. State of Oregon DAQ BART Report for the Boardman Power Plant recommended a NO_x emission rate of 0.07 lb/MMBtu 30-day average for the 2017 SCR installation. The Division worked closely with PacifiCorp in developing Condition 17. I believe Condition 17 was mutually agreed upon.

20. Condition 18 was developed without mandating a specific NO_x control technology based on the agreed upon installation dates for Units 1 and 2 in 2023. New control technologies or regulations may dictate the type of controls that will be installed on these units. As written, the condition allows for the control technology to be determined during the permitting process, which will occur six (6) years prior to the compliance dates. The maximum emission rate of 0.07 lb/MMBtu was added to the condition reflecting the capabilities of SCR today. The condition also requires evaluation of the lowest viable NO_x emission rate considering the LTS four (4) statutory factors plus

visibility impacts. As stated for Condition 17, the Division takes the position that if controls are installed they should be operated as designed. [REDACTED]

[REDACTED] The Division worked closely with PacifiCorp in developing Condition 18. I believe Condition 18 was mutually agreed upon.

21. I also recall that PacifiCorp requested a meeting in the spring of 2009 to discuss [REDACTED]

[REDACTED] During that meeting I recall PacifiCorp and

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Mid-American Energy Holdings Company staff expressing concern that if [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] At the close of the

meeting, the Division was asked to take those concerns into consideration when making the BART and LTS determinations.

DATED this 27 day of July, 2010.



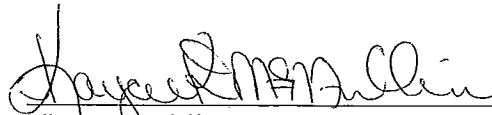
Darla Potter
AQRM Program Manager – DEQ/AQD

State of Wyoming)
) ss.
County of Laramie)

Subscribed and sworn before me by Darla Potter on this 27th day of July, 2010.

Witness my hand and official seal.





Notary Public

My commission expires on: April 25, 2012