

**From:** Lam, Alvin (DEQ)

**Sent:** Friday, January 22, 2010 10:27 AM

**To:** 'mcsniego@cmsenergy.com'

**Cc:** 'dralley@ci.petoskey.mi.us'; 'glkeltborn@cmsenergy.com'; 'wstone@ectinc.com'; 'Hyde.Tinka@epa.gov'; 'Henry.Timothy@epa.gov'; Humphries, Rebecca (DNRE); Sygo, Jim (DEQ); Creal, William (DEQ); Dell, Dan (DEQ); Saalfeld, Jerry (DEQ); Wagner, Robert (DNRE); McGarry, Tim (DEQ); Hoffman, Alan (AG); Holden, Sarah (DEQ); Blazic, Ryan (DNRE); 'Pierard.Kevin@epa.gov'

**Subject:** CMS Land Co-Bay Harbor Resort, MI0058717

Mr. Michael Sniegowski  
CMS Land Company  
One Energy Plaza  
Jackson, Michigan 49201

Dear Mr. Sniegowski:

**SUBJECT:** National Pollutant Discharge Elimination System (NPDES)

Permit No. MI0058717

Designated Name: CMS Land Co-Bay Harbor Resort

The Michigan Department of Natural Resources and Environment (MDNRE) received an NPDES permit application from the CMS Land Company (CMSL) on December 23, 2009, to discharge treated CKD leachate collected from the Bay Harbor - Development Site to Little Traverse Bay. MDNRE staff has evaluated the CMSL's permit application and determined it is administratively incomplete due to several deficiencies. These application deficiencies are identified and explained in the remainder of this letter.

As MDNRE staff has communicated on several occasions, the CMSL is not exempt under Rule 323.1098(8) or (9) from submitting a complete Antidegradation Demonstration for the proposed discharge of treated CKD leachate to Little Traverse Bay. We are disappointed the CMSL submitted an NPDES permit application to the MDNRE which fails to adequately address all feasible alternatives to a direct wastewater discharge to Little Traverse Bay, particularly the alternative of discharging the intercepted leachate to the City of Petoskey's Wastewater Treatment Plant (WWTP). Treatment of the intercepted leachate at the Petoskey WWTP needs to be fully explored as a feasible alternative before a new NPDES permit can be processed and issued to CMSL for a direct discharge of treated leachate to Little Traverse Bay. It is premature for the CMSL to conclude in its response to Section 1. Item 6 of the NPDES permit application that discharge to available sewerage systems "is not a prudent and feasible alternative to the proposed discharge". Several discussions involving the CMSL, MDNRE and the City of Petoskey (City) representatives have indicated this may prove to be a feasible option. At the meeting held in Petoskey on November 4, 2009, information was presented by the CMSL and the City of Petoskey regarding this option. Preliminary toxicity test data indicate the City may be able to accept a maximum of 300,000 gpd of intercepted leachate, but consultants for the City and CMS recognize the need to further define the desired toxicity threshold. At this meeting, the City agreed to confirm in writing the amount of intercepted leachate that could be discharged to its WWTP by the CMSL based on the toxicity threshold. The City also agreed to confirm its position concerning a dedicated sewer line and equalization basin. On December 14, 2009, the MDNRE received a letter from Mr. Dan Ralley, Petoskey City Manager, identifying a set of conditions under which the Bay Harbor intercepted leachate may be acceptable for disposal at the Petoskey WWTP. The MDNRE is reviewing the letter and will advise CMSL whether the conditions provide it with a feasible alternative to a direct wastewater discharge to Little

Traverse Bay. If the proposal is feasible, and if CMSL wants to continue with this path, then CMSL would need to pursue this feasible alternative by submitting a full and complete application to the City that is consistent with the City's confirmatory letter. The City would make the final decision on accepting CMSL's leachate for disposal. If the City fails to accept the CMSL's application to discharge the intercepted leachate to the Petoskey WWTP, the MDNRE would then be prepared to proceed with NPDES permit development. Of course, the CMSL always has the option to pursue other non-NPDES discharge alternatives.

Other deficiencies identified during our preliminary review of the CMSL's permit application are:

1. The map included in the CMSL's permit application fails to identify the exact location of the proposed discharge outfall.
2. The temperature of the proposed discharge (31 °C or 88 °F) needs to be verified as being accurate.

In summary, the MDNRE cannot consider the NPDES permit application submitted by the CMSL for the Bay Harbor - Development Site to be administratively complete until the deficiencies outlined above are adequately addressed. The MDNRE will place the permit application 'on hold' until sufficient information is provided by the CMSL to support further permit processing activity. In addition, you will be contacted in the future if there are other issues that require additional information or clarification to process your application.

Please contact me should you have any questions.

Sincerely,

Alvin Lam  
Lakes Michigan and Superior Permits Unit  
Permits Section  
Water Bureau  
517-335-4132

cc: Mr. Dan Ralley, City Manager, City of Petoskey  
Mr. Gary Kelterborn, CMS Land Company  
Ms. Tinka G. Hyde, Water Division, USEPA  
Mr. William Creal, Water Bureau, MDNRE  
Mr. Daniel Dell, Permits Section, Water Bureau, MDNRE  
Mr. Gerald Saalfeld, Permits Section, Water Bureau, MDNRE  
Mr. Robert Wagner, RRD, MDNRE  
Mr. Timothy McGarry, Executive Division, MDNRE  
Mr. Alan Hoffman, AG  
Mr. Ryan Blazic, Cadillac District Office, Water Bureau, MDNRE  
File