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

IN THE MATTER OF:)
BASIN ELECTRICAL POWER COOPERATIVE)
DRY FORK STATION,) Docket No. 07-2801
AIR PERMIT CT-4631)

**RESPONDENT DEPARTMENT OF ENVIRONMENTAL QUALITY'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Respondent, the Wyoming Department of Environmental Quality ("DEQ"), through the Office of the Attorney General of the State of Wyoming and pursuant to WYO. R. CIV. P. rules 7(b)(1) and 56 and the Environmental Quality Council Rules, Chapter II, Sections 3 and 14, hereby moves the Council for Environmental Quality ("EQC") for partial summary judgment in the above-captioned permit appeal. 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 Partial Summary Judgment submitted herewith:

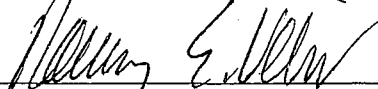
Issues for Summary Judgment

- I. Did DEQ correctly use SILs to determine whether the Basin Dry Fork Station would cause or contribute to violations of the Class I PSD Increment?
- II. Did DEQ properly consider all sources of SO₂ emissions for the SO₂ increment calculation?
- III. Did DEQ improperly rely on revised modeling results supplied by the applicant?
- IV. Did DEQ properly exclude IGCC, Supercritical and Ultrasupercritical boilers from the DEQ/AQD's BACT analysis because these redefine the source?
- V. Did DEQ properly utilize PM10 emissions as a surrogate for evaluating PM2.5 emissions?

WHEREFORE, DEQ respectfully requests that the EQC grant this motion for partial summary judgment on the above five issues and such other and further relief as this Council deems appropriate. A proposed order is attached.

DATED this 2nd day of September, 2008.

FOR RESPONDENT DEQ:



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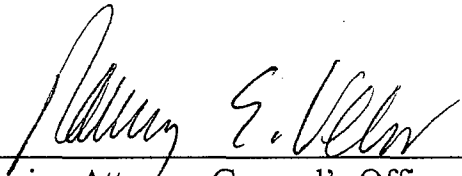
CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing RESPONDENT DEPARTMENT OF ENVIRONMENTAL QUALITY'S MOTION FOR PARTIAL SUMMARY JUDGMENT through United States mail, postage prepaid on this the 2nd day of September, 2008 to the following:

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