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**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Received by
EPA Region VIII
Hearing Clerk

IN THE MATTER OF: PacifiCorp – Jim Bridger Power Plant, P.O. Box 158 Point of Rocks, Wyoming 82942, Respondent.	Docket No. CAA-08-2022-0006 ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT
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PRELIMINARY STATEMENT

This Administrative Compliance Order on Consent (Order) is entered into voluntarily by the United States Environmental Protection Agency (the EPA) and by PacifiCorp (Respondent) and is issued under the authority vested in the Administrator of the EPA by section 113(a)(1) and (4) of the Clean Air Act (CAA or Act), 42 U.S.C. § 7413(a)(1) and (4).

1. The Director of the Enforcement and Compliance Assurance Division, EPA Region 8, is delegated the authority to issue this Order under section 113(a) of the Act, 42 U.S.C. § 7413(a).
2. This Order requires Respondent to comply with the requirements set forth below. All activities specified and ordered below must be initiated and completed in a reasonable time but in no event later than the maximum time periods or specific dates for their completion detailed herein. Except for extension or deadlines for submittals or performance, the terms of this Order will not be modified except by a subsequent written agreement between the EPA and Respondent.
3. By entering into this Order, Respondent (1) consents and agrees not to contest the EPA's authority or jurisdiction to issue or enforce this Order, (2) agrees to undertake all actions required

by the terms and conditions of this Order, and (3) consents to be bound by the requirements set forth herein.

STATUTORY AND REGULATORY BACKGROUND

4. Section 110(a) of the CAA, 42 U.S.C. § 7410(a) requires each state to develop a plan to meet various air quality requirements, including protection of visibility, and submit the plan (and any revisions) to the EPA for approval. See sections 169A and 169B of the CAA, 42 U.S.C.

§§ 7491 and 7492.

5. Pursuant to section 113 of the CAA, 42 U.S.C. § 7413, the state's plan, and any revisions thereto, once approved, becomes the State Implementation Plan (SIP) and is federally enforceable by the EPA and citizens under the CAA.

6. A SIP must assure, *inter alia*, reasonable progress toward the goal of preventing future and remedying existing manmade visibility impairment in Class I areas. See sections 169A(b)(2) of the CAA, 42 U.S.C. §§ 7491(b)(2).

7. Pursuant to sections 169A(a)(4) and 169B(e), 42 U.S.C. §§ 7491(a)(4)-7492(e), the EPA promulgated rules at 40 C.F.R. § 51.300 -51.309 to assure SIPs contain provisions for (1) reasonable progress to meet the national goal specified in the CAA and (2) compliance with sections 169A and 169B of the CAA. These regulations are commonly called the Regional Haze Rule.

8. Pursuant to section 110 of the CAA, 42 U.S.C. § 7410, the Administrator of the EPA, or his or her delegee, has approved portions of the Wyoming State Implementation Plan (Wyoming SIP), and promulgated a Federal Implementation Plan (FIP) to meet certain requirements of sections 169A and 169B of the CAA and the Regional Haze Rule.

9. Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), authorizes the EPA to issue administrative orders against any person that has violated or is in violation of any requirement or

prohibition of an applicable SIP. Once the EPA finds that any person is in violation of any requirement of an applicable SIP, the EPA will notify the person and the state in which the SIP applies of this finding. Furthermore, after the expiration of 30 days following the date on which this notice of violation is given, the EPA may issue an administrative order requiring the person to comply with the requirements of the SIP or permit.

10. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines the term “person” to include in relevant part, an individual, corporation, or partnership.

FINDINGS

11. Respondent is a corporation organized under the laws of the State of Oregon and is authorized to do business in the State of Wyoming and is therefore a “person” as that term is defined under section 302(e) of the CAA, 42 U.S.C. § 7602(e).

12. Respondent is the owner and/or operator of the Jim Bridger Power Plant, a stationary source, located in Sweetwater County, Wyoming (the Facility).

13. In 2014, the EPA approved the NO_x portion of the Wyoming SIP submission intended to meet the Regional Haze Rule’s requirements for the first regional haze implementation period for the Jim Bridger power plant. Among other things, Wyoming’s SIP submission required controls of NO_x emissions from the Facility Units 1-4. 79 Fed. Reg 5032, 5220 (Jan. 30, 2014) and codified at 40 C.F.R. § 52.2636. Specifically, the EPA approved the State of Wyoming’s determination to require Respondent to install low NO_x burners (LNB) and separated overfire air (SOFA) and meet NO_x emission limits of 0.26 lb/MMBtu (30-day rolling average) as part of its Best Available Retrofit Technology (BART) requirement for the Facility Units 1-4 with a compliance deadline of March 4, 2019. 40 C.F.R. § 52.2636(c). The EPA also approved the determination to require Respondent to comply with a NO_x emission limit of 0.07 lb/MMBtu (30-day rolling average) consistent with the installation of selective catalytic reduction (SCR) at

Units 3 and 4 as part of the State's long-term strategy with compliance deadlines of December 31, 2015, and December 31, 2016, respectively. Respondent met those requirements by installing LNB and SOFA on Units 1 and 2 and SCR on Units 3 and 4 within the deadlines. Operating Permit No. P0022223, issued January 31, 2020, pg. 4; *See* also Letter to Michael Regan, Administrator, U.S. EPA, from Mark Gordon, Governor of Wyoming, dated December 27, 2021.

14. Additionally, as part of the State of Wyoming's long-term strategy, the EPA approved the State of Wyoming's determination to require the subsequent installation of SCR at Units 1 and 2 with corresponding NO_x emissions limits of 0.07 lb/MMBtu (30-day rolling average) consistent with the installation of SCR by December 31, 2022, and December 31, 2021, respectively. *Id.* at 5048-49.

15. On February 5, 2019, Respondent submitted to the State of Wyoming an application and proposed SIP revision instituting plant-wide variable average monthly-block pound per hour NO_x and SO₂ emission limits, in addition to an annual combined NO_x and SO₂ limit, on all units at the Facility in lieu of the requirement to install SCR on Units 1 and 2 by December 31, 2022, and December 31, 2021, respectively. The requirement to maintain SCR and meet a NO_x emission limit of 0.07 lb/MMBtu (30-day rolling average) remains for Units 3 and 4. Operating Permit No. P0022223, issued January 31, 2020, pg. 4. Respondent did not install SCR or otherwise meet the corresponding emission limit on Unit 2 by December 31, 2021. Respondent is not required to install SCR or meet the corresponding emission limit consistent with that installation at Unit 1 until December 31, 2022.

16. On May 5, 2020, the Wyoming Department of Environmental Quality approved Respondent's application and issued permit #P0025809 with Respondent's proposed monthly and annual NO_x and SO₂ emission limits for Units 1 – 4 to replace the requirement to install SCR

and comply with the NO_x 0.07 lb/MMBtu limits (30-day rolling average) consistent with the installation of selective catalytic reduction (SCR) on Units 1 and 2. Under the permit, the new emission limits were effective January 1, 2022. The State of Wyoming submitted a corresponding SIP revision reflecting the limitations in permit #P0025809 to the EPA on May 14, 2020, to replace the requirement to install SCR and meet an emission limit of 0.07 lb/MMBtu (30-day rolling average) consistent with the installation of selective catalytic reduction (SCR) on Units 1 and 2 that is currently in 40 C.F.R. § 52.2636, Table 1. *See* 87 Fed. Reg. 2571, 2576 (January 18, 2022). The EPA has not taken final action on the May 14, 2020 Wyoming SIP revision.

17. On December 27, 2021, pursuant to CAA section 110(g), 42 U.S.C. § 7410(g), Wyoming Governor Mark Gordon issued a temporary emergency suspension of that portion of the Wyoming SIP requiring installation of SCR and compliance with the emission limit of 0.07 lb/MMBtu (30-day rolling average) consistent with the installation of SCR at Unit 2 by December 31, 2021. This emergency suspension began on January 1, 2022, and ran through April 30, 2022. The EPA did not disapprove or revise this extension. Thus, under the current SIP, the deadline for Respondent to install SCR and meet the lower NO_x limit on Unit 2 was April 30, 2022.

18. Respondent's 2021 Integrated Resource Plan states "PacifiCorp will initiate the process of ending coal-fueled operations and seeking permitting for a natural-gas conversion by 2024, including completion of all required regulatory notices and filings" for Jim Bridger Units 1 and 2.

19. On February 14, 2022, the State of Wyoming filed a complaint (Wyoming First Judicial District Court in and for Laramie County, Wyoming Docket No. 2022-CV-200-333). The State

alleged the continued operation of Unit 2 after April 30, 2022, without installing SCR threatened to violate the SIP. Complaint at para. 59.

20. Respondent and the State of Wyoming believed the shutdown of Unit 2 on April 30, 2022, and Unit 1 at the end of December 2022, would likely result in the loss of jobs and displacement of workers at the Facility and likely also at the coal mines (Bridger Coal Company and Black Butte Coal) that provide fuel for the Facility. In addition, Respondent and the State of Wyoming believe shutdown of Units 1 and 2 would also reduce stability for the regional power grid, which relies on the ongoing operation of the Facility as a critical component of maintaining continuous and reliable power. *See* Letter to Michael Regan, Administrator, U.S. EPA, from Mark Gordon, Governor of Wyoming, dated December 27, 2021.

21. On February 14, 2022, the Wyoming First Judicial District Court in and for Laramie County, Wyoming entered a Consent Decree between the State of Wyoming and Respondent (the 2022 Wyoming CD) resolving the allegations in the complaint filed simultaneously. The 2022 Wyoming CD states, “PacifiCorp's 2021 Integrated Resource Plan showed that converting Units 1 and 2 to natural gas in 2024 was in the best interest of PacifiCorp's customers. PacifiCorp made the business decision to convert both units to natural gas based on this analysis as well as the significant air quality benefits that would result from the conversion. PacifiCorp believes that like the installation of the SCR, conversion of Units 1 and 2 to natural gas would reduce NO_x by approximately 3,000 tons from current utilization-and possibly more. Other benefits from the conversion to natural gas would include potential reductions of 7,871 tons per year of SO₂ and 1,402 ton per year of particulate matter that would not occur with the installation of SCR on Units 1 and 2.” 2022 Wyoming CD at IV.B.1.

22. The 2022 Wyoming CD requires Respondent to meet the following emission limits: (1) during the interim period between the effective date of the Consent Decree and January 1, 2024, PacifiCorp must comply with the terms of Permit No. P0025809 in the operation of Units 1 and 2; and (2) no later than January 1, 2024, PacifiCorp must meet the following emission limits at Jim Bridger Units 1 and 2: (a) 0.12 lb/MMBtu (30-day rolling average) NO_x limit; (b) 1,314 tons per year per unit NO_x limit; and (c) 41.6% of maximum annual heat input or 21,900,000 MMBtu/year limit for each unit. 2022 Wyoming CD IV.B. ¶ 2.

23. The 2022 Wyoming CD acknowledged Respondent's business decision to convert Units 1 and 2 to natural gas and listed the following factors as support for the settlement: (a) the threat that Respondent would violate state and federal air requirements if it were to continue operating Units 1 and 2 without SCR; (b) conversion of Units 1 and 2 to natural gas will reduce the long-term visibility impacts caused by Units 1 and 2, and will remove an equivalent amount of NO_x—and likely more—than the current SCR requirement; (c) the additional visibility benefits that will result from the significant SO₂ and PM reductions that will occur with the conversion of Units 1 and 2 to natural gas, not to mention the cessation of coal combustion residual production and disposal, which would not occur with the current SIP SCR requirement; and (d) the fact that the proposed conversion and SIP revision will eliminate any existing noncompliance and ensure future compliance with the State of Wyoming's first regional haze implementation period SIP, the CAA, and the regional haze program. 2022 Wyoming CD IV.B. ¶ 3.

24. As part of the settlement, the State of Wyoming agreed to (1) prioritize processing Respondent's permit application for the natural gas conversions and (2) submit a SIP revision, which reflects the terms of the 2022 Wyoming CD, and is applicable to the first regional haze implementation period (as defined under 40 CFR § 51.308) to the EPA. The State of Wyoming

also agreed to endeavor to complete those processes within 180 days of receipt of the permit application in accord with all applicable requirements of law. Additionally, the State of Wyoming agreed to request that the EPA expedite approval of the revision by parallel processing under 40 C.F.R. part 51, appendix V, section 2.3. 2022 Wyoming CD IV.B. ¶ 3.

25. EPA received a draft SIP revision that reflects the terms of the 2022 Wyoming CD and request for parallel processing from the State of Wyoming on May 23, 2022.

26. Respondent has not installed SCR and has not complied with the 0.07 lb/MMBtu (30-day rolling average) for NO_x consistent with the installation of SCR at Unit 2 as of June 9, 2022.

Therefore, by failing to comply with the 0.07 lb/MMBtu (30-day rolling average) limit for NO_x consistent with the installation of SCR at Unit 2 listed in 40 C.F.R. § 52.2636, Table 1, the EPA finds that Respondent is in violation of the Wyoming SIP and the Act.

27. Filing of the Complaint and Lodging of the 2022 Wyoming CD is evidence that the State of Wyoming is aware of violation of the requirements for Units 1 and 2 in 40 C.F.R. § 52.2636, Table 1.

28. The EPA notified the State of Wyoming about this matter on April 22, 2022.

COMPLIANCE ORDER

29. Based upon the foregoing Findings by the EPA, it is hereby ordered and agreed that no later than June 9, 2023, the Respondent must comply with the contents and timelines of the SIP revision referred to in Paragraph 24 and 25 of this Agreement as submitted by the State of Wyoming for approval by the EPA to meet the Regional Haze Rule's first implementation period requirements for the Facility, including the emissions and/or control requirements for Units 1 and 2.

30. Within 15 days of completion of all actions identified in paragraph 29, Respondent must provide the EPA with a notification that the actions have been completed.

31. The notification of completion required by paragraph 30 of this Order must also contain the following certification signed by an authorized representative of Respondent:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based upon my inquiry of those individuals immediately responsible for obtaining the information, the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment. (Signature and date)

32. All submissions and correspondence must be emailed to Patefield.Scott@epa.gov and Weiner.Marc@epa.gov.

OTHER TERMS AND CONDITIONS

33. Respondent admits the jurisdictional allegations contained in this Order.

34. Respondent neither admits nor denies the findings in the Findings section of this Order.

GENERAL PROVISIONS

35. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties as provided in § 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), and 40 C.F.R. part 19, as well as criminal sanctions as provided in section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

36. Nothing in this Order relieves Respondent of the duty to comply with all applicable provisions of the Act or other federal, state or local laws or statutes, restricts the EPA's authority to seek compliance with any applicable laws or regulations, or be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

37. Nothing herein will be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present imminent and substantial endangerment to the public health, welfare, or the environment.

38. The provisions of this Order apply to and are binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the effective date of this Order until the termination date as set out in paragraph 45 below, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with this notice, Respondent must provide written notice of the transfer, assignment, or delegation to the EPA. In the event of a transfer, assignment, or delegation, Respondent will not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of these obligations or liabilities.

39. Unless this Order states otherwise, whenever, under the terms of this Order, written notice or other documentation is required to be given, it must be directed to the individuals specified at the email addresses below unless those individuals or their successors give notice of a change of that email address to the other party in writing:

For the EPA:

Scott Patefield at Patefield.Scott@epa.gov, and
Marc Weiner at Weiner.Marc@epa.gov

For Respondent:

James Owen at james.owen@pacificorp.com, and
Marie Durrant at marie.durrant@pacificorp.com

40. To the extent this Order requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. part 2, subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R.

part 2, subpart B. If Respondent does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.

41. Each undersigned representative certifies that he or she is authorized to enter into the terms and conditions of this Order to execute and bind legally Respondent and the EPA to this document.

42. Deadlines for submittals or performance may be extended by the EPA to the extent it is allowed under the CAA, at its sole discretion, without further amendment to this Order. The EPA will provide Respondent written confirmation and documentation of any extensions of time.

EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE

43. Pursuant to § 113(a)(4) of the Act, an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with the EPA concerning the alleged violations. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with the EPA prior to issuance of this Order and that the EPA has provided adequate notice of EPA's allegation that the operation of Unit 2 at the Facility on June 9, 2022, and thereafter, has caused an exceedance of the NO_x emission limit listed in 40 C.F.R. § 52.2636, Table 1, resulting in violation of the Wyoming SIP and the Act. Accordingly, this Order will take effect immediately upon signature by the latter of Respondent or the EPA.

JUDICIAL REVIEW

44. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law directly arising from the alleged violations by Respondent set forth in this Order, including any right of judicial review under section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1).

TERMINATION

45. This Order terminates on the earlier of the following at which point Respondent must operate in compliance with the Act: a) by 11:59 pm MDT on June 9, 2023; b) the effective date of any determination by the EPA that Respondent has achieved compliance with all terms of this Order; or c) immediately upon receipt by Respondent of notice from the EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

PacifiCorp,

Respondent

James Owen
Vice President Environment, Fuels and Mining
PacifiCorp
1407 W. North Temple, Suite 210
Salt Lake City, UT 84116

**In the Matter of:
PacifiCorp – Jim Bridger Power Plant**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT were filed electronically with the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, and that a true copy of the same was sent via Certified Mail, Postage Pre-Paid, to:

PacifiCorp – Jim Bridger Power Plant
P.O. Box 158
Point of Rocks, Wyoming 82942
Attn: _____

Date: _____

Marc Weiner