



May 31, 2012

**Via E-Filing**

Dr. Burl Haar  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, Minnesota 55101

**Re: *In the Matter of a Joint LEPGP Site Permit, HVTL Route Permit and Pipeline (Partial Exemption) Route Permit Application for the Mesaba Energy Project***  
**MPUC Docket No. E-6472/GS-06-668**  
**Innovative Energy Project Statute**  
**Minn. Stat. 216B.1694 Subd. 3**

Dear Dr. Haar:

Several weeks ago, Excelsior Energy ("Excelsior") initiated discussion with the Minnesota Pollution Control Agency ("MPCA") to revise its pending air permit application in a manner consistent with recently enacted Minnesota Statutes 216B.1694, Subd. 3, which provides for the construction of a natural gas-fired plant located at the site designated for Excelsior's Mesaba Energy Project (the "Project"). As explained to the MPCA staff, Excelsior now plans to develop the combined-cycle power block portion of the Project. During the course of our discussions, MPCA indicated that it would need assurance that no further environmental review or environmental impact statement ("EIS") revisions were necessary. In recent correspondence with MPCA, Excelsior further explained that:

"[W]e are reducing the scope of the original, but returned, application to cover emission units that comprise only the power block of the Project. Every emission unit that would be in the replacement application was also present in the returned application: two combustion turbine generators ("CTGs")/heat recovery steam generators per phase, one auxiliary boiler per phase, cooling towers for the power block, and emergency diesel engines/fire pumps. In our returned application, we requested the ability to operate the CTGs on natural gas without limitation. By maintaining the request to operate the CTGs on natural gas (and eliminating the request to also operate on syngas), the replacement application simply drops out those parts of the returned application that dealt with the coal/coke gasification island.

Limiting the replacement application to the power block results in a dramatic reduction in both criteria pollutant emissions and the level of work required of MPCA to review and process the application. While the returned application demonstrated the Project's extremely low emissions profile, emissions of all major pollutants will be even lower in the replacement application. Furthermore, the replacement application will virtually eliminate mercury emissions and will remove 19 of the Project's 33 emission units, 13 of its 27 stack vents, and 44 of its 46 fugitive sources."

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The statute is clear that the site and route permits are valid and no further review is required if a natural gas plant is constructed at the site. Specifically, under Minnesota Statutes 216B.1694 subdivision 3(b)(1), "site and route and water appropriation approvals for an innovative energy project must also be deemed valid" for "a natural gas-fired plant that is located on one site designated as an innovative energy project site." Because subdivision 3(b)(1) is premised on "issuance of a final state or federal environmental impact statement," which had already occurred when the amendment adding subdivision 3 was passed into law, it is clear that the Legislature did not intend for the EIS to be revised. Furthermore, because Excelsior is simply planning to construct a subset of the Project that will fit within the physical and environmental footprint and reduce the impacts relative to those examined in the Project's Final EIS, there would be no value to conducting additional environmental review with the intention of revising that document.

The MPCA requested that Excelsior confirm this with the Department of Commerce ("DOC"), the agency that prepared the Project's EIS. Upon relaying MPCA's request to DOC, staff indicated that the request should be directed through the Minnesota Public Utilities Commission ("MPUC"), as it was the entity that issued the site and route permits and gave final review and approval to the Project's Final EIS. MPUC staff in turn informed Excelsior that it was necessary to file a letter requesting the actions that it proposed the MPUC to undertake.

Therefore, pursuant to the directions given by various state agency staffs, Excelsior hereby requests that the MPUC confirm, pursuant to Minnesota Statutes 216B.1694 subdivision 3 that i) the Site and Route permits issued March 12, 2010 for the Mesaba Energy Project are deemed valid for a natural gas-fired plant located at the same site, and ii) that no additional environmental review is required under applicable State rules.

Please contact me at (952) 847-2362 should you have any questions regarding this notification. Thank you for your earliest possible consideration of this matter.

Sincerely,



Thomas A. Micheletti  
Co-President and Co-CEO  
Excelsior Energy Inc.

cc: Service List  
William Cole Storm, Dept. of Commerce  
J. David Thornton, MPCA

**STATE OF MINNESOTA  
PUBLIC UTILITIES COMMISSION**

MPUC Docket No. E-6472/GS-06-668

*In the Matter of a Joint LEPGP Site Permit,  
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Mesaba Energy Project*

**CERTIFICATE OF SERVICE**

Susan A. Hartinger certifies that on May 31, 2012 she served true and correct copies of **EXCELSIOR ENERGY'S LETTER TO BURL HAAR, MINNESOTA PUBLIC UTILITIES COMMISSION, REGARDING MINNESOTA STATUTES SECTION 216B.1694, SUBDIVISION 3** upon the parties on the attached Service List by eFiling and/or U.S. Mail as indicated on the official service list for this docket.

*/s/ Susan A. Hartinger*  
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SUSAN A. HARTINGER

**SERVICE LIST**

***In the Matter of a Joint LEPGP Site Permit, HVTL Route Permit and Pipeline (Partial Exemption) Route Permit Application for the Mesaba Energy Project***

**MPUC Docket No. E-6472/GS-06-668**

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