



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

May 20, 2005

Granite Ridge Energy, LLC
Attn: Ralph R. Leidy
21 North Wentworth Avenue
Londonderry, NH 03053

Re: Docket No. AF 05-032 Administrative Fine by Consent Agreement

Dear Mr. Leidy:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in the above-captioned matter executed by Robert R. Scott, Air Resources Division Director, and accepted by Commissioner Michael P. Nolin on May 19, 2005. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

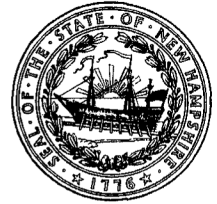
Sincerely,

COPY
Michael P. Scifani,
Legal Assistant

cc: Michael J. Walls, DES Assistant Commissioner
Robert R. Scott, Director, DES Air Resources Division
Jennifer J. Patterson, NH DOJ
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
R. Kurowski, EPA Region I
M. Bove, Council Chairman, Town of Londonderry
Pamela Monroe, DES ARD



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Granite Ridge Energy, LLC
21 North Wentworth Avenue
Londonderry, NH 03053

Re: State Permit No: FP-T-0037
EPA PSD Permit No: 045-121NH11

**ADMINISTRATIVE FINE
BY CONSENT
No. AF 05-032**

I. INTRODUCTION

This Administrative Fine by Consent is entered into between the Department of Environmental Services, Air Resources Division, and Granite Ridge Energy, LLC, pursuant to RSA 125-C:15,I-b. This Administrative Fine by Consent is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Air Resources Division (“DES”), is an administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH.
2. Granite Ridge Energy, LLC (“Granite Ridge”) f/k/a AES Londonderry, LLC (“AESL”), is a New Hampshire limited liability company with a mailing address of 21 North Wentworth Avenue, Londonderry, New Hampshire 03053.

III. BACKGROUND

1. RSA 125-C authorizes the Department of Environmental Services to regulate sources of air pollution. RSA 125-C:4 authorizes the Commissioner of DES to adopt rules relative to the prevention, control, abatement, and limitation of air pollution in New Hampshire. Pursuant to this authority, the Commissioner has adopted the N.H. Admin. Rules Env-A 100 *et seq.*
2. RSA 125-C:15,I-b(b) authorizes the Commissioner of DES to impose administrative fines of up to \$2,000 per offense for violations of RSA 125-C and rules promulgated pursuant thereto.
3. RSA 125-C:6 authorizes DES to establish and operate a statewide system under which permits shall be required for the construction, installation, operation or material modification of air pollution devices and sources. Pursuant to this authority, the Commissioner of DES has adopted N.H. Admin. Rules Env-A 600.
4. RSA 125-C:2,XI defines a stationary source as “any building, structure, facility, or installation which emits or which may emit any regulated air pollutant”.

5. AESL developed and, until November 2, 2004, owned and operated a 720 MW combined-cycle combustion turbine facility ("the Facility") which includes 2 combustion turbines and a steam turbine that generates electricity and is located at 21 North Wentworth Avenue in Londonderry, New Hampshire.
6. Effective November 2, 2004, ownership of the project company, AESL, was transferred by consensual foreclosure from AES Londonderry Holdings, LLC, a wholly-owned subsidiary of AES Corporation, to Granite Ridge I SPE, LLC a special purpose entity formed by the project's lenders to hold the equity in the project company. At the same time, the project company's name was changed from AES Londonderry, LLC to Granite Ridge Energy, LLC, and the project company came under new management.
7. On July 6, 1998, AESL filed with DES an application for a joint State of New Hampshire Temporary Permit and Federal Prevention of Significant Deterioration Permit for the 720 MW combined-cycle combustion turbine facility, now operated by Granite Ridge.
8. On April 26, 1999, DES and the US EPA issued to AESL a joint State of New Hampshire Temporary Permit No. FP-T-0037 and Federal Prevention of Significant Deterioration Permit No. 045-121NH11 ("the Permit") for the Facility. The Permit was amended on September 7, 2001 and again on August 22, 2002.
9. The Permit provides that DES has authority for Sections I – IV and VI – XXIII of the Permit, and that the US EPA has authority for Sections I - III, IV.B, V, IX – XV, and XVII – XXIII of the Permit.
10. On July 9, 2002, the US EPA approved DES's request to accept full delegation of the PSD program, including the authority to enforce PSD permits already issued by the US EPA. The US EPA then approved a revision to the New Hampshire State Implementation Plan on December 28, 2002, giving DES full authority for the PSD program.
11. Condition III.V of the Permit requires the cooling tower at the Facility to be equipped with High Efficiency Drift Eliminators to minimize water drift losses and plume visibility.
12. Condition III.W of the Permit limits the cooling tower drift to 0.0005 percent of the circulating water flow rate.
13. Condition XIV of the Permit required AESL to conduct an initial performance test for cooling tower drift using a DES-approved test method within 60 days of achieving maximum operation of the Facility, but no later than 180 days after initial start-up of the Facility.
14. Startup of Combustion Turbine CT11 occurred on July 13, 2002. Startup of Combustion Turbine CT12 occurred on August 1, 2002. AESL thus was required to perform cooling tower drift testing no later than January 9, 2003.
15. On December 5, 2002, DES received a letter from AESL in which it requested an extension of the deadline to perform the initial performance testing of the combustion turbines, though not specifically the cooling tower drift test. In the letter, AESL explained that it would not be able to achieve 100 percent load by January 2003 as there had been construction and commissioning issues with the steam turbine that prevented it from operating at full load.

16. On January 14, 2003, DES received a letter from AESL, dated January 9, 2003, which included, as attachments, letters to AESL from Dick Corporation. Dick Corporation was the primary contractor responsible for the construction of the Facility, and it advised AESL in the letters to request a ninety-day extension to the deadline for completion of the compliance testing required by the Permit. The letters to AESL summarized the major delays that had occurred in the startup of the facility since the first firing of the combustion turbines.
17. On February 5, 2003, DES responded in writing to AESL's request for an extension of the testing deadlines. DES states in the letter that all compliance testing shall be completed no later than April 9, 2003.
18. On February 10, 2003, DES received a testing protocol for the cooling tower drift testing at the Facility.
19. On April 9, 2003, DES took part in a pre-test conference call held with AESL and the parties responsible for the design, construction and compliance testing of the cooling tower at the Facility.
20. On April 15, 2003, a design defect caused a catastrophic failure of the steam generator turbine. This resulted in a major outage of the Facility through July 2003 during which AESL repaired the steam turbine generator. In addition, AESL modified the combustion turbine generators in order to prevent the same type of failure from occurring.
21. On June 13, 2003, DES received a letter from AESL, dated June 11, 2003, which included as an attachment a letter to AESL from Dick Corporation. In the attached letter, Dick Corporation suggested to AESL that it request from DES another extension of the deadline for performing the cooling tower drift test. Dick Corporation stated that the drift test that had been scheduled for June 9, 2003 had been cancelled due to the major shutdown and generator repairs being made by AES. The letter stated that a new test date had yet to be scheduled.
22. On Aug 20, 2003, DES received an e-mail from AESL indicating that the cooling tower drift test was scheduled for the week of September 29, 2003.
23. On August 26, 2003, DES sent a letter to AESL that identified outstanding compliance testing and reporting items, including the late cooling tower drift testing.
24. On August 29, 2003, DES received from AESL, via its attorney, an addendum to its Title V permit application. In the attached table titled Title V Compliance Plan and Schedule, AESL stated that the cooling tower drift test was scheduled for the week of September 29, 2003.
25. On September 11, 2003, a second cooling tower pre-test conference call was held and attended by DES, AESL, and the parties responsible for the design, construction and compliance testing of the cooling tower at the Facility.

26. On the afternoon of September 30, 2003, AESL called DES to inform it that the scheduled stack test of the cooling tower had been cancelled. Marley Corporation, the company responsible for the design of the cooling tower, had determined that the cooling tower was not operating as expected and that AESL was not ready to conduct the cooling tower drift test.
27. On October 30, 2003, DES received a letter from AESL, via its attorney and dated the same day, that stated, among other things, that the cooling tower drift test had not been completed due to complications with the operation of the tower.
28. On December 26, 2003, DES received a letter from AESL, via its attorney and dated December 24, 2003. The letter discussed the history of the attempts that had been made to perform the cooling tower drift testing, including the reasons for delays in the testing, modifications that had been made to the cooling tower to improve its performance and minimize the drift losses, and the reasons for not wanting to test the cooling tower in colder weather. AESL proposed in the letter to schedule a test date during the period of June 15 through August 31, 2004.
29. On April 12, 2004, DES received a letter from AESL, via its attorney and dated April 9, 2004, indicating that the current target date for completion of the CT drift testing was June 2, 2004. AESL requested an extension of the deadline to complete the drift testing until that date.
30. On May 13, 2004, a third cooling tower pre-test conference call was held and attended by DES, AESL, and the parties responsible for the design, construction and compliance testing of the cooling tower at the Facility. During the meeting, AESL confirmed that the target date for completion of the CT drift testing was still June 2, 2004.
31. On May 25, 2004, DES participated in a meeting with AESL, its consultant, its attorneys and Dick Corporation to discuss outstanding compliance issues, including the late cooling tower drift testing. Among the other issues discussed, AESL informed DES that, because of the time necessary to perform the plant heat-up procedures, the cooling tower drift testing would be delayed one week until June 9, 2004.
32. AESL conducted the cooling tower drift testing on June 9 through June 20, 2004.
33. On August 16, 2004, DES received the results of the cooling tower drift testing, indicating that the tested cells met the drift limits of 0.0005 percent of circulating water flow specified in Condition III.W of the Permit.
34. On October 13, 2004, DES issued a letter to AESL that stated that it had performed a review of the final stack test report of the cooling tower drift test and it found the test results technically acceptable.

IV. ALLEGATIONS

1. AESL violated Condition XIV of the Permit by failing to perform the cooling tower drift testing within 180 days of startup of the Facility, or by January 9, 2003, or by the extended

deadline for testing of April 9, 2003.

2. AESL violated Condition XIV of the Permit by failing to perform the cooling tower drift testing by the extended deadline for completion of testing of April 9, 2003. The cooling tower drift testing was successfully conducted on June 9 through June 20, 2004.

V. ADMINISTRATIVE FINES, PAYMENT, WAIVER OF HEARING

1. Pursuant to RSA 125-C, DES has determined the violation identified in Paragraph IV.1 above to be a major deviation from the requirements with a moderate potential for harm. RSA 125-C:15, I-b specifies a fine range of \$1,251 to \$1,750. Since DES approved AESL's request of an extension until April 9, 2003 to perform the testing, DES is choosing not to seek a fine for the period of January 9, 2003 through April 9, 2003.

2. Pursuant to RSA 125-C, DES has determined the violation identified in Paragraph IV.2 above to be a major deviation from the requirements with a moderate potential for harm. RSA 125-C:15, I-b specifies a fine range of \$1,251 to \$1,750. For this violation, DES proposes a fine of \$1,750 for each of the 14 months during which AESL was in violation of this standard, or a total of \$24,500.

3. Granite Ridge agrees to pay \$12,500 to the State of New Hampshire upon execution of this agreement by Granite Ridge by certified check made payable to "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95, Concord, NH 03302-0095

4. Granite Ridge agrees to pay the balance of \$12,000 to fund a Supplemental Environmental Project (SEP) by making a cash donation to the Northeast States for Coordinated Air Use Management (NESCAUM) to fund a regional study on the processing and disposing of construction and demolition debris. To satisfy this SEP, Granite Ridge shall mail a certified check made payable to "Northeast States for Coordinated Air Use Management," within 30 days of the date of this agreement, to:

NESCAUM
Attn: Lisa Rector
101 Merrimac Street, Boston, Massachusetts 02114

5. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

6. By executing this Administrative Fine by Consent, Granite Ridge waives its right to a hearing on or any appeal of the administrative fine identified in Paragraphs V.1 and V.2, and

agrees that this Administrative Fine by Consent may be entered into and enforced by a court of competent jurisdiction. Other than such enforcement action, DES shall pursue no further administrative action against Granite Ridge relative to the allegations contained herein.

7. The parties have entered into this Administrative Fine by Consent to avoid the time and cost of litigation. Except as described in Paragraph V.6, above, this agreement shall not constitute, or be construed as, an admission of liability by Granite Ridge, or a waiver of any right, course of action, or defense otherwise available to it.

8. The effective date of this Administrative Fine by Consent will be the date on which it is signed by an authorized representative of Granite Ridge, the Director of the Air Resources Division and the Commissioner of DES.

9. No failure by DES to enforce any provision of this Administrative Fine by Consent after any breach or default shall be deemed a waiver of its rights with regard to that breach or default, nor shall such failure be construed as a waiver of the right to enforce each and all of the provisions of this agreement on any further breach or default.

GRANITE RIDGE ENERGY, LLC

COPY

BY: *RALPH R. LEIDY*
Duly Authorized *CHIEF OPERATING OFFICER*

5/13/2005

Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY

Robert R. Scott, Director
Air Resources Division

5/16/05

Date

COPY

Michael P. Nolin, Commissioner
Department of Environmental Services

05 19 05

Date

- ec: G. Hamel, DES Legal Unit
Public Information Officer, DES PIP Office
- cc: R. Kurowski, EPA Region 1
M. Bove, Council Chairman, Town of Londonderry
AFS # 3301590782