TECHNICAL EVALUATION AND PRELIMINARY DETERMINATION

Shady Hill Generating Station Expansion Project
Extension of Permit and Authorization to Construct

PERMITTEE

EFS Shady Hills, LLC
14240 Merchant Energy Way
Spring Hill, Florida 06927

PERMITTING AUTHORITY

Florida Department of Environmental Protection (Department)
Division of Air Resource Management
Office of Permitting and Compliance (OPC)
2600 Blair Stone Road, MS #5505
Tallahassee, Florida 32399-2400

PROJECT

DEP File No. 1010373-015-AC (PSD-FL-402B)
Extension of Permit and Authorization to Construct
Shady Hills Generating Station
Pasco County

BACKGROUND

EFS Shady Hills, LLC is the parent company of the Shady Hills Power Company, LLC, which operates the existing Shady Hills Generating Station. The facility is located in Pasco County at 14240 Merchant Energy Way, Spring Hill, Florida. The UTM coordinates are Zone 17, 347.0 kilometers (km) East, and 3139.0 km North.

On April 5, 2012, the Department issued an air construction permit to EFS Shady Hill LLC pursuant to Rule 62-212.400, Florida Administrative Code (F.A.C.), Prevention of Significant Deterioration (PSD). The permit authorized construction of two 223 megawatts (MW) General Electric Model 7FA.05 combustion turbine-electrical generator sets, a 2.8-million gallons distillate fuel oil storage tank, and emergency generator and a natural gas heater. Link to PSD Permit

The Department conducted PSD review and Best Available Control Technology (BACT) determinations (or revalidation of previous determinations) for nitrogen oxides (NO_X), carbon monoxide (CO); particulate matter (PM), PM with a mean diameter of 10 microns or less (PM_{10}), and PM with a mean diameter of 2.5 microns or less ($PM_{2.5}$).

PRESENT REQUEST

On September 17, 2013, the Department received a request from the applicant to extend the expiration date of Air Construction Permit No. 1010373-012-AC (PSD-FL-402A) from July 31, 2015 to July 31, 2017. Link to Extension Request

According to the application, *"this permit extension request is necessary because EFS Shady Hills LLC has not been able to commence construction due to EPA's permit processing schedule for the required greenhouse gas (GHG) Prevention of Significant Deterioration (PSD) permit. EFS Shady Hills LLC requests that the PSD permit be revised to state that construction will commence within 18 months of issuance of the final GHG PSD permit by EPA".*

REVIEW:

Section 2, Specific Condition 7, Source Obligation, Paragraph (a) of Permit No. 1010373-012-AC (PSD-FL-402A) states:

"Authorization to construct shall expire if construction is not commenced within 18 months after receipt of the permit, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. This provision does not apply to the time period between construction of the approved phases of a phased construction project except that each phase must commence construction within 18 months of the commencement date established by the Department in the permit".

The permit was received by the applicant on April 5, 2012 and addressed the conventional PSD pollutants defined in the Department's rule. Therefore the applicant is required to commence construction by October 5, 2013.

The Department's definition of "commence construction" is:

"Commence Construction" – As applied to the construction or modification of a facility, means that the owner has ***all preconstruction permits and approvals required under federal*** *air pollution control laws and regulations and those air pollution control laws and regulations which are part of the State Implementation Plan (SIP), etc.* (Emphasis added)

The applicant does not yet have all preconstruction permits and approvals required under federal air pollution control laws. Specifically, a GHG PSD permit issued by EPA pursuant to 40 Code of Federal Regulation (CFR) Section 52.21 is required prior to commencement of construction.

The application for the GHG PSD permit was received by EPA Region 4 on September 25, 2012. On September 23, 2013 EPA issued the draft GHG PSD permit for the project. The relevant documents are available at the following link: Link to EPA Shady Hills GHG Permitting

On September 24, 2013 EPA published notice in a newspaper of local circulation that it is seeking public comment on the draft permit until October 24, 2013. EPA Shady Hills Public Notice The Department reasonably expects issuance of a final GHG PSD permit constituting final authorization to construct by December 31, 2013.

According to Section 62-4.080(3), F.A.C.

"A permittee may request that a permit be extended as a modification of the permit. Such a request must be submitted to the Department in writing before the expiration of the permit. Upon timely submittal of a request for extension, unless the permit automatically expires by statute or rule, the permit will remain in effect until final agency action is taken on the request. For construction permits, an extension shall be granted if the applicant can demonstrate reasonable assurances that, upon completion, the extended permit will comply with the standards and conditions required by applicable regulation".

The Department continues to rely on the original permit applications and the technical evaluations issued by the Department as reasonable assurance that, upon completion, the extended permit will comply with the standards and conditions required by applicable regulation and original permit.
Link to 2012 Technical Evaluation

The Department does not necessarily agree with the assertion by the applicant in the present request that "a review of the BACT/RACT/LAER Clearinghouse, as well as our project-specific conditions, indicate that the BACT determinations would remain unchanged". The final carbon monoxide (CO) BACT emission limit is not yet known and will be determined using data to be obtained from the required continuous emission monitoring system (CO-CEMS) after the two units are built. The extension of time to construct could result in further improvements by General Electric in their technology or their guarantee such that a lower CO BACT emission limit may be realized after the units are commissioned.

PRELIMINARY DETERMINATION

Based on the circumstances and information provided, the Department will extend the permit through December 31, 2017. The additional time granted by this action will allow the applicant to complete physical construction of the project, conduct shakedown activities, demonstrate compliance and prepare and submit an application for a Title V Operation Permit. For the purposes of Section 2, Specific Condition 7, Source Obligation, Paragraph (a), the date of "receipt of the permit" shall be the date when the EPA GHG permit is received by the applicant.