

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

MAR 01 1995

Terri A. Lorenzon, Attorney
Environmental Quality Council

IN THE MATTER OF THE DENIAL OF)	
A WASTE MANAGEMENT PERMIT TO)	
INTERMOUNTAIN GLYCOLS, INC.)	
Marika Thayer, President)	Doc. No. 2455-93
Donald Thayer, Manager)	
Post Office Box 127)	
LaBarge, WY 83123)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This matter came before the Wyoming Environmental Quality Council ("Council") for hearing on December 5, 1994 in Cheyenne. Dr. Harold Bergman served as Hearing Examiner. The Petitioner, Intermountain Glycols, Inc., appeared through Mr. Donald Thayer and was represented by counsel (Mr. William Bagley). The Respondent, Wyoming Department of Environmental Quality ("DEQ"), appeared through Mr. David Finley and Mr. Ken Schreuder and was represented by the Wyoming Attorney General's office (Mr. Mike Barrash). The Council, having reviewed the record and being fully advised in the premises, enters the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Intermountain Glycols, Inc. ("IG") applied for a permit from the DEQ solid/hazardous waste division to reclaim used glycols at a facility near La Barge.
2. IG proposes to collect used glycols mixed with water and oil from third parties and reclaim it by removing impurities.
3. The used glycol IG proposes to reclaim is not useful for its original purpose due to impurities picked up from prior usage.
4. Impurities removed in reclaiming used glycols are wastes in themselves, including metals concentrated in the oils and residues.
5. IG's proposed process for reclaiming used glycols could involve hazardous wastes.
6. The process IG proposes for reclaiming used glycols has not been perfected.
7. IG currently has 4000 gallons of untreated used glycols stored on site.

8. In the event of an extended mechanical breakdown, the used glycol feedstock will be treated as a waste.

9. IG's prospects for future removal of used glycols stored on site at minimal cost are only speculative.

10. Donald Thayer is IG's manager and has responsibility for on-site operations.

11. Donald Thayer had similar responsibility for Mountaineer Refining Co.'s ("MRC") operations as he does for IG's operations, such as deciding which incoming materials to take or reject.

12. Although dealing with different materials, MRC's facility for reclaiming used oils was similar in concept to IG's facility for reclaiming used glycols.

13. MRC ran into problems when it took in used oil which contained hazardous constituents.

14. MRC did not screen the incoming used oil which turned out to be hazardous.

15. Mr. Thayer did sign a hazardous waste manifest for the contaminated used oils accepted by MRC.

16. Mr. Thayer's record as President of MRC does reflect upon the management capabilities of IG, for which Mr. Thayer is manager.

17. There is currently a CERCLA clean-up at the MRC facility, which is grossly contaminated.

18. Clean-up costs to PRP's at the MRC site have been substantial: \$200,000 each for Bridger Coal and Chevron; \$2.1 million total excluding legal fees.

19. MRC itself has not participated in the site clean-up.

20. Screening of used feed mixtures accepted for reclaiming is a reasonable permit condition because such mixtures may contain unacceptable constituents.

21. The specific testing protocol proposed by the DEQ for IG is a reasonable method for detecting unacceptable contaminants in used glycol mixtures accepted for reclaiming from third party sources.

22. IG has posted a bond of \$5,429 to date.

23. The DEQ had estimated closure costs for IG, including removal of 4000 gallons of used glycols, to total \$24,242.

24. Estimates for closure costs must be updated to account for fluctuations in the recycling market.

25. The DEQ previously reduced IG's bonding obligation by eliminating the requirement of a bond for compliance monitoring.

26. The bonding condition proposed by the DEQ is reasonable under the circumstances in this case.

27. W.S. 35-11-504(a)(i) requires bonding to assure an adequate source of funds for closure costs.

28. DEQ denied IG permit (April 30, 1993) after IG rejected draft permit conditions (March 11, 1993).

CONCLUSIONS OF LAW

1. The Environmental Quality Council has jurisdiction in this matter under W.S. 35-11-802.

2. Applicant/petitioner IG has the burden of proof in this contested case under W.S. 35-11-802.

3. The draft permit conditions proposed by the DEQ serve purposes of the Act as declared in §35-11-102 and §35-11-504 and are authorized under W.S. 35-11-801(a).

4. The DEQ's denial of a waste treatment permit for IG's used glycol reclaiming facility was proper in view of applicant IG's rejection of draft permit conditions.

5. The used glycol-water-oil mixture which IG proposes to collect from third parties and "reclaim" by removing impurities is not excluded from regulation or bonding under Article 5 of the Act.

6. "Reclaiming" used glycols collected from third parties by removing impurities constitutes processing or treatment of wastes subject to permit and bond requirements under Article 5 of the Act.

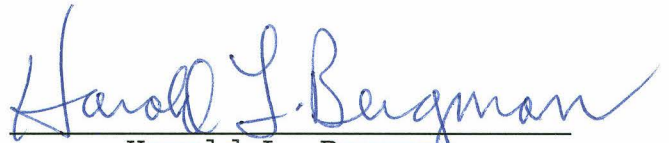
7. W.S. 35-11-502(d) prohibits storage of 4000 gallons of untreated used glycols without a permit and adequate bond.

8. Its facility manager's compliance history is relevant in evaluating an applicant's management and technical capabilities for purposes of W.S. 35-11-503(a)(i).

ORDER

The DEQ's action in denying Intermountain Glycols, Inc.'s application for a solid waste treatment/processing facility permit based upon inadequate assurance of financial responsibility and inadequate screening procedures is hereby affirmed.

DATED this 27th day of February, 1995.



Harold L. Bergman
Hearing Examiner

CERTIFICATE OF SERVICE

I, Terri A. Lorenzon, certify that at Cheyenne, Wyoming, on the 18th day of March 1995, I served a copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Mr. William D. Bagley
1720 Carey Avenue
Boyd Building
Cheyenne, WY 82001

and also to the following persons via interoffice mail:

Dennis Hemmer, Director
Department of Environmental Quality
122 W. 25th Street, Herschler Building
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David Finley, Administrator
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