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Coal Plant Shutdowns: Operators Need to Manage Community Relationships

*By Tricia Caliguire and J. Wylie Donald**

The authors of this article discuss coal plant shutdowns and the importance of considering the impacts with all of the stakeholders in order to promote positive community relations, which can lead to long-term economic benefits for both the community and the coal plant operator.

Imagine this scenario: A company operates a coal ash landfill. Local citizens protest and organize an advocacy group against it and create a Facebook page. The company responds by suing the individual members of the group for defamation. The American Civil Liberties Union (“ACLU”) comes in to defend the group members. It sounds like one of those textbook hypotheticals to illustrate a terrible public relations morass.

Only it is real. The ACLU recently filed its motion to dismiss in *Green Group Holdings LLC v. Schaefer, et al.*,¹ in the Southern District of Alabama on June 2, 2016 (by October the case was dismissed).

COMMUNITY RELATIONS

While the circumstances are extreme, they underscore the importance of any facility’s relations with its neighbors. In the Alabama case, relations between the coal ash landfill and the community were unpleasant and led to trouble. Likewise, a coal plant, even one closing, has every opportunity to offend its local community. Such friction can only make the shutdown, closure and cleanup more costly and difficult to complete. Active engagement with the local community can help achieve the company’s dual objectives: cost-effective compliance with regulatory obligations, and ultimately, conversion of the non-productive asset to something of value.

SHUTTING DOWN A COAL PLANT

The decision to shut down a coal-generating unit prematurely, years and

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¹ No. 2:16-cv-00145-CG-N.

possibly decades before the end of its useful life, will likely be cheered—if not prompted—by environmentalists and environmental regulators, politicians and maybe even the neighbors, due to the presumed public health, safety and environmental benefits. But when the end of the decision-making process is marked by the closure announcement, a second and equally important process begins: dealing with the host community's reaction to both anticipated and unforeseen consequences of the plant closure, not all of which are quite so positive, including the loss of jobs, erosion of the tax base, aesthetics of seeing an abandoned plant and fear of unknown environmental risks. Impacts will even be felt by local charitable organizations as they lose a reliable contributor. The better route is to include planning for the community impacts of the shutdown while one is making the decision on whether to shut down, and then to continue engagement with the community throughout the closure and cleanup process.

Once plant operations cease, the town is left not just with a gaping hole in its budget, but also with a former industrial site that may be contaminated and is certainly not suitable for all forms of redevelopment. Plants in urban areas often are located on or near the water, meaning that prime real estate is unavailable for redevelopment efforts until after a cleanup. Where the coal plant is more remote from population centers, redevelopment will surely have a different focus, but the local community may be even more anxious to replace the plant with another economic engine.

COMMUNITY GROUP ENGAGEMENT

It is not difficult to find community groups engaged in the details of local facility cleanups, nor is it difficult to find groups that materially influenced the outcomes of such cleanups. The Concerned Citizens of the Camp Minden M6 Open Burn delayed remediation of unstable artillery propellant at the Camp Minden Superfund Site by more than a year and prevailed on federal regulators to implement a closed, rather than open, burn. Citizens opposed to the Environmental Protection Agency's planned disposal of PCB-contaminated sediments from the Kalamazoo River Superfund Site mounted effective opposition and forced the EPA to change its plan. Citizen group influence reaches into the coal plant area. Duke Energy has been sued repeatedly concerning its management of its ash ponds. Ultimately, it even sided with its erstwhile citizen watchdogs against the North Carolina Department of Environmental Quality over ash pond closure requirements.

Why would Duke Energy and others take such steps? In Duke Energy's case, the high profile failure of one of its ash ponds brought it under heavy scrutiny. With potential closure costs of \$4 billion or more, cooperation with citizen watchdogs seems to be a smart business choice that goes right to the bottom

line. But, even for companies with a lower regulatory or environmental profile, local engagement can be a substantial boost to the balance sheet since lengthy and delayed remediations cost more money. As found by the National Research Council, "Active local communities can and often do block implementation of remediation technologies that they perceive as unacceptable." Further, the Delta Institute found that community involvement sped up resale of plant sites by an average of six years (from 18.9 years to 12.9 years).

CONCLUSION

Where the choice of remedial action is dictated by the intended future use of the site, taking steps to engage the community and market the site to potential commercial and industrial redevelopers long before cessation activities are complete may go a long way toward convincing regulators that more efficient and cost-effective closure methods such as capping and environmental covenants are appropriate. As any former regulator can attest, decisions to ensure compliance with environmental regulations are often made in an economic vacuum, devoid of consideration of long-term economic impacts. Considering those impacts with all of the stakeholders is likely to promote positive community relations, which can lead to long-term economic benefits for both the community and the coal plant operator.