

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Regional Director, Region 3

21 South Putt Corners Road, New Paltz, NY 12561-1620

P: (845) 256-3033 | F: (845) 255-3042

www.dec.ny.gov

August 1, 2018

Steve Remillard  
CPV Valley LLC  
35 Braintree Hill Office Park, Suite 400  
Braintree, MA 02184

RE: Air State Facility Permit, DEC ID #3-3356-00136/00001

Dear Mr. Remillard,

The New York State Department of Environmental Conservation (NYSDEC or Department) conducted a review of Competitive Power Ventures Valley Energy Center's (CPV) January 2018 application to renew the above referenced Air State Facility (ASF) permit and has determined that the ASF permit renewal cannot be issued because it fails to satisfy as a matter of law all applicable requirements pursuant to Title 6 of the New York Codes Rules and Regulations (6 NYCRR) subpart 201-6. See also, 6 NYCRR section 201-2.1(b)(5).

In particular, state regulations require that owners and operators of a new facility, subject to permitting under 6 NYCRR subpart 201-6, submit a complete application and obtain a Title V Clean Air Act (CAA) permit prior to operation of the facility. See 6 NYCRR Parts 201-6.2(a)(1) and 201-1.2(a). Despite these regulatory changes, to date, CPV has not submitted an application for a Title V permit nor has a Title V permit been issued for the facility as required by the Department's regulations. As a result, and consistent with the Department's regulations, the above referenced ASF permit renewal application is denied. See 6 NYCRR 621.10(f). Your current ASF permit expired on July 31, 2018. As a result of this denial and the lack of a Title V permit, CPV may not lawfully operate the facility.

Prior to any issuance of a Title V permit, a complete application must be submitted, and the public must be provided notice and an opportunity to comment on the draft permit. In addition, under the CAA, the U.S. Environmental Protection Agency must be afforded a 45-day review period prior to the Department's issuance of any Title V permit. These procedures, especially the opportunity for public input, are particularly important prior to the operation of the facility.

Please take notice that operation without a valid Title V permit is a violation of state regulations and federal CAA requirements. Any person who is found to violate Article 19 of the New York State Environmental Conservation Law (ECL), or any code,

rule or regulation promulgated pursuant thereto, shall be liable for a civil penalty of up to \$18,000 for each violation, plus an additional penalty not to exceed \$15,000 for each day that the violation continues and that such person may be enjoined from continuing such violation.

Pursuant to 6 NYCRR Part 621.10(a)(2) you have a right to an adjudicatory hearing. You may request a hearing by writing to the chief permit administrator within 30 days of the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly R. Turturro", with a long horizontal flourish extending to the right.

Kelly R. Turturro  
Regional Director

cc: Chris Allgeier, CPV  
George Sweikert, Regional Air Pollution Control Engineer