

Attachment C

November 26, 2012 Response Letter from the DRC



State of Utah

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November 26, 2012

Sean McCandless
Director of Compliance and Permitting
EnergySolutions
423 West 300 South, Suite 200
Salt Lake City, Utah 84101SUBJECT Re BAT Performance Monitoring Plan (Appendix J) and Contingency Plan
(Appendix K) Revisions Dated November 8, 2012, Appendix J and K of Ground
Water Quality Discharge Permit UGW450005 (Permit)

Dear Mr. McCandless

The Utah Division of Radiation Control (DRC) has reviewed the revised Best Available Technology (BAT) Performance Monitoring Plan and Contingency Plan, Appendix J and K respectively, submitted under cover letter dated November 8, 2012 (CD12-0286). EnergySolutions is proposing major changes to how it conducts BAT inspections. After reviewing the submittal, the DRC has the following comments:

EnergySolutions' requests are in italics followed by DRC response

- 1 Remove Table 1 from Appendix J. This table simply re-states requirements found elsewhere in the Permit and Appendix J, without imposing unique points of compliance. This is redundant and provides the potential for text to diverge as future changes are made to the Permit and Appendix J. If text were to diverge in future changes, the Permit could become internally inconsistent. It is simpler to remove the table.*

DRC Response: Table 1 is useful in that it summarizes each BAT inspection item for each facility. Table 1 has been in Appendix J for years without causing any consistency problems with the Permit. It is also helpful for DRC staff when conducting inspections at the Clive facility, therefore, Table 1 should remain in Appendix J.

- 2 Revise BAT inspection frequency to weekly, or after precipitation events of greater than 0.1 inches. Many years of monitoring at the Clive facility have demonstrated that the majority of BAT failures are directly correlated to storm events. Furthermore, the volumes of waste managed at the facility have dramatically declined from their peak in 2005. In order to optimize the efficiency of site operations at the level of current receipts, a number*

of facilities have been taken out of service Therefore, weekly inspections with additional event triggered inspections provide an equivalent level of assurance that BAT will be maintained The action level of 0.1 inches of precipitation was selected based on operational history at the site- at precipitation levels below this, stormwater accumulation is typically negligible There is regulatory precedent for weekly BAT inspections in DRC's approval of Ground Water Quality Discharge Permit No. UGW 370004 for the Energy Fuels Resources White Mesa Mill

DRC Response: While it's true that a number of the routine BAT failures are caused by large precipitation events at the Clive facility, there are many BAT failures that are not caused by or related to precipitation events

Regarding the frequency of the BAT inspections conducted at the White Mesa Uranium Mill, they are conducted on a daily, weekly, and monthly basis. The currently approved EnergySolutions Performance Monitoring Plan (Appendix J) also has BAT inspections that are conducted on a daily, weekly, and monthly basis. Changing all of the BAT inspection items frequency from a daily to a weekly basis is not appropriate, however, some inspection items theoretically could be changed to a weekly basis. EnergySolutions is welcome to schedule a meeting with DRC compliance staff to discuss potential inspection frequencies.

- 3 *Organizational titles and responsibilities are updated to reflect the revised facility organization submitted to DRC on October 24, 2012*

DRC Response: No comment

- 4 *Minor edits are made throughout to improve clarity and reduce redundancy. These edits are not intended to change the point of compliance.*

DRC Response: In response to Item 2 above, the DRC has determined that changing the BAT inspection frequency to a weekly basis is not appropriate, therefore, many of these changes are also not appropriate.

- 5 *Appendix J, Section 4.20.9 is revised to remove the requirement that a Professional Engineer perform the annual pressure test of pipe-in-pipe systems. The testing will continue to be performed and documented in accordance with ASTM methodology, with notification to DRC for an opportunity to observe.*

DRC Response: Historically, the annual pressure test of pipe-in-pipe systems has been conducted by a Professional Engineer outside of EnergySolutions. The DRC believes that the annual inspections should continue to be conducted by a Professional Engineer, therefore, EnergySolutions is welcome to use its in-house professional engineers to conduct the annual inspection. This requirement must remain as written.

- 6 *Quality assurance requirements are reduced. While quality assurance reviews will still be performed, these are internal controls to ensure that regulatory points of compliance are met. Quality assurance reviews should not be points of compliance in and of themselves.*

DRC Response: Reducing the Quality Assurance / Quality Control requirements is inappropriate. DRC review of the Daily BAT Inspection Forms has shown that BAT inspectors have made errors, which were corrected by a manager during the review process. This requirement must remain as written. It is imperative that the information contained on the inspection form be accurate and reliable.

The bi-weekly confirmation inspection must also remain. Please note, this requirement was an EnergySolutions corrective action to a falsification to the October 22, 2007 BAT Inspection Form. As documented in a November 5, 2007 EnergySolutions letter, corrective action includes documented, random, bi-weekly (twice per month) follow-up assessments (conducted by BAT Manager) to verify compliance and accuracy of the facility daily inspection form.

- 7 *Attachments 1 through 4 of Appendix J are revised to reflect the above changes. Attachments 5 and 6 are rendered obsolete with the change to weekly inspection and are removed. Attachment 7 inspection of the DU Storage Building is incorporated into Attachment 1, and Attachment 7 is removed.*

DRC Response: In response to Item 2 above, the DRC has determined that changing the BAT inspection frequency to a weekly basis is not appropriate; therefore, these changes are also not appropriate.

- 8 *Appendix K, Section 4 23 4, "Failure to Construct as per Approval Designated in I E 3" is removed. Failure to meet CQA/QC specifications in embankment construction is addressed within the LLRW and 11e (2) CQA/QC Manual, specification "Test Failure Protocol". The CQA/QC Manual is incorporated into the Permit with each cell description and provides more detailed guidance for various CQA/QC failures. Therefore, the general text in section 4 23 4 is redundant with requirements stated more completely elsewhere.*

DRC Response: The "Test Failure Protocol" in the CQA/QC Manual refers to what steps to take, when a test fails. Section 4 23 4 of Appendix K refers to contingency steps to take if EnergySolutions fails to construct any portion of the facility in accordance with the DRC approved design. The "Test Failure Protocol" is not an adequate replacement for Section 4 23 4 of Appendix K, therefore, this requirement must remain as written.

If you have any questions please contact Phil Goble at (801) 536-4044

Sincerely,



Rusty Lundberg
Director

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