

Jeb Bush
Governor

Department of Environmental Protection

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

David B. Struhs
Secretary

January 11, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Farzie Shelton, Manager Environmental Affairs
City of Lakeland Department of Electric Utilities
501 East Lemon Street
Lakeland, Florida 33801-5079

Re: DEP File No. 1050004-013-AC (PSD-FL-245)
McIntosh Unit No. 5 Combustion Turbine

Dear Ms. Shelton:

Following our discussions regarding the startup activities at Lakeland, we reviewed the information provided in the letter dated October 11, 2001 describing the conversion of the simple cycle unit to combined cycle. The permit modification dated November 21, 2001 addressed only low load operation related to continuous steam blowing required to achieve clean key steam pathways and surfaces and achieve steam purity requirements.

Your letter and its attachments described additional activities related to commissioning activities that also require low load operation. These were not included in the permit modification. Since the time we issued the permit modification, EPA Region IV's expert on the New Source Performance Standards advised Lakeland that the clock for initial performance testing can be reset if major changes are made to an affected facility after it starts up (reference communication McNeal to Shelton, dated December 27, 2001). We understand that the conversion is also behind the schedule outlined in the October 11 letter.

The previously issued permit modification is hereby amended as follows:

NEW SPECIFIC CONDITION No. 47 (Revised)

Commissioning of the Combined Cycle Phase: The following excess emissions periods are applicable only during the commissioning of the conversion project from simple cycle to combined cycle operation at the end of construction and exceed a total of 60 days (1440 hours):

- Emissions of CO, VOC, PM and NO_x from the combustion turbines (CTs), in excess of the BACT limit established in Specific Conditions 20-25, resulting from ~~steam blow~~ activities associated with bringing the heat recovery steam generator and the steam turbine-electrical generator into operation shall be permitted provided that best operational practices are adhered to and that ~~the Subpart GG NSPS NO_x emissions do not exceed limit of 75 ppmvd @15% O₂ (110 ppmvd adjusted for efficiency) on a 24 hour rolling average is not exceeded.~~ The period during which such excess emissions are authorized shall occur prior to ~~May 1~~ February 29, 2002 and shall not exceed a total of 60 days (1440 hours). The applicant shall record the periods of startup for each operating mode. Excess emissions during the periods of startup shall be reported to the FDEP Southwest District office within 30 days. {Applicant Request}

"More Protection, Less Process"

Printed on recycled paper.

Please note that regardless of the time it takes to convert the unit to combined cycle, the permit requires that the unit meet the NO_x limitation of 7.5 ppmvd by selective catalytic reduction (9 ppmvd if achieved by Dry Low NO_x or hot SCR technology) by May 1, 2002. Compliance is also required with all applicable New Source Performance Standards in 40CFR60 as affected by the resetting of the initial performance test clock.

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

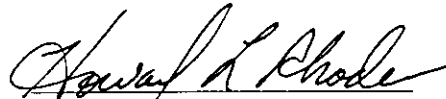
This permitting decision is final and effective on the date filed with the clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition pursuant 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.

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.

Ms. Farzie Shelton
Page 4 of 4
January 11, 2002

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 1/15/02 to the person(s) listed:

Farzie Shelton, City of Lakeland*
Gregg Worley, EPA
John Bunyak, NPS
Bill Thomas, DEP SWD
Jeff Spence, Polk County, ESD
Hamilton Oven, DEP PPSO

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) 1/15/02
(Date)

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> 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. 	A. Received by (Please Print Clearly) <i>Bonnie Brenner</i>	B. Date of Delivery
1. Article Addressed to: Ms. Farzie Shelton Manager Environmental Affairs City of Lakeland Dept. of Electrical Services 501 East Lemon St. Lakeland, FL 33801-5079	C. Signature X <i>Bonnie Brenner</i>	
2. Article Number (Copy from service label) 7000 2870 0000 7028 3130	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
PS Form 3811, July 1999	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? (Extra Fee) <input type="checkbox"/> Yes	
Domestic Return Receipt 102595-99-M-1789		

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)		
Ms. Farzie Shelton A L B O E		
7000 2870 0000 7028 3130	Postage \$	Postmark Here
	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees \$	
Sent To City of Lakeland Electrical Services Street, Apt. No.; or PO Box No. 501 East Lemon St. City, State, ZIP+4 Lakeland, FL 33801-5079		
PS Form 3800, May 2000		See Reverse for Instructions