



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: July 10, 2000 #JR-98033 (A) (Modification) #5 of 5

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 - Modification

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 a minor modification to an approved Development of Regional Impact pursuant to Section 7 of the Administrative Regulations. This modification request affects 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 July 10, 2000.

DESCRIPTION of MODIFICATION REQUEST, PROCEDURAL HISTORY and JURISDICTION

In a fax dated July 5, 2000 and received by the Cape Cod Commission on the same date, Attorney Ford requested a minor modification to the October 21, 1999 Commission DRI decision. The modification related to striking condition T3 of the decision relating to the provision of a bond for reconstruction of Freezer Road in the event that it was damaged by construction traffic related to Phase Two of the SCR retrofit on Unit #1.

Staff reviewed Attorney Ford's request relative to Section 7 of the Administrative Regulations and determined it was a Minor Modification Type #2 which involved "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).

The Administrative Regulations provide that Minor Modifications of Type #2 may be approved by the Regulatory Committee and do not require further review by the Commission. They also provide per Section 9 that there is no review fee for this category of modification.

At a previously scheduled meeting of the Committee on July 10, 2000, the Committee reviewed and unanimously approved Attorney Ford's modification request.

MATERIALS and COMMENTS SUBMITTED TO THE REGULATORY COMMITTEE

Applicant

Fax, from Attorney Ford, requesting modifications	7/5/00
Letter, from Attorney Ford, requesting modifications	7/7/00

Commission

No written submissions

From Federal, State or Local Agencies

No written materials received

Attorney Ford noted that the delivery of materials for construction of the SCR had been completed and that Southern Energy had received one complaint about limited damage to Freezer Road. He said the damage incurred had been repaired. Commission staff noted that a Corps representative had indicated in a phone conversation on July 10, 2000 that the organization did not have a mechanism to receive and hold a bond. For this reason, the Army Corps of Engineers had no objection to the striking of condition T3. No other information was submitted for consideration.

FINDINGS of REGULATORY COMMITTEE and APPROVAL OF MODIFICATION REQUEST

The Committee has considered the request of Attorney Ford for a modification to the October 21, 1999 DRI decision (JR-98033A) by striking condition T3. The Committee finds that this request is a Minor Modification Type #2. Therefore, condition T3 shall be stricken from the original decision as shown:

~~T3. Prior to issuance of a Certificate of Compliance from the Cape Cod Commission, the applicant shall post a bond in the amount of \$200,000, in a form which is satisfactory to Commission Counsel, for the reconstruction of the portion of Freezer Road from the site driveway to Tupper Road in the event that Freezer Road is damaged by the construction vehicles accessing the site.~~

SUMMARY

The Committee hereby approves the request of Attorney Ford representing Southern Energy Canal, LLC for a Minor Modification Type #2 by removing condition T3 of 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.

David J. Ansel
David J. Ansel, Committee Chair

7/24/00
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 24th day of July, 2000

Katharine L. Peters
NAME, Notary

My Commission expires:

