

FILED

JUN 30 2000

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

Terri A. Lorenzon, Director
Environmental Quality Council

In the Matter of the Lazy B Gas)
Processing Plant, One-Time)
Authorization)

Docket No. 00-5601

PETITION FOR REVIEW

Duke Energy Field Services, LLC (Duke) petitions the Wyoming Environmental Quality Council (EQC) to review the May 1, 2000 decision of the Department of Environmental Quality (DEQ), Solid and Hazardous Waste Division (SHWD) regarding the One-Time Authorization for the former Lazy B Gas Plant (Plant) in Campbell County, obtained by Duke. In accordance with Chapter I, Section 3(c), Department of Environmental Quality Rules of Practice and Procedure, Duke provides the following in support of its petition for review:

1. The name and address of the petitioner is Duke Energy Field Services, LLC, 370 Seventeenth Street, Suite 900, Denver, CO 80202. Legal Counsel for Duke is Mary A. Throne, Hickey, Mackey, Evans and Walker, 1800 Carey Avenue, Suite 700, P.O. Box 467, Cheyenne, WY 82003-0467.

2. Duke has never operated the Lazy B Gas Plant. It acquired the Plant, via merger, from Grand Valley Gas Company, effective July 1, 1994. Duke does not have a complete history of the past ownership and operation of the Plant, but has learned from former employees that the Plant was shut down in 1990, prior to Grand Valley's acquisition. Therefore, Duke has never caused or contributed to any contamination that may exist at or from the plant.

3. Duke began certain voluntary remediation activities at the former Lazy B Gas Plant in 1997, working with the DEQ, Water Quality Division (WQD). As part of those remediation activities, Duke applied to the SHWD for a One-Time Authorization pursuant to Chapt. 1, Section 5, of the Wyoming Solid Waste Rules for the purpose of operating a landfarm

at the site to treat petroleum contaminated soils. The application indicated that following completion of the treatment, Duke would test the soil for compliance with the standard for total petroleum hydrocarbons, gasoline range organics (TPH/GRO) in accordance with accepted EPA procedures. This test was selected, consistent with then existing SHWD soil cleanup guidance, based on Duke's conclusion that the site was contaminated primarily with gas condensate, rather than heavier waste oils which could have necessitated testing for total petroleum hydrocarbons, diesel range organics (TPH/DRO). The SHWD issued that One -Time Authorization on May 11, 1998.

4. Duke continued to work with the WQD on the site remediation, completed the remediation and then, requested a site closure letter in September of 1999. Testing had indicated that the TPH/GRO were less than 30 mg/kg, the appropriate standard. The WQD, on behalf of the DEQ, issued a site closure letter on September 7, 1999 stating that "the department grants closure for this property as it relates to the source of pollution, pollutant characteristics, environmental characteristics, and property conditions represented to the WDEQ by SECOR International, Incorporated." (Duke's consultant). The letter further provided for reopening the site closure upon discovery of new contamination.

5. On October 18, 1999, relying on the One-Time Authorization, the DEQ retracted the closure letter and stated that there was new evidence of contamination resulting from other than gas condensate and that additional remediation or testing could be required to demonstrate compliance for TPH/DRO. DEQ characterized this as new evidence despite the fact that the presence of any TPH/DRO contamination, which Duke asserts has been addressed, was disclosed in the earliest site reports presented to DEQ.

6. Since receipt of the October 18, 1999 letter, Duke and the DEQ, SHWD, have

attempted to resolve the issue. Duke has presented DEQ with support for its position that there is no need for additional testing for TPH/DRO and continues to contend that there was no new contamination justifying reopening of the September 7, 1999 closure letter. Duke worked diligently with the WQD to complete the remediation only to face different and conflicting requirements from the SHWD. In its "final determination" issued on May 1, 2000, the DEQ, SHWD has required Duke to conduct additional testing for TPH/DRO. Duke seeks review of this determination.

For the foregoing reasons, Duke respectfully requests that the EQC reverse the DEQ, SHWD decision to require additional testing or other remedial activities at the Lazy B Gas Plant and reinstate the September 7, 1999 closure letter.

DATED this 30th day of June, 2000.



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