



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 04 2008

REPLY TO THE ATTENTION OF:

A- 18J

Federico Cantu, Jr., Chief
Saginaw Chippewa Indian Tribe
7070 East Broadway
Mount Pleasant, Michigan 48858

Dear Chief Cantu:

Thank you for your July 15, 2008, and July 30, 2008, letters in which you requested information regarding the U.S. Environmental Protection Agency's action related to the review of Michigan's rules to implement the Prevention of Significant Deterioration (PSD) program as part of its Federally approved State Implementation Plan (SIP). You also expressed your concern regarding the cumulative impact of the potential issuance of multiple State permits for coal-fired power plants in Michigan.

Michigan submitted its PSD rules to EPA for approval in December 2006. In November 2007, EPA provided notice of this submittal and an opportunity for further information exchange to Tribes through the Region 5 Monthly Tribal Air Call in advance of publishing our proposed conditional approval of these rules. The proposed conditional approval was published in the *Federal Register* on January 9, 2008 (73 Fed. Reg. 1570).

Your letter requested that EPA postpone a final approval of Michigan's PSD rules until EPA explains potential effects to Tribes in Michigan. EPA received your request months after the close of the public comment period and at a time when the Agency's action on the State's SIP request was imminent. We received no comment from any Tribe during the 60-day comment period and were not aware that there was further tribal interest in the proposed conditional approval. We appreciate that Tribes have implementation questions, and we look forward to discussing your concerns at our September 16 meeting at the Soaring Eagle Casino and Resort. While EPA has determined that Michigan's PSD rules meet Federal approval requirements and, while implementation issues do not fundamentally change rule approvability, addressing these implementation questions is important to ensuring Tribes can continue to participate in the permitting process in Michigan.

Please be aware that in addition to a final action to conditionally approve the State's rules, EPA's action includes a proposed partial disapproval of Michigan's regulations implementing 40 C.F.R. 51.166(p) concerning requirements for Class I areas. As part of this proposed partial disapproval, EPA will again solicit comments for 30 days following publication in the *Federal Register*, most likely to occur in the beginning of September. While details of this action were explained on the Region 5's August 28, 2008,

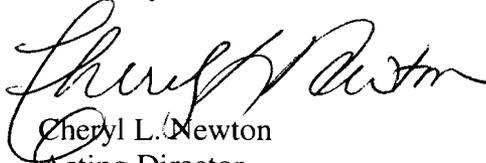
Monthly Tribal Air Call, we are committed to continuing this consultation process with interested Tribes so that we may better understand and address tribal concerns.

In your July 30, 2008, letter, you ask that EPA request Michigan to extend the public comment period for four coal-fired power plant permit applications by an additional 180 days in order to allow adequate time for the Tribes to prepare comments. While the State is the permitting authority, EPA retains oversight authority, and will work with the State of Michigan to ensure that it follows appropriate regulations, including providing an opportunity for notice and comment on rulemaking. Michigan has indicated that as part of its enhanced public participation process, for sources that are of considerable interest to the public, it will extend the public comment period from 30-days to 60-days. During this 60-day period, EPA will be available to answer Tribal questions and to provide technical assistance, wherever possible.

Finally, EPA recognizes that the Tribes have raised many concerns with respect to the pending and proposed coal-fired power plants, including the fact that EPA does not regulate carbon dioxide and mercury emissions from these plants. We look forward to consulting with Tribes on these concerns at our September 16 meeting.

Again, thank you for your letters. Should you have any questions prior to the consultation, please contact me or Laura Cossa, of my staff, at (312) 886-0661 (cossa.laura@epa.gov).

Sincerely,



Cheryl L. Newton

Acting Director

Air and Radiation Division