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Clean Air Act: Construction of Baltimore City, Maryland Waste Energy Project Challenged Because of Alleged Expiration of PSD Permit

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The Environmental Integrity Project ("EIP") sent a February 10th Notice of Intent to Sue Energy Answers International, Inc. and Energy Answers Baltimore, LLC (collectively, "EA") alleging that a Clean Air Act Prevention of Significant Deterioration ("PSD") permit that had been issued for the construction of a waste combustion facility known as the Fairfield Renewable Energy Project ("Project") in Baltimore City, Maryland expired.

EIP alleges that a lapse in construction of the Project was of such length that under the PSD regulations the permit automatically expired.

The PSD regulations are stated to provide that a PSD permit expires automatically if a permittee "discontinues construction for a period of 18 months or more." Citing 40 C.F.R. § 52.21(r)(2); 40 C.F.R. § 124.5(g)(2), the EA Project is stated to have received a PSD permit (denominated in Maryland as a Certificate of Public Convenience and Necessity) on August of 2010. The letter further provides:

Energy Answers substantially discontinued construction starting on November 1, 2013. The lapse in construction extended to May 1, 2015, and, on that date, the air quality provisions of Energy Answers' CPC expired. Therefore, Energy Answers no longer has a valid PSD permit.

EIP concludes that EA may not lawfully construct the Project without applying for and obtaining a new PSD permit. The company is stated to be planning to move forward without seeking a new PSD permit and therefore, EIP is threatening to bring a Clean Air Act citizen suit action to enjoin construction.

[Click here to download a copy of the February 10th Notice of Intent to Sue.](#)