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August 1, 1997

Ms. Kathy Carter  
Office of General Counsel  
Florida Department of Environmental Protection  
3900 Commonwealth Blvd., Room 638  
Tallahassee, FL 32399-3000

Re: Request for Extension of Time for City of Vero Beach  
DRAFT Title V Permit No. 0610029-002-AV

Dear Ms. Carter:

Attached for filing is a Request for Extension of Time on the above-referenced permitting matter. If you have any questions regarding this filing, please contact me at the number listed above.

Sincerely,

*Robert A. Manning*  
Robert A. Manning  
Attorney for  
City of Vero Beach

cc: Clair Fancy, P.E., DEP  
Scott Sheplak, DEP  
Jeffrey Brown, DEP OGC  
Joseph Kahn, P.E., DEP  
Susan DeVore, DEP  
Ken Kosky, Golder  
Mike Seifert, Vero Beach

**RECEIVED**

AUG 04 1997

BUREAU OF  
AIR REGULATION

THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of an  
Application for Permit by:

OGC CASE NO. \_\_\_\_\_

City of Vero Beach  
Municipal Utilities

DRAFT Permit No.: 0610029-002-AV

REQUEST FOR EXTENSION OF TIME

By and through undersigned counsel, City of Vero Beach Municipal Utilities ("City") hereby requests, pursuant to Florida Administrative Code Rules 28-106.111(3) and 62-103.050(1), an extension of time, to and including September 3, 1997, in which to file a Petition for Administrative Proceedings or a Request for Mediation in the above-styled matter. As good cause for granting this request, the City states the following:

1. On or about July 21, 1997, the City received from the Department of Environmental Protection (Department) an "Intent to Issue Title V Air Operation Permit" (Permit No. 0610029-002-AV) for the Vero Beach Power Plant in Indian River County, Florida. Along with the Intent to Issue, the City received a Draft air operation permit and "Public Notice of Intent to Issue Air Operation Permit."
2. The Draft air permit contains several provisions that warrant clarification or correction.
3. The City plans to discuss these provisions with staff of the Department's Bureau of Air Regulation to resolve the City's concerns.

**C O V E R****FAX****S H E E T**

**To:** Joseph Kahn, P.E. / Florida Department of Environmental Protection  
**Fax #:** 1-904-922-6979  
**Subject:** Copy of Public Notice of Intent to Issue Title V Air Operation Permit  
**Date:** August 1, 1997  
**Pages:** 2, including this cover sheet.

Please find attached a copy of the Public Notice of Intent to Issue Title V Air Operation Permit for the City of Vero Beach Power Plant. As soon as we receive the newspaper affidavit we will mail it to your office.

If you have any questions regarding this, please advise. Thank you.

From the desk of...  
Diana Gelesky  
Administrative Secretary  
P. O. Box 1389  
Vero Beach, Florida 32961-1389

561-562-7231  
Fax: 561-569-5981

10 Legals 10 Legals

PUBLIC NOTICE OF INTENT TO ISSUE TITLE V AIR OPERATION PERMIT STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Title V DRAFT Permit No. 0610029-002-AV City of Vero Beach Municipal Utilities Indian River County

The Department of Environmental Protection (permitting authority) gives notice of its intent to issue a Title V air operation permit to City of Vero Beach for the City of Vero Beach Municipal Utilities located at 100 17th Street, Vero Beach, Indian River County. A case-by-case Maximum Achievable Control Technology (MACT) determination was not required in this permitting action. The applicant's name and address are: City of Vero Beach, Rox Taylor, City Manager, Utilities Director, City of Vero Beach, 1053 70th Place, PO Box 1387, Vero Beach, FL 32961-1387.

The permitting authority will issue the Title V PROPOSED Permit, and subsequent Title V FINAL Permit, in accordance with the conditions of the Title V DRAFT Permit unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The permitting authority will accept written comments concerning the proposed Title V DRAFT Permit issuance action for a period of 30 (thirty) days from the date of publication of this Notice. Written comments should be provided to the Department's Bureau of Air Regulation, 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in this DRAFT Permit, the permitting authority shall issue a Revised DRAFT Permit and require, if applicable another Public Notice.

The permitting authority will issue the permit unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, Florida Statutes (F.S.), or a party requests mediation as an alternative remedy under Section 120.573, F.S., before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for requesting mediation are set forth below, followed by the procedures for petitioning for a hearing.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, 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 of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000 (Telephone: 904/488-9730; fax: 904/487-4938). Petitions must be filed within 14 (fourteen) days of publication of the public notice or within 14 (fourteen) days of receipt of the notice of intent, whichever occurs first. A petitioner must mail a copy of the petition to the applicant or the address indicated above, at the time of filing. The failure of any person to file a petition for a request for mediation, as discussed below, within the applicable 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 28.5.207 of the Florida Administrative Code.

A petition must contain the following information:

- (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Permit File Number, and the county in which the project is proposed;
(b) A statement of how and when each petitioner received notice of the permitting authority's action or proposed action;
(c) A statement of how each petitioner's substantial interests are affected by the permitting authority's action or proposed action;
(d) A statement of the material facts disputed by the petitioner, if any;
(e) A statement of the facts that the petitioner contends warrant reversal or modification of the permitting authority's action or proposed action;
(f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the permitting authority's action or proposed action; and
(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the permitting authority to take with respect to the action or proposed action addressed in this notice of intent.

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

A person whose substantial interests are affected by the permitting authority's proposed permitting decision, may elect to pursue mediation by asking all parties to the proceeding to agree to such mediation and by filing with the Department of Environmental Protection a request for mediation and the written agreement of all such parties to mediate the dispute. The request and agreement must be filed in (received by) the office of General Counsel of the Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, FL 32399-3000, by the same deadline as set forth above for the filing of a petition.

A request for mediation must contain the following information:

- (a) The name, address, and telephone number of the person requesting mediation and that person's representative, if any;
(b) A statement of the preliminary agency action;
(c) A statement of the relief sought; and
(d) Either an explanation of how the requester's substantial interests will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that the requester has already filed, and incorporating it by reference.
The agreement to mediate must include the following:
(a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
(b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
(c) The agreed allocation of the costs and fees associated with the mediation;
(d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
(e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
(f) The name of each party's representative who shall have authority to settle or recommend settlement; and
(g) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, F.S., the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, F.S., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 (sixty) days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department of Environmental Protection must enter an order incorporating the agreement of the parties in accordance with the provisions of Section 403.087(2)(7), F.S. If mediation terminates without settlement of the dispute, the permitting authority shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, F.S., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

In addition to the above, pursuant to 42 United States Code (U.S.C.) Section 7661d(b)(2), any person may petition the Administrator of the EPA within 60 (sixty) days of the expiration of the Administrator's 45 (forty-five) day review period as established at 42 U.S.C. Section 7661d(b)(1), to object to issuance of any permit. Any petition shall be based only on objections to the permit that were raised with reasonable specificity during the 30 (thirty) day public comment period provided in this notice, unless the petitioner demonstrates to the Administrator of the EPA that it was impracticable to raise such objections within the comment period or unless the grounds for such objection arose after the comment period. Filing of a petition with the Administrator of the EPA does not stay the effective date of any permit properly issued pursuant to the provisions of Chapter 62-213, F.A.C. Petitions filed with the Administrator of EPA must meet the requirements of 42 U.S.C. Section 7661d(b)(2) and must be filed with the Administrator of the EPA at 410 M. Street, S.W., Washington, D.C. 20460.

A complete project file is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at:

Permitting Authority: Department of Environmental Protection Bureau of Air Regulation 111 South Magnolia Drive, Suite 4 Tallahassee, Florida 32301 Telephone: 904/488-1344 Fax: 904/922-6979

Affected District/Local Program: Central District 3319 Maguire Boulevard, Suite 232 Orlando, FL 32803-3767 Telephone: 407/894-7555 Fax: 407/897-2966

The complete project file includes the DRAFT Permit, the application, and the information submitted by the responsible official, exclusive of confidential records under Section 403.111, F.S. Interested persons may contact Scott M. Shopick, P.E., at the above address, or call 904/488-1344, for additional information.

July 28, 29, 30, 31 August 1, 2, 4, 1997