

Jeb Bush  
Governor

# Department of Environmental Protection

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

David B. Struhs  
Secretary

June 28, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Ben Jacoby, Director  
Midway Development Company, L.L.C.  
Post Office Box 1188  
Houston, Texas 77251-1188

Re: DEP File No. 1110099-003-AC (PSD-FL-305)  
Midway Energy Center  
Three Simple Cycle Combustion Turbines

Dear Mr. Jacoby:

The Department reviewed a request from Mr. Scott Churbock of Enron North America dated March 28, 2002 and additional information dated June 10 for extension of the referenced air construction permit. The request is to extend the commencement of construction date until February 14, 2004 and the permit expiration date to February 14, 2006.

Per the June 10 communication from Enron North America, we will reduce the number of hours during which fuel oil may be fired from 1000 to 500 hours per year per unit. This will result in a substantial reduction in the potential to emit because emissions during fuel oil firing are greater than during natural gas firing. The change will bring the project in-line with some of our most recent determinations since issuance of the subject permit.

We have accepted the submittal from General Electric dated May 21, 2002 as adequate to support keeping the present nitrogen oxides limitation while firing fuel oil for this specific permitted project. We have incorporated the information from GE in such a manner to encourage operating the unit such that NO<sub>x</sub> emissions are minimized while burning fuel oil.

We received from Enron NA only "relative" water-to-fuel (WTF) ratios in terms of percent of full load WTF ratios rather than "physical" ratios in terms of pounds of water per pound of fuel for different loads. We, therefore, used as a target, the water-to-fuel ratio of 1.2 for the 100 percent base load case. The value was derived from successful testing conducted by GE/EER on FPL Martin simple cycle Unit 8A in mid-2001. At that value and at 100 percent of base load, Martin Unit 8A attained approximately 36 ppmvd NO<sub>x</sub> at 15 percent O<sub>2</sub>.

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

*"More Protection, Less Process"*

*Printed on recycled paper.*

## SECTION II – CONDITION 6

PSD Approval to Construct Expiration: Approval to construct shall become invalid if construction is not commenced ~~within 18 months after receipt of such approval by February 14, 2004~~, or if construction is discontinued for a period of 18 months or more, or if physical construction is not completed within a reasonable time by August 31, 2005. ~~The Department may extend the 18-month period upon a satisfactory showing that an extension is justified.~~ [40 CFR 52.21(r)(2)].

## SECTION II – CONDITION 8

Completion of Construction: The permit expiration date is ~~June 30, 2003~~ February 14, 2006. Physical construction shall be complete by ~~December 31, 2002~~ August 31, 2005. The additional time provides for testing, submittal of results, and submittal of the Title V permit to the Department.

## SECTION III – CONDITION 8

Fuel oil usage: The three stationary gas turbines shall operate no more than an average of ~~1000~~ 500 hours per installed unit on fuel oil during any consecutive 12-month period. [Applicant Request, Rule 62-210.200, F.A.C. (Definitions - Potential Emissions), Rule 62-212.400, F.A.C. (BACT)]

## SECTION III – CONDITION 16

A water injection (WI) system shall be installed for use when firing No. 2 or superior grade distillate fuel oil for control of NO<sub>x</sub> emissions. The WI system shall be operated to minimize NO<sub>x</sub> emissions within the terms of General Electric's present gas turbine warranty for the project. The nominal Water to Fuel Ratio shall equal at least 1.2 pounds of water per pound of fuel at 100 percent of base load and shall nominally adhere to the attached characteristic curve. The permittee shall justify any deviations from this requirement to the Department in conjunction with submittal of initial testing required by 40 CFR 60, Subpart GG. [Design, Rules 62-4.070 and 62-212.400, F.A.C. (BACT), Enron NA letter dated June 10, General Electric letter dated May 21, 2002 and Water/Fuel Ratio versus Load Curve]

## SECTION III – CONDITION 22

Sulfur Dioxide (SO<sub>2</sub>) and Sulfuric Acid Mist (SAM) Emissions: SO<sub>2</sub> and SAM emissions shall be limited by firing pipeline natural gas (sulfur content less than 2 grains per 100 standard cubic foot) or No. 2 distillate fuel oil with a maximum 0.05 percent sulfur for ~~1000~~ 500 hours per year per unit. Emissions of SO<sub>2</sub> shall exceed neither 11 lb/hr (natural gas) nor 104 lb/hr (fuel oil). Emissions of sulfuric acid mist shall exceed neither 2 lb/hr (natural gas) nor 16 lb/hr (fuel oil). These emissions shall be measured by applicable compliance methods described below. [40CFR60 Subpart GG and Rules 62-4.070, 62-212.400, and 62-204.800(7), F.A.C]

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.

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 7/1/02 to the person(s) listed:

cc: Melissa Meeker, DEP SED  
Tom Tittle, DEP SED  
Gregg Worley, EPA  
John Bunyak, NPS  
Chair, St. Lucie County BCC  
Mayor, City of St. Lucie  
Scott Churbock, Enron North America  
Blair Burgess, P.E., ENSR

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* July 1, 2002  
(Clerk) (Date)

**U.S. Postal Service**  
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PS Form 3800, January 2001

See Reverse for Instructions