Appendix C
Johnstown Regional Energy Air Permit Exemptions

Pages 1-4: Shade Landfill Project
Pages 5-7: Southern Alleghenies Landfill Project
Pages 8-13: Raeger Mountain Project

Pennsylvania Department of Environmental Protection

400 Waterfront Drive
Pittsburgh, PA 15222-4745
July 24, 2007

Southwest Regional Office

412-442-4000
Fax: 412-442-4194

Gregory L. Shaffer, P.E.
President
Keystone Renewable Energy, LLC
4000 Hempfield Plaza Boulevard
Suite 914
Greensburg, PA 15601

Re: Request for Determination of
Plan Approval/Operating Permit
Thermal Oxidizer
Somerset Methane - Shade Plant
Shade Township
Somerset County

Dear Mr. Shaffer:

After reviewing the subject Request for Determination, the Department of Environmental Protection had determined this source is exempt from the Plan Approval/Operating Permit requirements under Pa. Code Section 127.14 (a) (8).

This exemption does not affect your obligation to meet all applicable Pennsylvania Air Quality regulations for this source. Please be advised that this exemption is only valid for the equipment and emission levels identified in your Request for Determination

Should you have any questions or comments, please feel free to contact Barbara R. Hatch or myself at (412) 442-4000.

Sincerely,

Mark A. Wayner, P.E.
Regional Manager
Air Quality

cc: 01-00101A
Harrisburg C.O.
Operations (Phil Sapala)

AUG 0 2 2007

2700-PM-AQ0017 7/2001

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR QUALITY

RECEIVED
JUN 13 2007
AIR QUALITY
DEPT ENVIRONMENTAL PROTECTION

Request for Determination of Requirement for Plan Approval/Operating Permit (RFD)

(Submit in Triplicate)

A. Application is being made for: *[please mark the appropriate case(s)]*

☒ Exemption from Plan Approval ☐ Exemption from Operating Permit

Physical Changes of Minor Significance

☐ Changes Do Not Add New Equipment (See 25 Pa. Code § 127.14(c)(1)). Physical changes of minor significance must not violate the terms of an operating permit, the Pennsylvania Air Pollution Control Act (APCA), the Clean Air Act or regulations adopted thereunder. In addition, these changes can not result in emission increases above the emissions allowable in the operating permit or result in an increased ambient air quality impact for an air contaminant. Changes may be made within seven (7) days after the Department's receipt of a written request unless the Department requests additional information or objects to the changes.

☒ Changes Add New Equipment (See 25 Pa. Code § 127.14(c)(2)). Physical changes of minor significance must not violate the terms of an operating permit, the APCA, the Clean Air Act or regulations thereunder. In addition, these changes, which add new equipment, can not result in emission increases above the emissions allowable in the operating permit or result in an increased ambient air quality impact for an air contaminant. Changes can be made within 15 days after the Department's receipt of a written unless the Department requests additional information or objects to the changes.

B. Narrative Source Description (Include: process description, control device, exhaust volume, stack data, schematic flow diagram, material data safety sheet and any other pertinent information - attach additional sheets as needed):

See Attached

C. Facility Name: Keystone Renewable Energy, LLC
Plant Name: Shade Plant

D. Mailing Address: 4000 Hempfield Plaza Boulevard, Suite 914, Greensburg, PA 15601

E. Contact Person: Gregory L. Shaffer, P.E.
Title: President

F. Telephone Number: 724.838.8200 ext. 301
G. Federal ID #

H. Current Operating Permit No., if any:
I. Date of Installation: Planned for July 2007

J. Location of Source(s):
Latitude - 40 degrees 07 minutes 41 seconds Longitude - 78 degrees 47 minutes 19 seconds

K. Municipality/Township: Shade Township
County: Somerset

I, Gregory L. Shaffer, P.E., certify under penalty of law as provided in 18 Pa. C. S.A. § 4904 and 35 P.S. § 4009(b)(2), that based on information and belief formed after reasonable inquiry, the statements and information contained in this form are true, accurate and complete.

(Signed) Gregory L. Shaffer Date: June 12, 2007

Name (typed) Gregory L. Shaffer, P.E. Title: President

01-101

L. Estimated Emissions *(Attach calculations and basis for estimated emissions):*

Pollutant(s)	Emissions (lbs/hr)	Emissions (tons/year)
See Attached		

M. List all source(s) exempted from permitting within last five years. This listing should include sources that were exempted under a Request for Determination for Plan Approval/Operating Permit (RFD).

Source	Date Installed	Department Determination, if any

N. Will the construction or modification of the source covered under this RFD increase emissions from other sources at the facility? ☐ Yes ☒ No

If yes, describe and quantify emission increases on separate sheet(s).

Will the construction or modification of the source be subject to 25 Pa. Code, Subchapter E, New Source Review (NSR) requirements or Prevention of Significant Deterioration (PSD) of Air Quality regulations?

☐ Yes ☒ No

OFFICIAL USE ONLY

Date Received: 6/13/07 Reviewed By: HATCH

☒ A plan approval is not required for this source. (See 25 Pa. Code § 127.14(a)(1)-(9)).

☐ An operating permit is not required for this source. (See 25 Pa. Code § 127.443 (a)).

☐ The source(s) do(es) not qualify for exemption. Applicant is required to submit a plan approval and/or operating permit application.

Signature

Barbara R. Hatch, P.E
Name and Title
Env. Eng. Mgr

7/18/07
Date

Remarks:

Pennsylvania Department of Environmental Protection

400 Waterfront Drive
Pittsburgh, PA 15222-4745
July 24, 2007

Southwest Regional Office

412-442-4000
Fax: 412-442-4194

Gregory L. Shaffer, P.E.
President
Keystone Renewable Energy, LLC
4000 Hempfield Plaze
Suite 914
Greensburg, PA 15601

Re: Request for Determination of
Plan Approval/Operating Permit
Proposed Landfill Gas Processing Plant
Somerset Methane - Southern Plant
Conemaugh Township
Cambria County

Dear Mr. Shaffer:

After reviewing the subject Request for Determination, the Department of Environmental Protection had determined this source is exempt from the Plan Approval/Operating Permit requirements under Pa. Code Section 127.14 (a) (8).

This exemption does not affect your obligation to meet all applicable Pennsylvania Air Quality regulations for this source. Please be advised that this exemption is only valid for the equipment and emission levels identified in your Request for Determination

Should you have any questions or comments, please feel free to contact Barbara R. Hatch or myself at (412) 442-4000.

Sincerely,

Mark A. Wayner, P.E.
Regional Manager
Air Quality

AUG 02 2007

cc: 01-00102A
Harrisburg C.O.
Operations (Phil Sapala)

2700-PM-AQ0017 7/2001

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR QUALITY

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B. Narrative Source Description (Include: process description, control device, exhaust volume, stack data, schematic flow diagram, material data safety sheet and any other pertinent information - attach additional sheets as needed):

See Attached

C. Facility Name: Keystone Renewable Energy, LLC
Plant Name: Southern Alleghenies Plant

D. Mailing Address: 4000 Hempfield Plaza Boulevard, Suite 914, Greensburg, PA 15601

E. Contact Person: Gregory L. Shaffer, P.E.
Title: President

F. Telephone Number: 724.838.8200 ext. 301
G. Federal ID #

H. Current Operating Permit No., if any:
I. Date of Installation: Planned for July 2007

J. Location of Source(s):
Latitude - 40 degrees 14 minutes 01 seconds Longitude - 78 degrees 54 minutes 03 seconds

K. Municipality/Township: Davidsville
County: Somerset

I, Gregory L. Shaffer, P.E., certify under penalty of law as provided in 18 Pa. C. S.A. § 4904 and 35 P.S. § 4009(b)(2), that based on information and belief formed after reasonable inquiry, the statements and information contained in this form are true, accurate and complete.

(Signed) _____ Date: June 12, 2007

Name (typed) Gregory L. Shaffer, P.E. Title: President

01-102

L. Estimated Emissions *(Attach calculations and basis for estimated emissions):*

Pollutant(s)	Emissions (lbs/hr)	Emissions (tons/year)
See Attached		

M. List all source(s) exempted from permitting within last five years. This listing should include sources that were exempted under a Request for Determination for Plan Approval/Operating Permit (RFD).

Source	Date Installed	Department Determination, if any

N. Will the construction or modification of the source covered under this RFD increase emissions from other sources at the facility? ☐ Yes ☒ No

If yes, describe and quantify emission increases on separate sheet(s).

Will the construction or modification of the source be subject to 25 Pa. Code, Subchapter E, New Source Review (NSR) requirements or Prevention of Significant Deterioration (PSD) of Air Quality regulations?

☐ Yes ☒ No

OFFICIAL USE ONLY

Date Received: 6/15/07 Reviewed By: HATCH

☒ A plan approval is not required for this source. (See 25 Pa. Code § 127.14(a)(1)-(9)).

☐ An operating permit is not required for this source. (See 25 Pa. Code § 127.443 (a)).

☐ The source(s) do(es) not qualify for exemption. Applicant is required to submit a plan approval and/or operating permit application.

Signature Barbara R. Hatch, P.E.
Name and Title

7/18/07 Env. Eng-Mgr
Date

Remarks:

Pennsylvania Department of Environmental Protection

400 Waterfront Drive
Pittsburgh, PA 15222-4745
July 20, 2005

Southwest Regional Office

412-442-4000
Fax 412-442-4194

Brian Stewart
Regional Engineer
Waste Management, Inc.
625 Cherrington Parkway
Moon Township, PA 15108

Re: "Request for Determination..."
Alterations to Landfill Gas Management Plan
Laurel Highlands Landfill
Jackson Township
Cambria County

Dear Mr. Stewart:

The above –referenced Form AQ-16, "Request for Determination of Requirement for Plan Approval/Operating Permit Application," was received by this office on July 11, 2005. Your plans for diverting some or all of your landfill gas from your flare to a landfill gas processing facility have been reviewed. It has been determined that the proposed alteration to your landfill gas management system is exempted from Air Quality Plan Approval/Operating Permit requirements under 25 Pa. Code § 127.14(a)(8). Our understanding from your submittal is the landfill will not experience any increase in their emissions as a result of this alteration.

Laurel Highlands Landfill is still required to keep the flare in a state of readiness at all times. Per your submittal, the operability of the flare will be demonstrated once per week during periods of inactivity. Records of operability demonstration shall be retained on site, and be made available to the Department upon request. Frequency of flare operability demonstrations may not be decreased without prior written Departmental approval.

This exemption does not affect your obligation to meet all applicable Air Quality regulations for these sources. If you have any questions, or require additional information, please feel free to contact me at 412-442-4000 (PHONE) or 412-442-4194 (FAX).

Sincerely,

Mark A. Wayner
Program Manager
Air Quality

cc: Joseph Santangelo, P.G. – Crouse & Company

Pennsylvania Department of Environmental Protection

400 Waterfront Drive
Pittsburgh, PA 15222-4745
June 9, 2006

Southwest Regional Office

412-442-4000
Fax 412-442-4194

RM
AIR PERMITTING FILE

Mr. Joseph Santangelo, P.G.
Manager, Landfill Gas Production
Keystone Renewable Energy, LLC
4000 Hempfield Plaza Boulevard
Suite 914
Greensburg, PA 15601

Plan Approval/Operating Permit Determination
PA-11-00518A
Thermal Oxidizer Unit rated at 1 mmbtu/hr.
Laurel Highlands Landfill, Inc (LHLI)
Jackson Township, Cambria County

Dear Mr. Santangelo:

The Department has reviewed the Plan Approval Application submitted by Johnstown Regional Energy for the installation and operation of Thermal Oxidizer Unit. We have determined that this installation qualifies as a physical change of minor significance in accordance with 25 PA Code Section 127.14 (a) (9).

The responsibility for maintaining compliance with other provisions of our regulations for the gas processing facility can be assigned by contract to the owner/operator of the gas processing facility. However, given the reliance of the gas processing plant on, and it's proximity to, the landfill, we consider it to be a support facility for purposes of determining applicability of various Federal and State regulations. It is therefore necessary that the Operating Permit for the Laurel Highland Landfill be modified to include the emissions of the landfill gas processing facility.

If you have any questions or require additional information, please contact this office.

Sincerely,

Mark A. Wayner
Regional Manager
Air Quality

cc: Darrl Diorio Resp. ~~Official~~ JRE of Laurel Highland Landfill

CONFIDENTIAL SETTLEMENT COMMUNICATION DOCUMENT

LAUREL HIGHLANDS/KEYSTONE RENEWABLE ENERGY GAS PIPELINE PROJECT COMMON OWNERSHIP AND CONTROL ISSUE DRAFT PREPARED BY ELI BRILL, ESQUIRE AUGUST 28, 2006

PADEP's June 9, 2006 letter contends that Keystone Renewable Energy facility was a "support facility" for the Laurel Highlands Landfill, and therefore the "emissions" from the Energy facility had to be included in the Laurel Highlands permit. The letter also suggests that "compliance" for the gas facility can be assigned by "contract" to Keystone Renewable Energy.

The June 9, 2006 letter was not received by Laurel Highlands until August 21, 2006.

We respectfully request that PADEP reconsider these statements in this June 9, 2006 letter for the following reasons:

I. **FOR PSD/NSR AND TITLE V PURPOSES**, THE LAUREL HIGHLANDS LANDFILL AND THE KEYSTONE RENEWABLE ENERGY PIPELINE PROJECT ARE SEPARATE SOURCES

A. Three part test:

i. Located on one or more contiguous or adjacent properties

ii. **Under the common control of the same person (or persons under common control)**

iii. Belong to a single major industrial grouping <u>or are supporting the major industrial group</u>.

See generally, 25 Pa. Code 121.1, 40 C.F.R. 51.166(b); 40 C.F.R. 70.2; see also, 40 C.F.R. 52.21 (b)(5) and (6).

B. PADEP jumped over the "common control" issue and never made a determination on the second element of the test. Instead, PADEP went right to the "support facility" determination issue. Although we disagree with the support facility determination, for the reasons discussed below, the ultimate issue is whether the facilities are under common control.

2. **The Common Control Test**.

This case is virtually identical to the description in EPA Region 3's determination in Maplewood/Ingenco (May 1, 2002 Judith Katz to Gary Graham letter Under the terms of the Landfill Gas Purchase Agreement between Raeger Mountain LP, Laurel Highlands Landfill Inc is selling only a portion of its gas to Raeger. It's a take or pay contract for Conforming Gas. Raeger Mountain LP or the entities that succeeded to its interests built

a facility on property leased from Laurel Highlands, and located near the landfill. The facility itself is owned by Raeger Mountain LP. The gas prep equipment prepares the landfill gas for injection into a pipeline and cleans the gas.

Facts supporting determination that we are not under common control with Raeger Mountain LP.

1. Raiger was responsible for all capital improvements on the leased property to create the pipeline project.
2. Laurel Highlands continues to own and operate the landfill gas collection system and flare that burns the landfill gas.
3. If gas not used by Raeger, it will be flared at Laurel Highlands.
4. Raeger controls the solftware that automatically shunts the landfill gas to either the flare or the cleaning station.
5. WM and Raeger have no financial interest in one another.
6. No common employees, officers or members of respective governing boards.
7. We do not share equipment, payroll activities, employee benefits, health plans or other administrative functions
8. We do not share intermediates, products, byproducts, manufacturing equipment or property other than as explained above.
9. All this is -- is a lease where Raeger is taking some of the landfill gas that conforms to certain specifications, cleans it up and makes it into usable natural gas. – it is arranging for utilization of some landfill gas as part of a large pipeline project.
10. We are not receiving power or fuel from Raeger.
11. We are not taking Raeger's solid waste.
12. WM/Laurel Highland is not dependent on Raeger.
13. They are not a contractor to us. This is a landlord tenant relation.

This is distinct from the 2/11/98 letter, from EPA to VADEQ, because there, a landfill gas energy recovery device was being used EXCLUSIVELY to COLLECTION EMISSIONS FROM LANDFILL AND TO CONTROL. There was complete dependence by landfill on the energy recovery device – total interdependence.

1. We have our own flare. We don't need Raeger to run a renewable energy project. We are selling landfill gas to Raeger for use as a fuel (methane separated from landfill gas), not simply employing them to destroy NMOCs.

Here, the pipeline is also independent of WM, and multiple sources are getting the benefit of the landfill gas.

For NSR purposes, if you consider the facilities common, then the project is equal to an emission increase because the flare is used less. We don't claim that, however, nor is the issue relevant at this point in time.

There is nothing by contract that prevents Raeger from getting other business.

3. **The Support Facility Test**:

Support facilities are typically those that convey, store, or otherwise assist in the production of the principal product or group of products produced, or distributed, or services rendered. Where a unit is used to support two otherwise distinct sets of activities, the unit is to be included within the source that most heavily relies on its support. See 45 FR 52676, 52695 (Aug. 7, 1980).

Here, the principal product produced or service rendered by the landfill is waste services, or "airspace" – we sell a space to dispose of waste. Raeger does not provide support for the production of the principal product – i.e. airspace (e.g. construction of landfill cells) or similar waste service functions. Moreover, Raeger is not a necessary support facility for the landfill because the Landfill has been around for a very long time before Raeger even came into existence as the type of renewable energy project that Governor Rendell and Secretary McGinty have encouraged).

The generation of landfill gas, which can be treated and turned into pipeline quality natural gas is not the principal product or service, and indeed, landfill gas is something we can just as easily destroy in flares. In this case, we have full backup flare capacity to do so. There is no case where the landfill had full backup capacity and the downstream user of the landfill gas as renewable energy was considered to be in common control with the landfill.

Once again, in every case where EPA finds a "support facility", there was first a common ownership or control situation and/or determination

The airport/airline determination is also useful on this subject. Attached. This is an example of where EPA found there was no common control, so it never went to the support facility relationship.

If you look at the examples in the Draft NSR Workbook Manual (EPA 1990), they involve a chemical complex under common ownership, a coal cleaning operation that processes the coal prior to market, and a steam boiler jointly owned by 2 sources providing power to the facilities. (And there's an EPA proposed rule on cogeneration and support facilities you may want us to look at).

I. FOR NSPS PURPOSES, THE COMPLIANCE OBLIGATION ENDS AT THE POINT OF "TREATMENT". WM WOULD RETAIN SOME COMPLIANCE OBLIGATION FOR NSPS REQUIREMENTS UNTIL TREATMENT

II. KEYSTONE RENEWABLE SHOULD RETAIN INDEPENDENT STATE COMPLIANCE OBLIGATIONS FOR THE PORTION OF THE PROPERTY THAT IT LEASES AND CONTROLS AND THE PORTION OF THE EQUIPMENT THAT IT OWNS AND CONTROLS.

Even IF Laurel Highlands is somehow deemed to be in common control of Keystone Renewable Energy Center, PADEP should issue two separate permits, clearly defining each entity's responsibility. Prior EPA determinations have recognized the benefits of and allowed for issuance of multiple permits in common control/single source determination situations. [[Any NSPS obligations from the point of sale are, at a minimum, also Raeger's responsibility. We would retain secondary responsibility until the treatment of landfill gas has occurred and/or the destruction efficiency were determined in the thermal oxidizer.]]

The issue is a nonstarter for NSR purposes at this point. The emission increase from the project purports to be so small, that an RFD has been granted and a determination that the project is of minor significance has been granted.

We are concerned that the letter would be deemed a final determination, and we are concerned the Department will claim it's a precedent we accepted at other WM facilities. Accordingly, we are asking that the Department stipulate the letter was not intended to be an appealable final action of the Department.

We would agree that PADEP could reissue the Laurel Highlands Title V permit with a permit in the miscellaneous section identifying the gas processing facility as an insignificant or miscellaneous source, and providing that the Department reserves the right to include the emissions in a future PSD/NSR analysis or other major source determination, if applicable.

Alternatively, let us make our case with John Slade, Chip Hosford and Judy Katz.