

OCT 16 2008

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
OF THE STATE OF WYOMING

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF:)	
BASIN ELECTRIC POWER COOPERATIVE)	Docket No. 07-2801
DRY FORK STATION,)	Presiding Officer, F. David Searle
AIR PERMIT CT-4631)	
_____)	

**JOINT STIPULATION FOR WITHDRAWAL OF PROTESTANTS' CLAIMS IV, V,
AND VI**

Powder River Basin Resource Council, Wyoming Outdoor Council, and Sierra Club (collectively "Protestants"), Wyoming Department of Environmental Quality ("WYDEQ"), and Basin Electric Power Cooperative ("Basin") jointly stipulate to Protestants' voluntary withdrawal of their remaining claims in this case. Pursuant to Chapter I, Section 11 of the WYDEQ Rules of Practice & Procedure, the parties request the Wyoming Environmental Quality Council's ("Council") approval of this stipulation.

In support of this stipulation, the parties state as follows:

1. On October 15, 2007, WYDEQ's Air Quality Division issued air permit CT-4631 to Basin for construction of the Dry Fork Station coal-fired power plant.
2. On October 31, 2007, Protestants filed a Protest and Petition for Hearing before the Council. The petition raised eight claims:
 - I. WYDEQ failed to consider greenhouse gas emissions.
 - II. WYDEQ failed to consider a supercritical or ultra-supercritical boiler as BACT.
 - III. WYDEQ failed to consider IGCC as BACT.
 - IV. WYDEQ's BACT limits for NOx and SO2 are flawed.
 - V. WYDEQ's mercury BACT limit is flawed.

- VI. WYDEQ's PM₁₀ BACT limits are flawed.
- VII. WYDEQ failed to regulate PM_{2.5} emissions.
- VIII. WYDEQ's SO₂ increment analysis is flawed.

3. On April 29, 2008, the Council heard oral argument on preliminary motions, including WYDEQ's Motion to Dismiss all greenhouse gas, carbon dioxide, and global warming claims raised by the Protestants. The Council verbally granted WYDEQ's Motion to Dismiss at the hearing. On August 21, 2008, the Council issued a final written order dismissing Claim I.

4. On September 29-30, 2008, the Council heard oral argument on summary judgment motions filed by Protestants, Basin, and WYDEQ. The Council voted to grant summary judgment in favor of Basin and WYDEQ on Claims II (supercritical), III (IGCC), VII (PM_{2.5}), and VIII (SO₂ increment analysis). The Council has not yet issued written orders on these motions. The Council also denied Protestants' motion for summary judgment with respect to Claim V (mercury BACT limit).

5. As a result of these proceedings, the Council has issued or will issue (as soon as written orders are finalized on the motions for summary judgment) final determinations on Protestants' Claims I, II, III, VII, and VIII. The remaining issues slated for resolution at trial on November 17-21, 2008 are Claims IV (NO_x and SO₂ BACT limits), V (mercury BACT limits), and VI (PM₁₀ BACT limits).

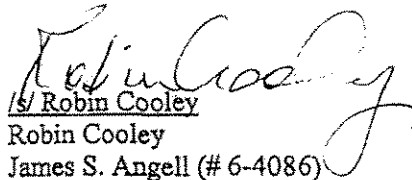
6. Protestants, Basin, and WYDEQ hereby stipulate to Protestants' withdrawal, with prejudice, of Claims IV, V, and VI in Protestants' Protest and Petition for Hearing challenging DEQ's October 15, 2007 issuance of air permit CT-4631 for a coal-fired electrical power generating station which includes one 385 megawatt (MW) net subcritical pulverized coal boiler.

7. This Joint Stipulation does not constitute an adjudicated determination on the merits of the issues raised in Claims IV, V, and VI, nor does it constitute an admission or concession by Protestants that the issuance of air permit CT-4631 is valid. The parties reserve the right to assert their respective positions on these issues in any proceeding other than Protestants' challenge to DEQ's October 15, 2007 issuance of air permit CT-4631 for a coal-fired electrical power generating station which includes one 385 megawatt (MW) net subcritical pulverized coal boiler.

8. Protestants, Basin, and DEQ stipulate that once the Council issues its Orders granting summary judgment in favor of Basin and DEQ on Claims II, III, VII, and VIII, and denying Protestants' Motion for summary judgment on Claim V, all claims before the Council in Docket No. 07-2801 will be resolved and this matter before the Council shall be terminated.

9. Each party shall bear its own costs and attorneys' fees.

Dated: October 15, 2008.



/s/ Robin Cooley

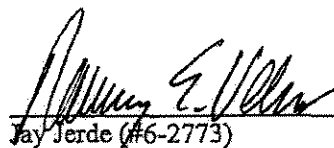
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