

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

0669 2692 1000 0220 1001 7001

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	
Sent To Ben Jacoby		
Street, Apt. No., or P.O. No. Smith St.		
City, State, ZIP+4 Houston, TX 77002-7361		
PS Form 3800, January 2001		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:

Ben Jacoby, Attorney-In-Fact
 Fort Pierce Re-Powering Project, LLC
 1400 Smith Street
 Houston, TX 77002-7361

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) Agent
 Addressee

C. Date of Delivery 1-31-03

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

3. Service Type

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

4. Restricted Delivery? (Extra Fee) Yes

2 7001 0320 0001 3692 6990

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 Mgt.
Bureau of Air Regulation, NSR
2600 Blair Stone Rd., MS 5505
Tallahassee, FL 32399-2400

RECEIVED

FEB 06 2003

BUREAU OF AIR REGULATION



Florida Department of
Environmental Protection

Memorandum

TO: Howard Rhodes, Division of Air Resources Management

THRU: Trina Vielhauer, Bureau of Air Regulation *TV*
Al Linero, New Source Review Section *AL*

FROM: Jeff Koerner, New Source Review Section *JK*

DATE: January 22, 2003

SUBJECT: Enron North America Corporation
Fort Pierce Re-Powering Project, LLC
Extension of Air Construction Permit Expiration Date
Air Permit No. PSD-FL-320A

Attached for your approval and signature is a permit modification that extends the permit expiration date for the above referenced project. The original PSD air permit for this project was issued on August 14, 2001, but no construction has yet commenced. The applicant stated that the project remains viable and provided information indicating a significant investment to date. A review of recent similar combined cycle gas turbine projects shows that the initial BACT determinations remain adequate in comparison to recent similar determinations made over the last 2 years in the United States. The extension includes a requirement to justify the adequacy of the BACT determinations for any future requests to extend the permit or to change the make/model of the gas turbine.

Day #74 is February 3, 2003. I recommend your approval and signature.

Attachments



Jeb Bush
Governor

Department of Environmental Protection

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

David B. Struhs
Secretary

January 22, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ben Jacoby, Attorney-In-Fact
Fort Pierce Re-Powering Project, LLC
1400 Smith Street
Houston, TX 77002-7361

Re: Fort Pierce Re-Powering Project, LLC
Enron North America Corporation
Air Construction Permit Extension
Air Permit No. PSD-FL-320A

Dear Mr. Jacoby:

On November 22, 2002, Enron North America Corporation requested an extension of the expiration date for Permit No. PSD-FL-320 for the Fort Pierce Re-Powering Project, LLC to be located adjacent to the existing H.D. King Electric Generating Plant in Fort Pierce, St. Lucie County, Florida. The request is to allow additional time to begin and complete construction, perform the required tests and submit a timely Title V operation permit. The Department approves this request.

The expiration date is hereby extended from **January 30, 2003** to **January 30, 2005** to provide the necessary time to commence construction, complete construction and submit a complete application for a Title V air operation permit. In accordance with the terms of the permit, construction shall commence within 18 months of the issuance date of this extension. The Department will revisit the BACT determinations for any future requests to extend the authority to construct or to change the make/model of the gas turbine. 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 (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 (14) 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 (14) days of publication of the public notice or within fourteen (14) 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 (14) 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 (F.A.C.)

"More Protection, Less Process"

Printed on recycled paper.

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. 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 action 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, 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 (30) 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

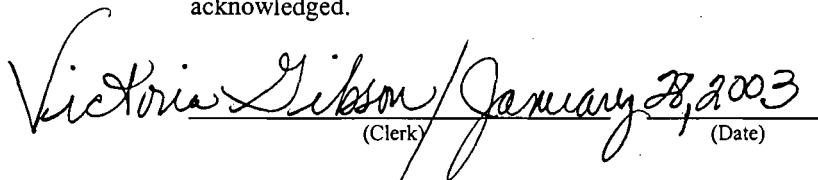
The undersigned duly designated deputy agency clerk hereby certifies that this order was sent by certified mail (*) and copies were mailed by U.S. Mail before the close of business on 1/28/03 to the persons listed:

Mr. Ben Jacoby, Fort Pierce Re-Powering Project, LLC*
Mr. Scott Churbok, Enron North America Corp.
Mr. Tom Tittle, SED

Chair, St. Lucie Board of County Commissioners
Mr. Gregg Worley, EPA Region 4
Mr. John Bunyak, NPS

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) January 28, 2003 (Date)