

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by Basin Electric Power Cooperative (“Basin Electric”), the State of Wyoming (“Wyoming”), and the United States Environmental Protection Agency (“EPA”) (collectively, the “Parties”);

WHEREAS, Basin Electric is the operator and part-owner of Laramie River Station (“Laramie River”) electric generating units 1, 2 and 3; and

WHEREAS, on January 12, 2011, pursuant to Sections 169A and 169B of the Clean Air Act, 42 U.S.C. §§ 7491 and 7492, Wyoming submitted the Wyoming regional haze state implementation plan (“SIP”) to EPA for review and approval; and

WHEREAS, the Wyoming regional haze SIP established, among other things, Best Available Retrofit Technology (“BART”) emission limits for nitrogen oxides (“NO_x”) at Laramie River Units 1-3 of 0.21 pounds per one million British thermal units (“lb/MMBtu”) on a 30-day rolling average; and

WHEREAS, on January 30, 2014, EPA issued a final rule under sections 110 and 169A of the Clean Air Act, 42 U.S.C. §§ 7410 and 7491, entitled “Approval, Disapproval and Promulgation of Implementation Plans; State of Wyoming; Regional Haze State Implementation Plan; Federal Implementation Plan for Regional Haze,” 79 Fed. Reg. 5032 (Jan. 30, 2014) (“Final Rule”), disapproving in part the Wyoming regional haze SIP, including the NO_x BART requirements as to Laramie River Units 1-3, and promulgating a federal implementation plan (“FIP”) that imposed a NO_x BART emission limit of 0.07 lb/MMBtu (30-day rolling average) at Laramie River Units 1-3; and

WHEREAS, Petitioners Basin Electric and Wyoming each filed a petition for review in the Tenth Circuit Court of Appeals challenging the Final Rule as it pertained to the NO_x BART emission limits for Laramie River Units 1-3; and

WHEREAS, these petitions for review, *Basin Electric Cooperative v. EPA*, No. 14-9533 (“Basin Electric Case”), and *Wyoming v. EPA*, No. 14-9529 (“Wyoming Case”), were consolidated by the Court for the purpose of briefing and argument with *Powder River Basin Resource Council v. EPA*, No. 14-9530, and *PacifiCorp v. EPA*, No. 14-9534 (collectively referred to as the “Consolidated Cases”); and

WHEREAS, Petitioners Basin Electric and Wyoming (“Petitioners”) have raised various challenges to the Final Rule in the Basin Electric Case and the Wyoming Case; and

WHEREAS, the Parties wish to implement this Settlement Agreement resolving all of Basin Electric’s challenges to the Final Rule in the Basin Electric Case and Wyoming’s challenge in the Wyoming Case to the portion of the Rule establishing NO_x BART emission limits for Laramie River Units 1-3, and thereby avoid protracted and costly litigation and to preserve judicial resources, without any admission or adjudication of fact or law.

NOW, THEREFORE, the Parties hereby agree as follows:

1. The Parties agree and acknowledge that before this Settlement Agreement is final, EPA must provide notice in the Federal Register and an opportunity for public comment pursuant to section 113(g) of the Clean Air Act, 42 U.S.C. § 7413(g). Within 10 business days after the last party signs this Settlement Agreement, EPA shall transmit the

required notice allowing for a 30-day public comment period to the Office of the Federal Register for publication in the Federal Register. After this Settlement Agreement has undergone this opportunity for notice and comment, the EPA Administrator and/or the Attorney General, as appropriate, shall within 30 days after the close of the public comment period consider any such written comments and determine whether to withdraw or withhold consent to the Settlement Agreement, in accordance with section 113(g) of the Clean Air Act. In the event EPA determines to proceed with this Settlement Agreement, this Settlement Agreement shall become final on the date that EPA provides written notice of such finality to Petitioners.

2. No later than five days after this Settlement Agreement is final pursuant to Paragraph 1 of this Settlement Agreement, the Parties shall file a joint motion notifying the Court of this Settlement Agreement and requesting that the Basin Electric Case and all claims by Wyoming specific to the determination of BART for the Laramie River Units in the Wyoming Case be stayed pending completion of the process in Paragraphs 3-8 of this Settlement Agreement. While the Parties are only agreeing to file a joint motion to stay the portions of the Consolidated Cases identified above, nothing in this Settlement Agreement shall preclude Basin Electric or Wyoming from filing motions or other pleadings requesting that the remaining claims in the Consolidated Cases, or portions thereof, be stayed pending completion of the process in Paragraphs 3-8 of this Settlement Agreement.

3. To address the limited portion of sulfur dioxide (“SO₂”) emissions in the regional haze program that would be covered under the BART Alternative and the

Western Regional SO₂ Milestone and Backstop Trading Program established under 40 C.F.R. § 51.309 (“309 Program”), Basin Electric commits to submit to Wyoming a request for a source-specific SIP revision rulemaking that will ensure that Basin Electric cannot take credit for the SO₂ emission reductions achieved through the emission requirements under Paragraph 5(b)(ii) below for the purposes of both the BART Alternative for Laramie River Units 2 and 3 and the 309 Program. Basin Electric agrees to submit this request to Wyoming no later than 30 days after this Settlement Agreement becomes final pursuant to Paragraph 1 above.

Basin Electric’s request for a source-specific SIP revision proceedings will include:

- a. A request for Wyoming to revise its SIP to provide that for all purposes under the 309 Program, including the reporting of annual emissions to Wyoming, Basin Electric must use the average SO₂ lb/MMBtu emission rates for Laramie River Units 1 and 2 achieved during the 2001-2003 BART baseline period to calculate its SO₂ emissions. Specifically, the SIP revision will provide that Basin Electric must use the SO₂ emission rates of 0.159 lb/MMBtu for Laramie River Unit 1 and 0.162 lb/MMBtu for Laramie River Unit 2, and multiply those rates by the actual heat input during the year for each unit to calculate and report emissions under the 309 Program; and
- b. An analysis of conforming amendments needed to the 309 Program (and any other SIP provisions).

4. Wyoming will expeditiously review Basin Electric's submission and promptly take action to deny the request or initiate a proceeding consistent with the applicable state laws and regulations and to submit the SIP revision, if adopted, to EPA for review pursuant to 42 U.S.C. § 7410.

5. No later than six months after EPA's receipt of a state-adopted SIP revision from Wyoming that contains conforming amendments consistent with Paragraph 3 above, EPA will sign a notice of proposed rulemaking to revise the FIP ("Revised FIP") that includes:

a. NO_x emission limits voluntarily requested by Basin Electric as part of this Agreement for Laramie River Unit 1 of:

i. 0.06 lb/MMBtu on a 30-day rolling average commencing July 1, 2019; and

ii. 0.18 lb/MMBtu on a 30-day rolling average for the interim commencing the date that EPA's final Revised FIP becomes effective and ending June 30, 2019.

These limits are in addition to the NO_x emission limit for Laramie River Unit 1 of 0.07 lb/MMBtu on a 30-day rolling average in EPA's FIP.

b. An alternative to the NO_x BART requirements in EPA's FIP that apply to Laramie River Units 2 and 3 which consists of:

i. NO_x emission limits for Laramie River Units 2 and 3 of:

(1) 0.18 lb/MMBtu on a 30-day rolling average

commencing the date that EPA's final Revised FIP becomes effective and ending on December 30, 2018; and

(2) 0.15 lb/MMBtu on a 30-day rolling average

commencing December 31, 2018; and

ii. SO₂ emission limits for Laramie River Units 1 and 2 of 0.12

lb/MMBtu averaged annually across the two units commencing the date that EPA's final Revised FIP becomes effective.

c. A requirement that Basin Electric install and operate Selective

Catalytic Reduction on Unit 1 by July 1, 2019; and an amendment of the existing FIP

compliance date to July 1, 2019; and a requirement that Basin Electric install and operate

Selective Non-Catalytic Reduction for each of Units 2 and 3 by December 31, 2018.

d. The SIP revisions identified in Paragraph 4.

6. Aspects of the Final Rule affecting Basin Electric that are not directly implicated by the terms of this Settlement Agreement (including, without limitation,

other emissions limits, recordkeeping, and other requirements) shall not be altered in

EPA's proposed rulemaking. Once signed, the notice of proposed rulemaking shall be

transmitted to the Office of the Federal Register as expeditiously as practicable for

publication.

7. Petitioners Basin Electric and Wyoming shall not file comments objecting

to the proposed rule discussed in Paragraph 5 above if the emission limits and control

technology requirements, including averaging times and compliance dates, correspond to

the terms in that Paragraph, and the other aspects of the Final Rule remain unchanged as provided for in Paragraph 6 above. However, nothing in this Settlement Agreement shall be construed to limit or modify the rights of Petitioners to submit non-adverse technical comments on the proposed rule, if any, or to object to the application of the same emissions limits, including averaging times and compliance dates, and the other aspects of the Final Rule in any other rulemaking regarding any facility other than the Laramie River Station units.

8. If EPA signs a new final rule (“New Final Rule”) within six months after publication of proposed rulemaking described in Paragraph 5 that corresponds to the emission limits, including averaging times and compliance dates, set forth in Paragraph 5 of this Settlement Agreement, and does not alter the other aspects of the Final Rule as provided for in Paragraph 6 of this Settlement Agreement, then Basin Electric and EPA shall, after that New Final Rule has been published in the Federal Register, promptly file an appropriate pleading for the dismissal of the Basin Electric Case with prejudice in accordance with Rule 42(b) of the Federal Rules of Appellate Procedure, with each party to bear its own costs and attorneys’ fees. Furthermore, Wyoming and EPA shall promptly file an appropriate pleading dismissing with prejudice all claims by Wyoming specific to the determination of BART for the Laramie River Units in the Wyoming Case, with each party to bear its own costs and attorneys’ fees.

9. This Agreement shall terminate if: (a) Wyoming does not submit to EPA a SIP revision as described in Paragraph 4 above within twelve months after this

Agreement becomes effective; or (b) EPA takes final action to disapprove such a SIP revision at any time before the New Final Rule is signed.

10. If this Agreement terminates pursuant to Paragraph 9 above, or if EPA does not sign a New Final Rule in accordance with the provisions of Paragraph 8, then the Petitioners' sole and exclusive remedy under this Settlement Agreement shall be the right to ask the Court to lift any stay of the Basin Electric Case and portions of the Wyoming Case, along with any stay of the remaining claims or portions thereof in the Consolidated Cases, and proceed in those cases on a schedule proposed by the parties and approved by the Court. Notwithstanding the foregoing sentence, if EPA does not sign a New Final Rule in accordance with the provisions of Paragraph 8, Basin Electric or Wyoming may also pursue remedies that they may have independent of this Settlement Agreement, including their pending Petitions for Reconsideration of the Final Rule and any judicial relief related thereto.

11. Petitioners waive any right to challenge in any court or administrative proceeding any portion of that New Final Rule that corresponds to the emission limits, including averaging times, compliance dates, and control technology requirements, set forth in Paragraph 5 of this Settlement Agreement. However, nothing in this Settlement Agreement shall be construed to limit or modify the rights of Petitioners to seek reconsideration or judicial review of any New Final Rule that establishes emission limits for Laramie River Units 1-3 that differ in any respect from the emission limits, including averaging times and compliance deadlines set forth in Paragraph 5, or that materially alters the other provisions of the Final Rule as discussed in Paragraph 6.

12. Wyoming does not waive sovereign immunity by entering into this Settlement Agreement and retains immunity and all defenses available to it under state and federal law as a sovereign.

13. Nothing in the terms of this Settlement Agreement shall be construed to limit or modify the discretion accorded EPA by the Clean Air Act or by general principles of administrative law. No provision of this Settlement Agreement shall be interpreted as or constitute a commitment or requirement that EPA obligate funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341. Furthermore, nothing in the terms of this Settlement Agreement shall be construed to limit EPA's authority to alter, amend or revise any final rule EPA may issue pursuant to Paragraph 8 or to promulgate superseding regulations or guidance. Nor shall anything in this Settlement Agreement be construed to limit Basin Electric's or Wyoming's rights to challenge such altered, amended, or revised final rule or superseding regulations or guidance provided the basis for such challenges exist independently from this Settlement Agreement.

14. Nothing in the terms of this Settlement Agreement shall be construed to limit or modify the obligations of Basin Electric to obtain permits pursuant to state and federal law to implement the provisions of this Settlement Agreement.

15. The Parties may extend the dates set forth in this Settlement Agreement or otherwise modify this Settlement Agreement by a written agreement executed by counsel for the Parties. If a lapse in EPA's appropriations occurs within 120 days prior to the deadlines in Paragraphs 1, 2, 3, 5, 8, and 9 of this Settlement Agreement, that deadline shall be extended automatically one calendar day for each calendar day of delay caused

by the lapse in appropriations. Any notices required or provided for by this Agreement shall be in writing and shall be deemed effective (1) upon receipt if sent by U.S. Postal Service, or (2) upon the date sent if sent by overnight delivery, facsimile, or email.

16. Each party shall bear its own costs, including attorneys' fees, in this litigation, including attorneys' fees and costs associated with monitoring, overseeing, or implementing this Settlement Agreement, and including participation in any administrative proceedings contemplated by this Settlement Agreement.

17. This Settlement Agreement constitutes the complete and entire agreement among the Parties. All prior conversations, meetings, discussions, drafts and writings of any kind are specifically superseded by this Settlement Agreement and may not be used by the Parties to vary or contest the terms of this Settlement Agreement or as evidence of the Parties' intent in entering into this Settlement Agreement.

18. The undersigned representatives of each party certify that they are fully authorized by the party that they represent to bind that respective party to the terms of this Agreement.

SO AGREED:

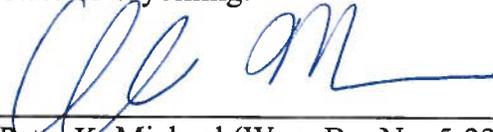
Basin Electric Power Cooperative:

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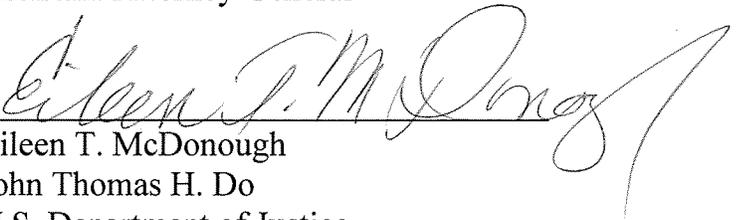
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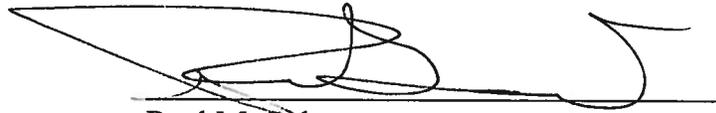
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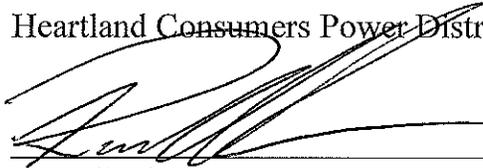
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Missouri Basin Power Project

A handwritten signature in black ink, appearing to read 'Paul M. Sukut', written over a horizontal line.

**Paul M. Sukut
Chief Executive Officer and General Manager
Basin Electric Power Cooperative**

Heartland Consumers Power District:

A handwritten signature in black ink, appearing to read "Russell Olson", is written over a horizontal line.

Russell Olson
Chief Executive Officer

Lincoln Electric System:



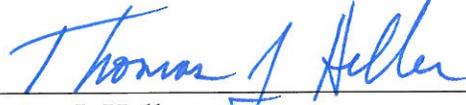
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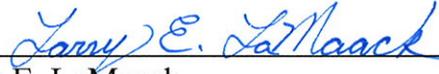
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