

Jeb Bush
Governor

Department of Environmental Protection

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

David B. Struhs
Secretary

May 9, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Gary Lambert, Executive Vice President
CPV Gulfcoast Ltd.
35 Braintree Hill Office Park, Suite 107
Braintree, Massachusetts 02184

Re: DEP File No. 0810194-⁰⁰²004-AC (PSD-FL-300 D)
CPV Gulfcoast Power Generating Facility.
245 MW Nominal Combined Cycle Facility

Dear Mr. Lambert:

The Department reviewed the request from Mr. Finnerty dated February 21, 2003 for extension of the referenced air construction permit. The request is to extend the dates for commencement of construction, completion of physical construction, and permit expiration. We also considered the information subsequently submitted to demonstrate the adequacy of the previous determination of Best Available Control Technology (BACT).

The Department hereby determines that the request to extend the permit expiration date along with the dates to commence and to complete construction is acceptable. The following permit specific conditions are hereby modified as follows:

FIRST PAGE OF PERMIT

Expires: December 30, 2004-5

SECTION II – CONDITION 8

PSD Approval to Construct Expiration: Approval to construct shall become invalid if construction is not commenced by March 30, 2003 4, or if construction is discontinued for a period of 18 months or more, or if physical construction is not completed by September 30, 2004-5.

[40 CFR 52.21(r)(2)].

SECTION II – CONDITION 9

Completion of Construction: The permit expiration date is December 30, 2004 5. Physical construction shall be complete by September 30, 2004 5. The additional time provides for testing, submittal of results, and submittal of the Title V permit to the Department.

[Rules 62-4.070 F.A.C. and 62-4.080 F.A.C.]

"More Protection, Less Process"

Printed on recycled paper.

SECTION II - CONDITION 11

BACT Determination: In conjunction with the extension of the December 30, 2004 5 permit expiration date, or any increases in MW generated by steam, heat input limits, hours of operation, oil firing, low or baseload operation, short-term or annual emission limits, annual fuel heat input limits or similar changes the permittee may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.
[40 CFR 52.21(j)(4); 40CFR 51.166(j) and Rule 62-4.070 F.A.C.]

The Department did not change the previous determination of Best Available Control Technology (BACT). It is noted that the BACT limit for NO_x in the present permit is 3.5 ppm on a 3-hour basis and ammonia slip equal to 5 ppm.

A copy of this letter shall be filed with the referenced permit and shall become part of the permit. This permitting decision is issued pursuant to Chapter 403, Florida Statutes.

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 of the Florida Statutes. 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) of the Florida Statutes 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), 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 of the Florida Administrative Code.

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.

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. 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.

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.

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
Mr. Gary Lambert, Executive Vice President	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To Mr. Gary Lambert, Executive Vice President <hr/> <i>Street, Apt. No.; or PO Box No.</i> 35 Braintree Hill Office Park, Suite 107 <hr/> <i>City, State, ZIP+4</i> Braintree, Massachusetts 02184	
PS Form 3800, May 2000 See Reverse for Instructions	

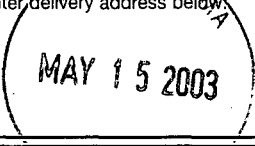
SENDER: COMPLETE THIS SECTION

- 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.

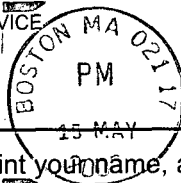
1 Article Addressed to:
 Mr. Gary Lambert, Executive Vice President
 CPV Gulfoast Ltd.
 35 Braintree Hill Office Park
 Suite 107
 Braintree, Massachusetts 02184

2 Article Number
(Transfer from service label) 7000 2870 0000 7028 0993

COMPLETE THIS SECTION ON DELIVERY

A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>(Signature)</i>	
B. Received by <i>(Printed Name)</i> <i>J. Mollica</i>	C. Date of Delivery <i>3/15/03</i>
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below. <input type="checkbox"/> No	
	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
4. Restricted Delivery? <i>(Extra Fee)</i> <input type="checkbox"/> Yes	

UNITED STATES POSTAL SERVICE



First-Class Mail
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USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Dept. of Environmental Protection
Division of Air Resources Management
Bureau of Air Regulation, NSR
2600 Blair Stone Rd., MS 5505
Tallahassee, FL 32399-2400

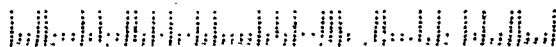
MS 5505

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MAY 19 2003

BUREAU OF AIR REGULATION

3399-2400



U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICIAL USE	
Mr. Sean Finnerty	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent To Mr. Sean Finnerty Street, Apt. No.; or PO Box No. 35 Braintree Hill Office, Park, Suite 107 City, State, ZIP+4 Braintree, Massachusetts 02184 PS Form 3800, May 2000 See Reverse for Instructions	

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. Sean Finnerty
 CPV Gulfcoast Ltd.
 35 Braintree Hill Office Park
 Suite 107
 Braintree, Massachusetts 02184

2 Article Number
 (Transfer from service label) 7000 2870 0000 7028 1006

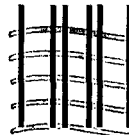
COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressee
- B. Received by (Printed Name) J. Morrone EE, C. Date of Delivery 5/15/03
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below No

02184

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Dept. of Environmental Protection
Division of Air Resources Management
Bureau of Air Regulation, NSR
2600 Blair Stone Rd., MS 5505
Tallahassee, FL 32399-2400

MS 5505

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MAY 19 2003

BUREAU OF AIR REGULATION

2399+2400



Any party to this permitting decision (order) has the right to seek judicial review of it under section 120.68 of the Florida Statutes, 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.

Executed in Tallahassee, Florida



Howard L. Rhodes, Director
Division of Air Resources
Management

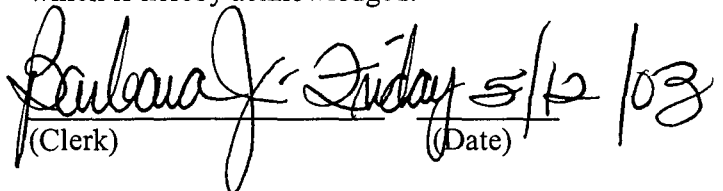
CERTIFICATE OF SERVICE

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 5/12/03 to the person(s) listed:

cc: Sean Finnerty, CPV Gulfcoast, Ltd.*
Gary Lambert, CPV Gulfcoast, Ltd.*
Jerry Kissell, DEP SWD
Chair, Manatee County BCC
Michael Anderson (TRC)
Karen Collins-Fleming, Manatee County EMD
Cathy Sellers, Esq., Moyle Flanagan

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.


(Clerk) Friday 5/12/03 (Date)



Competitive
Power Ventures, Inc.

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JUL 01 2002

BUREAU OF AIR REGULATION

June 28, 2002

Mr. Alvaro A. Linero, P.E.
Administrator, New Source Review Section
Bureau of Air Regulation
Department of Environmental Protection
111 South Magnolia Street, Suite 4
Tallahassee, FL 32399

Re: DEP PSD Permit No. 0810194-001/PSD-FL-300, for CPV Gulfcoast, Ltd.
Extension of PSD Permit Expiration Date and Related Permit Dates.

Dear Mr. Linero:

The Department of Environmental Protection, Bureau of Air Regulation issued PSD Permit No. 0810194-001 (PSD-FL-300) to CPV Gulfcoast, Ltd. ("CPV") on February 5, 2001. This letter is to request that the Department extend the permit's expiration date and other specified compliance dates and deadlines in the permit, pursuant to Rule 62-4.080, Florida Administrative Code. CPV is requesting an extension of one calendar year for the permit expiration date and other dates in the permit.

Following are the specific permit revisions (redlined) requested in order to extend the expiration date and related deadlines by one year:

(1) PSD Approval to Construct Expiration (General and Administrative Requirements, Condition No. 8, page 4 of 17). Approval to construct shall become invalid if construction is not commenced within ~~18~~ 30 months after receipt of such approval, or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend ~~the 18-month period~~ these time periods upon a satisfactory showing that an extension is justified.

(2) Completion of Construction (General and Administrative Requirements, Condition No. 9, page 4 of 17) The permit expiration date is December 30, ~~2003~~ 2004. Physical construction of the facility shall be completed by September 30, ~~2003~~ 2004. The additional time provides for testing, submittal of results, and submittal of Title V permit to the Department.

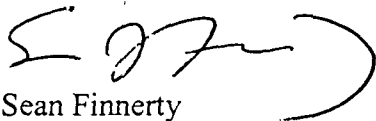
(3) BACT Determination (General and Administrative Requirements, Condition No. 11, p. 5 of 17): In conjunction with extension of the 30-month period to commence construction or 18-month periods to commence or continue construction, the extension of the December 30, ~~2002-2004~~ permit expiration date, or any increases in MW generated by steam, heat input limits, hours of operation, oil firing, low or baseload operation, short-term or annual emission limits, annual fuel heat input limits, or similar changes; the permittee may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

(Please note, the Permit Expiration Date as stated in Condition No. 9 and on the face of the Permit, is December 30, 2003, however, Condition No. 11 erroneously lists the date as December 30, 2002.)

CPV is requesting the permit deadline extension and related date extensions due to the current financial crisis in the energy industry and, specifically, the electric generation sector. The current financial crisis has resulted in construction of the CPV Gulfcoast project being delayed. These market conditions, which clearly are beyond CPV's control, constitute good cause justifying the Department's grant of the requested permit extension and related date modifications.

CPV anticipates that construction will commence within this twelve month period and be completed within twenty four months of commencement. As required by Rules 62-4.070 and 62-4.080, F.A.C., once constructed, the CPV Gulfcoast project will install all control equipment specified in the permit, will adhere to all standards set forth in the permit, and will comply with all applicable regulatory standards and conditions.

Sincerely,



Sean Finnerty
Vice President, Development

cc: Gary Lambert, Executive Vice President
Michael Anderson (TRC)
Cathy M. Sellers (Moyle Flanigan)