

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), Herschler Building, 122 West 25th Street, Cheyenne, WY 82002, and PacifiCorp, with an address at 1407 W. North Temple, Suite 330, Salt Lake City, UT 84116 (PacifiCorp), enter into this Settlement Agreement (Agreement) to fully and finally resolve without litigation the alleged violations cited in DEQ Notice of Violation Docket No. 4675-10 (NOV). As more fully set forth below, the NOV alleges that PacifiCorp failed to control fugitive dust emissions from the Naughton Power Plant facility (Facility) located in Lincoln County, Wyoming, thereby violating the Wyoming Environmental Quality Act (Act) and applicable Wyoming Air Quality Standards and Regulations (WAQSR).

WYO. STAT. ANN. § 35-11-901(a)(ii) (West 2008) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules or other settlement conditions in lieu of litigation. To that end, PacifiCorp and the DEQ/AQD hereby stipulate and agree as follows:

1. PacifiCorp owns and operates the Facility.
2. The DEQ/AQD is responsible for enforcing the Act, the WAQSR and permits issued thereunder.
3. WYO. STAT. ANN. § 35-11-201 states, "No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council."
4. Chapter 3, Section 2(f)(ii)(A) of the WAQSR states, "Any person owning, operating or maintaining a new or existing material storage, handling and/or hauling operation shall minimize fugitive dust from such an operation. Such control measures may include the application of asphalt, oil, water or suitable chemicals on unpaved roads, material stockpiles and other surfaces which can give rise to airborne dusts[.]"
5. During a recent review of PacifiCorp's ambient particulate monitoring data associated with the Naughton Plant, the DEQ/AQD determined that on December 26, 2008, the final PM₁₀ 24-hour concentration for the PacifiCorp Naughton Power Plant ambient PM₁₀ monitor (AQS 56-023-0820) was measured at 202 µg/m³, exceeding the PM₁₀ 24-hour average concentration limit of 150 µg/m³ set forth in Chapter 2, Section 2(a)(ii) of the WAQSR. Based on a review of this monitoring data, the DEQ/AQD alleges that PacifiCorp failed to take appropriate measures to control fugitive dust

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emissions at the Naughton Plant as required by Chapter 3, Section 2 of the WAQSR and various permits issued for the Naughton Plant.

6. On April 20, 2010, the DEQ/AQD issued the NOV to PacifiCorp alleging that PacifiCorp failed to minimize fugitive dust emissions from the Naughton Plant in violation of WYO. STAT. ANN. § 35-11-201, Chapter 3, Section 2(f) of the WAQSR, and various permits issued for the Naughton Plant.

7. DEQ/AQD and PacifiCorp agree to resolve the alleged violation described above and more fully set forth in the NOV in lieu of litigation under WYO. STAT. ANN. § 35-11-901(a)(2) by PacifiCorp paying the DEQ/AQD the sum of ten thousand dollars and no cents (\$10,000.00) as a stipulated civil penalty. PacifiCorp shall pay the stipulated civil penalty by check made payable to the Wyoming DEQ/AQD, within thirty (30) days after PacifiCorp has been notified by DEQ/AQD that the final signature has been affixed to this Agreement. PacifiCorp shall mail the payment to Nancy Vehr, Sr. Asst. Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

8. PacifiCorp, by entering into this Agreement, does not concede or admit to any of the factual allegations or legal conclusions asserted in the NOV, or to any liability or fault, and this Agreement constitutes no admission of the factual allegations, legal conclusions, or liability or fault.

9. Full compliance with this signed Agreement shall constitute full satisfaction and release for all claims by the DEQ/AQD against PacifiCorp based on NOV Docket No. 4675-10 and, solely in reliance on this Agreement, the DEQ/AQD will refrain from taking further enforcement action against PacifiCorp for these particular violations.

10. In the event that PacifiCorp fails to fulfill its obligations under this Agreement, PacifiCorp waives any statute of limitation claims which may apply in an enforcement action by the DEQ/AQD involving the specific matters described in NOV Docket No. 4675-10.

11. This Agreement shall be admissible by either PacifiCorp or the DEQ/AQD (hereinafter PacifiCorp and the DEQ/AQD may be referred to individually as "Party" and collectively as "Parties") without objection by the other Party only in an action between these Parties relating to the specific NOV herein; provided, however, that nothing herein constitutes an admission by PacifiCorp of liability or fault.

12. Neither Party hereto shall have any claim against the other for attorneys' fees or other costs incurred with the allegations resolved hereby, including costs incurred in the preparation of this Agreement. Each Party shall bear its own attorney fees and costs, if any, incurred through the date this Agreement is signed by both Parties. Each party assumes the risk of any liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the other.

13. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the Parties shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

14. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the Parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

15. This Agreement, consisting of four (4) pages represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

16. The State of Wyoming and the DEQ/AQD do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to WYO. STAT. ANN. § 1-39-104(a) and all other state law.

17. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties to this Agreement. The Parties to this Agreement intend and expressly agree that only Parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a Party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

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