



CAPE COD COMMISSION

3225 MAIN STREET
P.O. BOX 226
BARNSTABLE, MA 02630
(508) 362-3828
FAX (508) 362-3136

E-mail: frontdesk@capecodcommission.org

DATE: June 5, 2000 #JR-98033 (A) (Modification) #4 of 4

TO: Norm Cowden
Southern Energy Canal, LLC
C/of Attorney D. Michael Ford, Esquire
72 Main Street
P.O. Box 665
West Harwich, MA 02671

FROM: Cape Cod Commission

RE: Development of Regional Impact – Modification
Section 12(i) of the Cape Cod Commission Act
Sections 2 and 3(e) of the Enabling Regulations Governing Review of
Developments of Regional Impact

APPLICANT: Norm Cowden, Southern Energy Canal, LLC

PROJECT: Canal Plant Redevelopment - Phase Two of Installation of SCRs on Unit #1

BOOK/PAGE: Book 11961 Page 224
Book 11961 Page 226
Certificate of Title No.: 151549

DECISION OF THE REGULATORY COMMITTEE

SUMMARY

The Cape Cod Commission's Regulatory Committee (the Committee) hereby approves the request of Attorney Michael Ford, representing Southern Energy Canal, LLC for two minor modifications to an approved Development of Regional Impact pursuant to Section 7 of the Administrative Regulations. These modification requests affect the DRI decision rendered by the full Cape Cod Commission on October 21, 1999 which approved with conditions Phase Two work to prepare Canal Station Unit #1 for installation of Selective Catalytic Reduction (SCR) pollution control technology. This decision is rendered as a result of a vote by the Committee on June 5, 2000.

DESCRIPTION of MODIFICATION REQUESTS, PROCEDURAL HISTORY and JURISDICTION

In a fax dated May 31, 2000 and received by the Commission on the same day, Attorney Ford requested two modifications to the October 21, 1999 Commission DRI decision. The modifications related to 1.) condition G8 which required that all construction activities for the SCR end on May 13, 2000 and 2.) condition CC1 that plant materials be placed in the ground according to a specified viewshed analysis plan.

Section 7 of the Administrative Regulations classifies Minor Modifications Type #2 as those which involve "a minor change to the site plan, or a technical correction or a small change to the findings or a condition of the original approval which does not affect the intent or outcome of the finding or condition."



The original Development of Regional Impact (DRI) project, Canal Station Redevelopment (DRI# JR98033 and MEPA# 11703) was categorically included as DRI under Section 12(i) of the Cape Cod Commission Act. It was also a DRI based on Sections 2 and 3(e) of the Cape Cod Commission DRI Enabling Regulations (as amended).

At a previously scheduled meeting of the Committee on June 5, 2000, the Committee reviewed and unanimously approved Attorney Ford's two modification requests subject to certain changes to condition CC1.

MATERIALS and COMMENTS SUBMITTED TO THE REGULATORY COMMITTEE

Applicant

Fax, from Attorney Ford, requesting modifications	5/31/00
Letter, from Attorney Ford, requesting modifications	6/1/00

Commission

Memorandum, to Regulatory Committee	5/31/00
-------------------------------------	---------

From Federal, State or Local Agencies

No written materials received

Commission staff described the requested modifications and presented the Committee with comments received from the Sandwich Town Planner, Health Agent and Army Corps of Engineers local field office. Ms. Adams noted the Health Agent had no objection so long as the lengthening of the time for construction did not change the previous conditions relating to use of aqueous ammonia. She noted neither the Sandwich Town Planner nor the Army Corps had objections. Staff noted that condition CC3 of the original October 21, 1999 decision allowed the applicant to escrow funds relative to required landscape improvements. Attorney Ford described the modification requests. He noted the applicant understood the flexibility offered by condition CC3, but suggested the applicant desired to provide some buffer during the summer season. He noted the applicant still needed Old Kings Highway approval relative to the plantings. No other comments or information were submitted for consideration.

FINDINGS of REGULATORY COMMITTEE and APPROVAL OF MODIFICATION REQUESTS

The Committee has considered and approves the request of Attorney Ford for two modifications to the October 21, 1999 DRI decision (JR-98033)(A): 1.) that condition G8 be changed to allow construction activities for the SCR to continue to June 15, 2000, and 2.) adding language to condition CC1 relative to placing the required plantings in containers as opposed to be placed in the ground.

Therefore, condition G8 shall be modified as follows: (new language in italics)

"G8. All construction activities relative to the Phase Two work for installation of an SCR on Unit #1 shall end no later than ~~May 13, 2000~~ *June 1, 2000* ~~June 1, 2000~~ *June 15, 2000*. Any deliveries of heavy or oversized loads, if required, shall be made at night, between 9:00 PM and 7:00 AM."

Therefore, condition CC1 shall be modified as follows: (new language in italics)

"CC1. Evergreen plant material shall be planted as per the viewshed analysis plan dated 2/14/00 prior to the issuance of a Certificate of Compliance. Such plantings shall consist of evergreens planted at 4' to 8' intervals, depending on species and size. Species, spacing and size shall be approved by Cape Cod Commission staff prior to the application for Certificate of Compliance.

Should placing plantings in the ground prove infeasible, the applicant shall provide the Commission staff with an alternative plan for placing plant materials in containers of a suitable size. Plant species and size of container shall be approved by Cape Cod Commission staff prior to the application for a Certificate of Compliance. Prior to issuance of a Certificate of Compliance, the applicant shall also provide a signed maintenance contract for watering and other plant care as described in condition CC2 of the October 21, 1999 decision. A draft maintenance contract shall be submitted for Commission staff approval prior to execution of the final contract."

SUMMARY

The Committee hereby approves the requests of Attorney Ford representing Southern Energy Canal, LLC as a Minor Modification Type #2 for a change to conditions G8 and CC1 the Development of Regional Impact decision for Phase Two work to prepare Canal Station Unit #1 for installation and operation of SCR. No other changes or modifications to the original DRI decision are authorized by this decision.

Robert D. Deane
Robert D. Deane, Committee Chair

7-27-00
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 27th day of July, 2000

Katharine L. Peters
NAME, Notary

My Commission expires:

