

Florida Department of
Environmental Protection

Memorandum

TO: Howard Rhodes

THRU: Trina Vielhauer *TV*
Al Linero *AL*

FROM: Greg DeAngelo *GD*

DATE: April 15, 2003

SUBJECT: DEP File No. 0050014-005-AC
Gulf Power Lansing Smith Generating Plant, Bay County, Florida
Request for Air Construction Permit Extension

On April 4, 2003 Gulf Power requested an extension to their construction permit authorizing replacement of the waterwall tubes in the Lansing Smith Generating Plant Unit 2 boiler. Construction is nearly complete, and Unit 2 is expected to resume operation on or about April 16, 2003. The original permit expires on July 1, 2003. The request for extension is being made not to complete physical construction but rather to accommodate a timely submittal of a title V operating permit application. By regulation, the title V application is due 90 days prior to expiration of the construction permit (i.e., April 2, 2003).

The request for extension was received prior to 60 days before the expiration date. Physical construction is mostly complete. Gulf Power has provided an anticipated date of project completion.

A final permit amendment letter extending the expiration date to January 1, 2004 is attached for your approval and signature.

I recommend your approval.

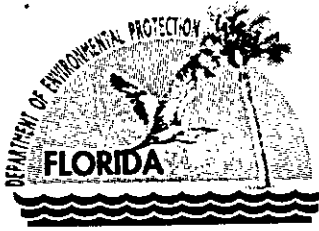
Attachments

TLV/AAL/gpd

Howard -

The initial construction permit was not long enough. They are right on schedule -- we just didn't allow enough time to construct & test. [i.e. it isn't a case of forgetting the title V due date & , therefore, requesting an extension].

Trina



Jeb Bush
Governor

Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

April 16, 2003

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. James O. Vick
Manager, Environmental Affairs
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0328

Re: DEP Permit No. 0050014-005-AC
Lansing Smith Generating Plant
Unit 2 Waterwall Tube Replacement Project, Extension of Construction Permit

Dear Mr. Vick:

The Florida Department of Environmental Protection (Department) reviewed your correspondence dated April 4, 2003 in which you requested an extension of the construction permit for the Unit 2 waterwall tube replacement project at the Lansing Smith Generating Plant, Bay County, Florida.

The expiration date is hereby extended from July 1, 2003 to January 1, 2004. All physical construction for the project is scheduled to be completed on or about April 16, 2003 when Unit 2 resumes operation following the tubing replacement outage. This permit modification does not authorize any additional construction. The purpose of the extension is to allow sufficient time following the completion of physical construction for the unit to be operated and tested and for you to file a timely and complete application for a Title V air operation permit.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, Florida Statutes (F.S.). The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), F.S., must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), F.S., however, any person who asked the Department for notice of agency action may file a petition within fourteen days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, Florida Administrative Code (F.A.C.).

"More Protection, Less Process"

Printed on recycled paper.

Mr. James O. Vick
April 16, 2003
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A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination; (c) A statement of how and when petitioner received notice of the agency action or proposed action; (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate; (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available in this proceeding.

In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under Section 120.542, F.S. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Mediation is not available in this proceeding. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this notice of intent.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000. The petition must specify the following information: (a) The name, address, and telephone number of the petitioner; (b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any; (c) Each rule or portion of a rule from which a variance or waiver is requested; (d) The citation to the statute underlying (implemented by) the rule identified in (c) above; (e) The type of action requested; (f) The specific facts that would justify a variance or waiver for the petitioner; (g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and (h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in Section 120.542(2), F.S., and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Mr. James O. Vick
April 16, 2003
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Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of the EPA and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

This permitting decision is final and effective on the date filed with the clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition pursuant to Rule 62-110.106, F.A.C., and the petition conforms to the content requirements of Rules 28-106.201 and 28-106.301, F.A.C. Upon timely filing of a petition or a request for extension of time, this order will not be effective until further order of the Department.

This permitting decision is issued pursuant to Chapter 403, F.S. Any party to this permitting decision (order) has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The notice must be filed within thirty days after this order is filed with the clerk of the Department.

A copy of this letter shall be filed with the referenced permit and shall become part of the permit.

Executed in Tallahassee, Florida.



Howard L. Rhodes, Director
Division of Air Resource
Management

Mr. James O. Vick
April 16, 2003
Page 4 of 4

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this permit modification was sent by certified mail (*) and copies were mailed by U.S. Mail before the close of business on 4/17/03 to the person(s) listed:

James O. Vick, Gulf Power*
G. Dwain Waters, Gulf Power
Kevin White, DEP NWD

Clerk Stamp

FILING AND ACKNOWLEDGMENT FILED,
on this date, pursuant to §120.52, Florida Statutes,
with the designated Department Clerk, receipt of
which is hereby acknowledged.

Victoria Gibson April 17, 2003
(Clerk) (Date)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. James O. Vick
 Manager, Environmental Affairs
 Gulf Power Company
 One Energy Place
 Pensacola, FL 32520-0328

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *R. BEACH* B. Date of Delivery *4-18-03*

C. Signature *R. Beach* Agent Addressee

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7001 0320 0001 3692 6464

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 0320 0001 3692 6464



Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To *James O. Vick*
 Street, Apt. No.,
 or P.O. Box No. *One Energy Place*
 City, State, ZIP+4® *Pensacola, FL 32520-0328*

PS Form 3800, January 2001

See Reverse for Instructions

One Energy Place
Pensacola, Florida 32520

Tel 850.444.6111

RECEIVED

APR 07 2003

BUREAU OF AIR REGULATION

Certified Mail



April 4, 2003

Mr. Al Linero
Department of Environmental Protection
Bureau of Air Regulation
2600 Blair Stone Road
Mail Station #5510
Tallahassee, Florida 32399-2400

Dear Mr. Linero

RE: Lansing Smith Electric Generating Plant -- Title V Unit Addition
Permit Number: 0050014-005-AC
Waterwall Construction Permit Extension

Late last year, Gulf Power received a construction permit to replace waterwall tubing on Unit 2 at the Lansing Smith Electric Generating Plant. The permit expiration date is July 1, 2003 and the project is scheduled to be completed on or about April 16, 2003 when the unit begins operation from the tubing replacement outage. A problem has arisen regarding the timeline for submission of the Title V application for items in the construction permit. First, the 90 day clock prior to the expiration date of the permit for submission of a Title V application as required in the Florida regulations has passed. And secondly, how does one submit a Title V application for a project which hasn't been completed yet. Therefore, Gulf Power hereby requests the above referenced permit be extended at least 30 days to allow the project to be completed and allow sufficient lead time for Gulf Power to submit an appropriate application to incorporate any items needed in the Smith Title V permit.

Please let me know if you have any questions regarding this request.

Sincerely,

G. Dwain Waters, Q.E.P.
Air Quality Programs Supervisor

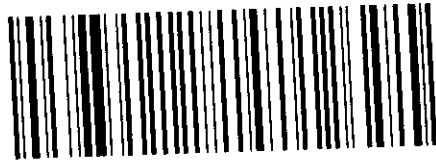
J. O. Vick, Gulf Power Company
Trey Hall, Gulf Power Company
Marie Largilliere, Gulf Power Company
Danny Herrin, Southern Company Services
Angela Morrison, Hopping, Green & Smith
Scott Sheplak, FDEP- Bureau of Air Regulation, Tallahassee, FL
Sandra Veazey, FDEP- NWF District, Pensacola, FL



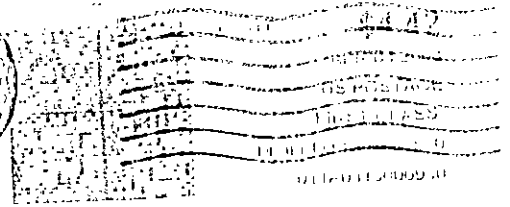


One Energy Place
Pensacola FL 32520

CERTIFIED MAIL



7099 3400 0003 1938 3276



MR AL LINERO
FDEP BUREAU OF AIR REGULATION
2600 BLAIR STONE ROAD MS 5510
TALLAHASSEE FL 32399-2400