

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

NOV 19 2010

Jim Ruby, Executive Secretary
Environmental Quality Council

In the Matter of:)
Basin Electric Power Cooperative)
Air Quality Permit No. MD-6047)
BART Permit: Laramie River Station)

Docket No. 10-2802

**ORDER DENYING BASIN ELECTRIC'S MOTION FOR SUMMARY
JUDGMENT**

This matter came before the Environmental Quality Council ("EQC") on September 9, 2010, for oral argument on a motion for summary judgment filed by Petitioner Basin Electric Power Cooperative ("Basin Electric"). EQC members present at the motion hearing included Chairman Tim Flitner, Presiding Officer F. David Searle, Thomas Coverdale, Dennis Boal, John Morris (telephone), Cathy Guschewsky (videoconference) and Dr. Fred Ogden (videoconference). Jim Ruby, EQC Executive Secretary and Marion Yoder, Senior Assistant Attorney General were also present. Basin Electric appeared by and through its counsel, Patrick Day and Lawrence E. Volmert. Respondent Department of Environmental Quality, Air Quality Division ("DEQ/AQD"), appeared by and through its counsel, Nancy Vehr, Senior Assistant Attorney General.

The EQC, having considered Basin Electric's Motion for Summary Judgment and the responses thereto, oral argument of the parties, and being otherwise fully advised in the premises, hereby finds and orders:

FINDINGS:

1. The EQC has jurisdiction over the subject matter and the parties to this proceeding pursuant to WYO. STAT. ANN. § 35-11-112 and Chapter I, Section 16 and Chapter II, Section 3 of the DEQ Rules of Practice and Procedure.

2. The Wyoming Rules of Civil Procedure apply to this proceeding pursuant to Chapter II, Section 14 of the DEQ Rules of Practice and Procedure.

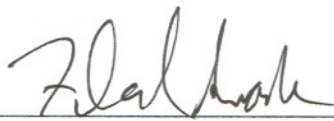
3. Rules 56 and 56.1 of the Wyoming Rules of Civil Procedure provide for summary judgment on motion where there is no genuine issue as to any material fact and the movant is entitled to a judgment as a matter of law.

4. Basin Electric is not entitled to summary judgment as there are genuine issues of material fact.

ORDER:

It is hereby ordered that Basin Electric's motion for summary judgment is DENIED.

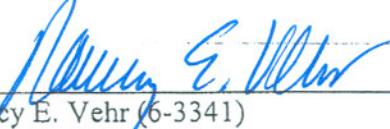
DATED this 18th day of November, 2010.



F. David Searle, Presiding Officer


APPROVAL AS TO FORM:

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CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 19th day of November, 2010, I served a copy of the foregoing **ORDER DENYING BASIN ELECTRIC'S MOTION FOR SUMMARY JUDGMENT** by electronic mail to the following:

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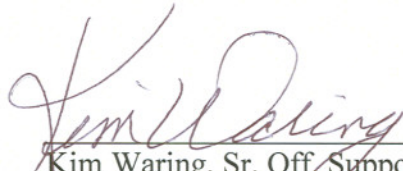
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