



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



DAN WYANT  
DIRECTOR

July 7, 2011

Mr. Rajesh Swaminathan, Executive Director  
Next Generation  
Consumers Energy  
1945 West Parnall Road  
Jackson, Michigan 49201

Dear Mr. Swaminathan:

This letter is in reference to your Permit to Install (PTI) No. 341-07, for a new 930 MW (gross power output) coal-fired boiler, steam turbine generator, and auxiliary processes and equipment (State Registration Number B2840), located at 2742 North Weadock Highway, Essexville, Michigan. This permit was approved on December 29, 2009, and a revised permit was issued on January 8, 2010, due to an administrative error. In accordance with Michigan Air Pollution Control Rule 336.1201(4), this permit will become void if installation of the proposed equipment has not commenced within, or has been interrupted for 18 months, unless otherwise authorized by the Michigan Department of Environmental Quality (DEQ), Air Quality Division (AQD).


In your letter dated June 27, 2011, you stated that construction had not commenced on the project due to the uncertainty of ongoing litigation and economic conditions that have hindered commercial construction and financing arrangements. You requested approval to extend the 18-month requirement to allow for the installation of the equipment.

The AQD is hereby granting your request for one 18-month extension of PTI No. 341-07. This extension will expire on February 2, 2013. To avoid automatic voiding of this permit, installation must commence prior to this date.

Approval of PTI No. 341-07 remains based upon, and subject to, compliance with all administrative rules of the Department, and conditions stipulated in the attached supplement dated January 8, 2010. *Please review these conditions thoroughly so that you may take the actions necessary to ensure compliance with all of these conditions.*

Please contact me if you have any questions regarding this permit.

Sincerely,

  
G. Vinson Hellwig, Chief  
Air Quality Division  
517-373-7069

Attachment  
cc/att: Mr. Chris Hare, DEQ

JUN 29 2011

A CMS Energy Company

AIR QUALITY DIV.

*1945 West Parnall Road  
Jackson, MI 49201**Tel: 517-768-7494  
Fax: 517-788-8936**Rajesh Swaminathan  
Executive Director  
New Generation*

June 27, 2011

Mr. G. Vinson Hellwig  
Chief – Air Quality Division  
Michigan Department of Environmental Quality  
3<sup>rd</sup> Floor North - Constitution Hall  
525 West Allegan Street  
PO Box 30260  
Lansing, MI 48909

**Re: Permit to Install 341-07 Consumers Energy Company, Bay County, Michigan**

Dear Mr. Hellwig:

This letter is to update you on the probable date for the commencement of construction by Consumers Energy Company (“Consumers”) on the Clean Coal New Generation Project (the “Project”) utilizing an Advanced Super Critical Pulverized Coal (“ASCPC”) boiler, located in Bay County, Michigan and to seek an extension of the above referenced Permit to Install. The construction and operation of the Project remains in the public interest. Consumers will incorporate state-of-the-art combinations of technology to control air emissions and its construction and operation would provide direct benefits in the form of jobs and the annual infusion of millions of dollars into the Michigan economy. The applicable statutes and regulations, as well as good science and other facts, all support the decision of the Michigan Department of Environmental Quality (“MDEQ”) to issue Permit to Install Number 341-07 (the “Permit”) to Consumers in December of 2009. Unfortunately, for reasons beyond our control, construction of the Project has been delayed. Therefore, pursuant to R 336.1201(4) and General Condition 2 of the Permit, this letter requests an extension to the eighteen-month time period following the issuance of the Permit by which Consumers must commence construction on the Project.

By way of background, the Permit authorized Consumers to construct and operate a 930 megawatt (gross rated output) coal-fired power generating station and associated equipment in Bay County, Michigan. MDEQ originally issued the Permit on December 29, 2009 and issued a revised Permit on January 8, 2010 to correct a clerical error. The Permit became effective on February 2, 2010 pursuant to Condition 3 under “IX. Other Requirements.” The Permit also

contains a condition which will require Consumers to retire up to 958 megawatts from seven of its oldest coal-fired generating units in the State of Michigan.

Permit General Condition 2 states that the construction and operating authority granted to Consumers shall become void unless construction is commenced within eighteen (18) months after the Permit is effective. While Consumers is fully capable of beginning construction within the required eighteen months from the effective date of the Permit (i.e., by August 1, 2011), it can do so only by exposing itself to extraordinary commercial risk and penalty for reasons beyond its control – namely ongoing litigation and a poor economy reducing consumer demand. Unfortunately, as you are aware, the Sierra Club and Natural Resources Defense Council filed a petition in the Ingham County Circuit Court challenging the MDEQ's decision to issue the Permit. Although the Ingham County Circuit Court held that the Permit is lawful and fully supported by the facts, that ruling is the subject of an ongoing proceeding before the Michigan Court of Appeals. Until resolution of that appeal, Consumers cannot take the risk of sinking construction dollars into the Project and/or entering into binding contractual commitments on the Project. In the interim, Consumers is left in the unenviable and precarious position of having to expend significant resources to commence construction of the Project within the regulatory required period, without the benefit of those commitments. Furthermore, Michigan's economy continues to struggle as a result of the recession and the demand for electricity has temporarily declined. Consumers announced the deferral, not cancellation, of the Project on May 27, 2010, citing the Michigan economy as a factor.

In sum, Consumers is caught in a position in which the Permit requires commencement of construction within eighteen months of permit issuance, yet the legal review process will not allow resolution of the Permit appeal within that timeframe. Consumers has consistently promoted expeditious completion of the hearing and opposed the efforts of the Petitioners to extend the method and review of the final determination, but events beyond Consumers' control have frustrated such attempts. Additionally, Michigan's economy is only starting to rebound.

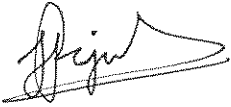
Considering the above-described circumstances, which are beyond Consumers' control, we respectfully request that Consumers be granted an extension to the date that Consumers must commence construction. There is precedent for protracted litigation and/or decreased consumer demand being justifiable cause for extending construction commencement dates in a Prevention of Significant Deterioration permit process and R336.1201(4) and General Condition 2 of PTI 341-07 allows for the granting of just such a request. The uncertainty of the ongoing litigation and economic conditions hinders commercial construction and financing arrangements and clearly satisfies these standards. Therefore, Consumers requests that the time limitation for the commencement of construction be extended an additional eighteen months from date that the Permit would become void, i.e. February 2, 2013.

Consumers understands that obtaining this extension does not release it from the performance of any other conditions in the Permit. We simply seek this narrow extension to equitably compensate for events beyond our control. You may also be aware of recent developments with the US Environmental Protection Agency ("EPA") related to the Avenal facility in California (exempting permits in the permitting queue from new requirements promulgated while waiting on a permit) and the Shell case in Alaska (seeking clarification from the court regarding the

applicability of GHG permitting for permits granted, then remanded post January 2, 2011) wherein the EPA generally seems to agree with allowing permits to be issued with standards and conditions effective at the time of application for the permit.

Please do not hesitate to contact me if you have any questions or concerns regarding this request. We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rajesh Swaminathan', with a long horizontal flourish extending to the right.

Rajesh Swaminathan  
Executive Director  
New Generation