

Indiantown

12-24-91

BEFORE THE GOVERNOR AND CABINET
STATE OF FLORIDA
SITTING AS THE SITING BOARD

IN RE:
APPLICATION FOR POWER PLANT
SITE CERTIFICATION OF
INDIANTOWN COGENERATION
PROJECT, PA 90-31

DOAH CASE NO. 90-8072EPP

FINAL ORDER APPROVING CERTIFICATION

On February 4, 1992, this matter came before the Governor and Cabinet, sitting as the Siting Board, pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Section 403.501, et seq., Florida Statutes (1991), for final agency action concerning a Recommended Order dated December 24, 1991, attached as Exhibit 1, which recommends site certification for the Indiantown Cogeneration Project Power Plant. On September 24, 1991, the Board adopted a previous Recommended Order in this case which concluded that the proposed project was consistent with all applicable zoning ordinances and land use plans. The Public Service Commission entered a Final Order certifying the need for the proposed project on March 21, 1991.

No exceptions to the Recommended Order have been filed. Having reviewed the Recommended Order and having otherwise been fully advised, it is ORDERED:

1. Pursuant to Section 120.57(1)(b)10, Florida Statutes (1991), the Recommended Order dated December 24, 1991, (Exhibit 1) is APPROVED and ADOPTED by the Board.
2. The Board hereby APPROVES certification of the location, construction, and operation of the Indiantown Cogeneration Project at the proposed site, subject to the Conditions of Certification contained in Appendix A of Exhibit 1.
3. The Board hereby DELEGATES to the Department of Environmental Regulation the authority to assure and enforce compliance by Indiantown Cogeneration Partnership and its agents with all of the Conditions of Certification.

Indiantown Cogeneration Project
DER Case No. PA 90-31
DOAH Case No. 90-8072EPP

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PART II

DEPARTMENT OF ENVIRONMENTAL REGULATION

(1) AIR

The construction and operation of the Indiantown Cogeneration Project (ICP) shall be in accordance with all applicable provisions of Chapter 17-2, 17-256, and 17-702, Florida Administrative Code, except for SO₂ and NO_x during startup, shutdown, and malfunction, then 40CFR60 shall apply.

A. Construction

1. General

a. Construction shall reasonably conform to the plans and schedule given in the application.

b. The permittee shall report any delays in construction and completion of the project which would delay commercial operation by more than 90 days to the DER Southeast District office in West Palm Beach.

2. Equipment Identification

The Licensee shall submit at least four copies of complete information as to the make and model numbers of the selected pulverized coal and auxiliary boilers, all pollution control and continuous emissions monitoring devices, operation and maintenance manuals and calibration procedures, updated process flow diagrams showing mass/energy/heat balances and ammonia injector locations and rates, and related equipment, to the DER Bureau of Air Regulation at least 90 days prior to commencing on-site construction of that particular item.

3. Stack Height and Design

The height of the boiler exhaust stack for ICL shall not be less than 495 ft. above grade. Detailed stack drawings showing sampling locations shall be submitted to the DER Bureau of Air Regulation at least 90 days prior to commencing on-site construction of the affected equipment or feature.

4. Fugitive Dust and Odors

The Licensee shall employ proper odor and dust-control techniques to minimize odor and fugitive dust emissions. Precautions to prevent fugitive particulate emissions during construction shall be to coat the roads and construction sites used by contractors, regrass or water areas of disturbed soils. Control techniques shall be sufficient to prevent nuisance conditions on adjoining property.

5. Open Burning

Open burning in connection with initial land clearing shall be in accordance with Chapter 17-256, F.A.C., Chapter 5I-2, F.A.C., Uniform Fire Code Section 33.101 Addendum, and any other applicable regulations of Martin or Okeechobee Counties, as applicable.

No open burning of construction generated material, after initial land clearing shall be allowed.

B. Operation

1. Boilers

The Pulverized Coal (PC) boiler is permitted to operate at a maximum of 3422 MMBtu/hr heat input (nominal 330 MW). This facility shall be allowed to operate continuously (8,760 hrs/yr). In addition to the PC boiler, the facility has an auxiliary boiler rated at up to 342 MMBtu/hr (#2 Fuel Oil) and 358 MMBtu/hr (Natural Gas or propane) which operates a maximum of 5,000 hours with up to 1000 hrs/yr on #2 Fuel Oil and the balance on natural gas or propane.

2. Emissions Limitations

a. Pulverized Coal Boiler

Based on a permitted heat input of 3422 MMBTU/hr heat input, the stack emissions from the main boiler shall not exceed any of the following limitations:

i. Combustion Emissions

Pollutant	Basis lb/MMBtu	Emission Limitation	
		lb/hr	TPY
SO ₂	0.170	582*	2549
NOx	0.170	582*	2549
PM	0.018	61.6	270
PM ₁₀	0.018	61.6	270
CO	0.110	376*	1649
VOC at 7% O ₂	0.0036	12.30	54
H ₂ SO ₄	0.0004	1.450	6.350
Beryllium	0.00000273	0.0093	0.041

Mercury	0.0000114	0.039	0.172
Lead	0.0000187	0.064	0.280
Fluorides	0.002	7.26	22.26
Arsenic	0.0000511	0.175	0.765

*24 hour daily block average (midnight to midnight)

- ii. NH₃ (Ammonia) - Slip from exhaust gases shall not exceed 50 ppmv.
- iii. *VE (Visible Emissions)
 - VE from each baghouse exhaust shall not exceed 10% opacity (six minute average).
 - No VE during lime silo loading operations (i.e., less than 5% opacity).
 - VE from the ash handling baghouse shall not exceed a particulate limit of 0.010 grains/acf and VE of 5% opacity.

b. Auxilliary Boiler

The auxilliary boiler, rated at up to 358 MMBtu/hr (Natural Gas and propane) and 342 MMBtu/hr (#2 Fuel Oil), shall be limited to a maximum of 5000 hours/year with up to 1000 hrs/yr firing #2 fuel oil with 0.05% sulfur, by weight, and the balance firing natural gas or propane. The maximum annual emissions will be as follows when firing #2 fuel oil:

MAXIMUM EMISSIONS

<u>Pollutant</u>	<u>lbs/hr</u>	<u>tons/year</u>
NO _x	68.4	34
SO ₂	17.8	9
PM	1.40	0.70
PM ₁₀	1.40	0.70
CO	47.30	24
VOC	0.63	0.31
Be	4.1 x 10 ⁻⁵	2.0 x 10 ⁻⁵
Hg	5.1 x 10 ⁻⁴	2.6 x 10 ⁻⁴
Pb	3.6 x 10 ⁻²	1.8 x 10 ⁻²
As	6.8 x 10 ⁻³	3.4 x 10 ⁻³

c. Particulate emissions from the coal, and limestone handling facilities:

i) All conveyors and conveyor transfer points will be enclosed to preclude PM emissions (except those directly associated with the coal stacker/reclaimer for which an enclosure is operationally infeasible). Fugitive emission shall be tested as specified in conditions 1.B.2.e.

ii) Inactive coal storage piles shall be shaped, compacted, and oriented to minimize wind erosion, and covered.

iii) Water sprays or chemical wetting agents and stabilizers shall be applied to uncovered storage piles, roads, handling equipment, etc. during dry periods and as necessary to all facilities to maintain an opacity of less than or equal to 5 percent, except when adding, moving or removing coal from the coal pile, which would be allowed no more than 20%.

iv) The lime handling system including the lime silos shall be maintained at a negative pressure while operating and the exhaust vented to a control system.

v) The fly ash handling system (including transfer and silo storage) shall be totally enclosed and vented (including pneumatic system exhaust) through fabric filters; and

vi) The Licensee shall submit to the Department, Bureau of Air Regulation in Tallahassee within thirty (30) days after it becomes available, copies of technical data pertaining to the selected particulate emissions control for the coal, and lime handling facilities. These data shall include, but not be limited to guaranteed efficiency and emission rates, and major design parameters such as air/cloth ratio and flow rate. The Department may, upon review of these data, disapprove the use of any such device if the Department determines the selected control device to be inadequate to meet the emission limits specified in COC-(1)B.2.d. below. Such disapproval shall be issued within 30 days of receipt of the technical data.

d. Particulate emissions from bag filter exhausts from the following facilities shall be limited to 0.010 gr/acf: coal, lime and flyash handling systems. A visible emission reading of 5% opacity or less may be used to establish compliance with this emission limit. A visible emission reading greater than 5% opacity will not create a presumption that the 0.010 gr/acf emission limit is being violated. However, a visible emission reading greater than 5% opacity will require the permittee to perform a stacktest, as

set forth in COC-(1)B.3. Verification and recording of the above requirements for particulate emissions shall be done at least annually.

e. Emissions shall not be visible more than 2 minutes in any 15 minute period. Compliance with fugitive emissions limitations from all transfer points will be determined by EPA/DER referenced Method 22 and opacity Method 9 (Appendix A, 40 CFR 60).

f. Coal shall not be burned in the unit unless the spray dryer scrubber, fabric filter baghouse and other air pollution control devices are operating properly except as provided under 40 CFR Part 60, Subpart Da. Any malfunctions of these air pollutions control devices are to be recorded; including duration, cause, and description of repair as specified in condition l.D.

g. The fuel oil to be fired in the PC boiler and the auxiliary boiler shall be "new oil" which means an oil which has been refined from crude oil and has not been used. The quality of the No. 2 fuel oil used by the auxiliary boiler shall not contain more than 0.05% sulfur, by weight, based on each shipment analysis report.

h. No fraction of flue gas shall be allowed to bypass the air pollution control devices (PCD) system to reheat the gases exiting from the PCD system, if the bypass will cause emissions above the limits specified in COC-(1)B.2. The percentage and amount of flue gas bypassing the PCD system shall be documented and records kept for a minimum of two years available for FDER's inspection.

i. All fuel oil and coal shipments shall have a shipment analysis for sulfur content, ash content, and heating value. In the event continuous emission monitoring of sulfur dioxide is not performed, a daily analysis of coal sulfur content for the purpose of establishing the percentage reduction in potential sulfur emissions shall be made. Such determination shall be in accordance with EPA reference Method 19. Records of all the analyses shall be kept for public inspection for a minimum of two years after the data is recorded.

j. The applicant shall comply with applicable requirements and provisions of the New Source Performance Standard for electric utility steam generating units (40 CFR 60 Part Da).

k. As a requirement of this specific condition, the applicant shall comply with all emissions limits and enforceable restrictions required by the State of Florida Department of Environmental Regulation pursuant to Section 403.511(5), F.S., which may be adopted by regulation and which

are more restrictive, that is lower emissions limits or more strict operating requirements and equipment specifications, than the requirements of COC-II(1)B.2. of these conditions.

3. Stack Testing

a. Within 60 calendar days after achieving the maximum capacity at which the unit will be operated, but no later than 180 operating days after initial startup, the permittee shall conduct performance tests for particulates, SO₂, NO_x, and visible emissions during normal operations near ($\pm 10\%$) 3422 MMBtu/hr heat input and furnish the Department a written report of the results of such performance tests within 45 days of completion of the tests. The performance tests will be conducted in accordance with the provisions of 40 CFR 60.46a and 48a.

b. Compliance with emission limitation standards mentioned in Specific Condition No. 1 shall be demonstrated using EPA Methods, as contained in 40 CFR Part 60 (Standards of Performance for New Stationary Sources), or 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants), or any other method as approved by the Department, in accordance with F.A.C. Rule 17-2.700. A test protocol shall be submitted for approval to the Bureau of Air Regulation at least 90 days prior to testing.

<u>EPA Method</u>	<u>For Determination of</u>
1	Selection of sample site and velocity traverses.
2	Stack gas flow rate when converting concentrations to or from mass emission limits.
3	Gas analysis when needed for calculation of molecular weight or percent O ₂ .
4	Moisture content when converting stack velocity to dry volumetric flow rate for use in converting concentrations in dry gases to or from mass emission limits.
5	Particulate matter concentration and mass emissions.
201 or 201A	PM ₁₀ emissions.
6, 6C, or 19	Sulfur dioxide emissions from stationary sources.
7, 7C, or 19	Nitrogen oxide emissions from stationary

sources.

- 8 Sulfuric acid mist from stationary source.
- 9 Visible emission determination of opacity.
 - At least three one hour runs to be conducted simultaneously with particulate testing for the emissions from dry scrubber/baghouse, and ash handling building baghouse.
 - At least one lime vehicle unloading into the lime silo (from start to finish).
- 22 Fugative emissions from transfer points.
- 10 Carbon monoxide emissions from stationary sources.
- 12 or 101A Lead concentration from stationary sources.
- 13A or 13B Fluoride emissions from stationary sources.
- 18 or 25, Volatile organic compounds concentration.
- 101A or 108 Mercury emissions.
- 104 Beryllium emission rate and associated moisture content.

NOTE: Use EPA draft method or other methods approved by Department to test for ammonia.

c. Performance tests shall be conducted under such conditions as the Department shall specify based on representative performance of the facility. The permittee shall make available to the Department such records as may be necessary to determine the conditions of the performance tests.

d. The permittee shall provide 30 days notice of the performance tests or 15 days notice for stack tests in order to afford the Department the opportunity to have an observer present.

e. Stack tests for particulates (PM and PM₁₀), NO_x and SO₂ and visible emissions shall be performed annually in accordance with COC (1)B.3.b. above.

C. Monitoring and Reporting

1. Air Monitoring Program

a. A flue gas oxygen meter shall be installed for each unit to continuously monitor a representative sample of the flue gas. The oxygen monitor shall be used with automatic feedback or manual controls to continuously maintain air/fuel ratio parameters at an optimum. Performance tests shall be conducted and operating procedures established. The document "Use of Flue Gas Oxygen Meter as BACT for Combustion Controls" may be used as a guide. The permittee shall install and operate continuously monitoring devices for each main boiler exhaust for sulfur dioxide, nitrogen dioxide and opacity, including flue gas O₂ and/or CO₂ content. The monitoring devices shall meet the applicable requirements of Section 17-2, F.A.C., and 40 CFR 60 a minimum of 95% of the time the source is operating.

b. The permittee shall operate two continuous ambient monitoring devices for sulfur dioxide in accordance with DER quality control procedures and EPA reference methods in 40 CFR, Part 53, and two ambient monitoring devices for suspended particulates, and one continuous NO_x monitor. The monitoring devices shall be specifically located at a location approved by the Department's Bureau of Air Regulation. The frequency of operation of the particulate monitors shall be every six days commencing as specified by the Department's Bureau of Air Regulation. During construction and operation, a meteorological station will be operated and data reported with the ambient data.

c. The permittee shall maintain a log of the amounts and types of fuel received and copies of fuel analyses containing information on sulfur content, ash content and heating values. These logs shall be kept for at least two years.

d. The permittee shall provide stack sampling facilities as required by Rule 17-2.700(4) FAC.

e. The ambient monitoring program shall begin at least one year prior to initial start up of the unit and shall continue for at least one year after commencement of commercial operation.

The Department's Bureau of Air Monitoring and Assessment and the permittee shall review the results of the monitoring program annually and determine the necessity for the continuation of or modifications to the monitoring program.

f. Prior to operation of the source, the permittee shall submit to the Department's Bureau of Air Regulation a plan or procedure that will allow the permittee to monitor emission control equipment efficiency and enable the permittee to return malfunctioning equipment to proper operation as expeditiously as possible.

2. Reporting

a. For the ICL, stack monitoring, fuel usage and fuel analysis data shall be reported to the Department's Southeast District Office on a quarterly basis commencing with the start of commercial operation in accordance with 40 CFR, Part 60, Section 60.7, and 60.49a and in accordance with Section 17-2.08, FAC.

b. Utilizing the SAROAD or other format approved in writing by the Department, ambient air monitoring data shall be reported to the Bureau of Air Monitoring and Assessment of the Department quarterly. Upon commencement of ambient air monitoring, such reports shall be due within 45 days of the end of the quarterly reporting period. Reporting and monitoring shall be in conformance with 40 CFR Parts 53 and 58.

c. Beginning one month after certification, the permittee shall submit to the Department a quarterly status report briefly outlining progress made on engineering design and purchase of major pieces of air pollution control equipment. All reports and information required to be submitted under this condition shall be submitted to the Siting Coordination Office, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida, 32301.

D. Malfunction or Shutdown

In the event of a prolonged (thirty days or more) equipment malfunction or shutdown of air pollution control equipment, operation shall be allowed to resume and continue to take place under appropriate Department order, provided that the Licensee demonstrates such operation will be in compliance with all applicable ambient air quality standards and PSD increments and industrial waste rules. During such malfunction or shutdown, the operation of the ICL shall comply with all other requirements of this certification and all applicable state and federal emission standards not affected by the malfunction or shutdown which is the subject of the Order. Operational stoppages exceeding two hours for air pollution control systems or four hours for other systems or operational malfunctions as defined in the operational contingency plans as specified in COC/I-(17) are to be reported as specified in COC/I-(12). Identified operational malfunctions which do not stop operation but may prevent compliance with emission limitations be reported to DER as specified in COC/I-(12).

(2) WETLANDS

A. The proposed pipeline from the project site to Nubbin Slough shall be routed within the ROW of the



United States Department of the Interior

NATIONAL PARK SERVICE
AIR QUALITY DIVISION
P.O. BOX 25287
DENVER, CO 80225

IN REPLY REFER TO:

file PGE
PSD
Shoot to
Jean H.

DATE: 11/18/91

TIME: 3pm

FAX PHONE NO. FTS 327-2822 or (303) 969-2822

NUMBER OF PAGES TO FOLLOW: 2

NOV 19 1991

K. L. Fickett

TO: Kent Fickett

FROM: Chris Shaver

PHONE: 303-969-2075

SUBJECT: Indian town

REMARKS: As first priority, we would like to see results of model analysis your modeler discussed with ours (Indian town, FP+L March, other sources "nearby" or between Indian to Everglades). Once we see individual + semi-cumulative impact results, we will be better able to decide what, if any, additional analyses re: AQI's are needed.



United States Department of the Interior

NATIONAL PARK SERVICE
SOUTHEAST REGIONAL OFFICE

75 Spring Street, S.W.
Atlanta, Georgia 30303



IN REPLY REFER TO

N3615 (SER-ODN)

RECEIVED

OCT 21 1991

OCT 19 1991

Bureau of
Air Regulation

Ms. Patricia G. Adams
Bureau of Air Regulation
Florida Department of Environmental Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Dear Ms. Adams:

We have performed a cursory review of the Indiantown Cogeneration, L.P. Project (ICL) Electric Power Plant Site Certification Review application regarding ICL's proposal to construct a cogeneration facility near Indiantown, Florida, and we find the application incomplete with respect to potential impacts on Everglades National Park (NP). The Indiantown facility will be located approximately 145 km north of Everglades NP, a Class I air quality area administered by the National Park Service. The Site Certification application, which included the Prevention of Significant Deterioration (PSD) application, does not adequately address impacts on air quality and sensitive resources at Everglades NP and, therefore, should be deemed incomplete under 40 CFR 52.21.

In the air quality analysis, ICL did not model the impact of the proposed project on Everglades NP because the facility will be located more than 100 km from the park. As we have indicated in other permit reviews and in our recent letter to you clarifying Federal Land Manager notification procedures, guidance provided by the EPA recognizes the possible impacts of large sources located more than 100 km from a class I area. Therefore, it follows that the analysis of impacts on affected class I areas should not be limited to 100 km, but should include all sources that could impact the class I airshed, regardless of their distance from the area. The National Park Service requests that such analysis be performed for the ICL facility, including both an increment consumption analysis and a total ambient impact analysis.

FEDERAL EXPRESS

QUESTIONS? CALL 800-238-5355 TOLL FREE.

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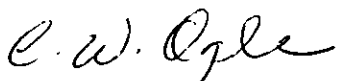
Indiantown Cogeneration, L.P. did not perform an air quality related values (AQRV) analysis for sensitive resources at Everglades NP. Pollutants, such as sulfur dioxide (SO₂), nitrogen oxides (NO_x), and volatile organic compounds (VOC), contribute not only to visibility degradation, but also to the formation of ozone and potential acid loading in the Class I area. Recent reports have indicated that slash pines in Everglades NP may be affected by low ozone concentrations and until further monitoring and research can be done at the park to verify the impacts, we can only assume the contribution of NO_x (and to a much lesser extent VOCs) from the proposed ICL facility will exacerbate the ozone problem.

We are also concerned that the NO_x and SO₂ emissions from the ICL facility may contribute to acid deposition at Everglades NP that could impact the aquatic system. Nitrogen deposition can also lead to unnatural fertilization and can cause shifts in vegetation community composition.

In conclusion, we ask that the Florida Department of Environmental Regulation (FDER) require ICL to conduct complete increment and total ambient impact analyses, for all PSD significant pollutants, for the Everglades NP Class I area before deciding to issue a final permit. To assess potential impacts on sensitive AQRVs, it is important for us and the applicant to know the total ambient concentrations at the Class I area. We ask that the FDER require ICL to perform an AQRV analysis that thoroughly addresses potential impacts to sensitive resources in the park. We reserve the right to have adequate time to review this additional information as part of the review process for this application.

If you have any questions regarding this matter, please contact Dee Morse of our Air Quality Division in Denver at (303) 969-2071.

Sincerely,



FOR
James W. Coleman, Jr.
Regional Director
Southeast Region

October 17, 1991

N3615 (SKR-ODM)

Ms. Patricia G. Adams
Bureau of Air Regulation
Florida Department of Environmental Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

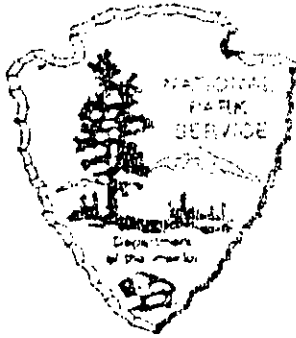
Dear Ms. Adams:

We have performed a cursory review of the Indiantown Cogeneration, L.P. Project (ICL) Electric Power Plant Site Certification Review application regarding ICL's proposal to construct a cogeneration facility near Indiantown, Florida, and we find the application incomplete with respect to potential impacts on Everglades National Park (NP). The Indiantown facility will be located approximately 145 km north of Everglades NP, a class I air quality area administered by the National Park Service. The Site Certification application, which included the Prevention of Significant Deterioration (PSD) application, does not adequately address impacts on air quality and sensitive resources at Everglades NP, and therefore should be deemed incomplete under 40 CFR 52.21.

In the air quality analysis, ICL did not model the impact of the proposed project on Everglades NP because the facility will be located more than 100 km from the park. As we have indicated in other permit reviews and in our recent letter to you clarifying Federal Land Manager notification procedures, guidance provided by the EPA recognizes the possible impacts of large sources located more than 100 km from a class I area. Therefore, it follows that the analysis of impacts on affected class I areas should not be limited to 100 km, but should include all sources that could impact the class I airshed, regardless of their distance from the area. The National Park Service requests that such analysis be performed for the ICL facility, including both an increment consumption analysis and a total ambient impact analysis.

Indiantown Cogeneration, L.P. did not perform an air quality related values (AQRV) analysis for sensitive resources at Everglades NP. Pollutants, such as sulfur dioxide (SO₂), nitrogen oxides (NO_x), and volatile organic compounds (VOC), contribute not only to visibility degradation, but also to the formation of ozone and potential acid loading in the class I area. Recent reports have indicated that slash piles in Everglades NP may be affected by low ozone concentrations and until further monitoring and research can be done at the park to verify the impacts, we can only assume the contribution of NO_x (and to a much lesser extent VOCs) from the proposed ICL facility will exacerbate the ozone problem.

FAX TELECOMMUNICATION
FROM THE SOUTHEAST REGIONAL OFFICE
Office of the Regional Chief Scientist



National Park Service
75 Spring Street SW
Atlanta, GA 30303

DESTINATION (phone #) 904-922-1979

TO: Ms. Patricia O'Dome

ORGANIZATION: Bureau of Air Regulation

FROM: Richard Quarta

ORGANIZATION: SEK ODA

SUBJECT: Indian Town Organization, P. Project

NUMBER OF PAGES TO FOLLOW: 2

REMARKS OR INSTRUCTIONS: _____

FAX Page 404/331-4949
FTS 841-4949

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Date & Time transmitted: _____

Transmitted by: _____

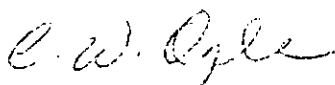
Indiantown Cogeneration, L.P. did not perform an air quality related values (AQRV) analysis for sensitive resources at Everglades NP. Pollutants, such as sulfur dioxide (SO₂), nitrogen oxides (NO_x), and volatile organic compounds (VOC), contribute not only to visibility degradation, but also to the formation of ozone and potential acid loading in the Class I area. Recent reports have indicated that slash pines in Everglades NP may be affected by low ozone concentrations and until further monitoring and research can be done at the park to verify the impacts, we can only assume the contribution of NO_x (and to a much lesser extent VOCs) from the proposed ICL facility will exacerbate the ozone problem.

We are also concerned that the NO_x and SO₂ emissions from the ICL facility may contribute to acid deposition at Everglades NP that could impact the aquatic system. Nitrogen deposition can also lead to unnatural fertilization and can cause shifts in vegetation community composition.

In conclusion, we ask that the Florida Department of Environmental Regulation (FDER) require ICL to conduct complete increment and total ambient impact analyses, for all PSD significant pollutants, for the Everglades NP Class I area before deciding to issue a final permit. To assess potential impacts on sensitive AQRVs, it is important for us and the applicant to know the total ambient concentrations at the Class I area. We ask that the FDER require ICL to perform an AQRV analysis that thoroughly addresses potential impacts to sensitive resources in the park. We reserve the right to have adequate time to review this additional information as part of the review process for this application.

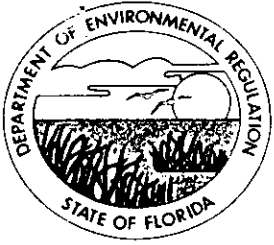
If you have any questions regarding this matter, please contact Dee Morse of our Air Quality Division in Denver at (303) 969-2071.

Sincerely,



James W. Coleman, Jr.
Regional Director
Southeast Region

cc: C. Dancy
W. Andrews
P. Lewis
J. Rogers
B. Owen



Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Lawton Chiles, Governor

Carol M. Browner, Secretary

October 4, 1991

Mrs. Christine Shaver, Chief
Permit Review & Technical Support Branch
National Park Service-Air Quality Division
Post Office Box 25287
Denver, Colorado 80225

Dear Mrs. Shaver:

Re: Indiantown Cogeneration Project
Martin County
PSD-FL-168

Enclosed for your review and comment is the Electric Power Plant Site Certification Review for the above referenced PSD permit application. If you have any comments or questions, please contact Preston Lewis or Tom Rogers at the above address or at (904)488-1344.

Sincerely,

Patricia G. Adams

Patricia G. Adams
Planner
Bureau of Air Regulation

PA/kt

enclosure

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by U.S. Mail or hand delivery to the following this 2d, day of October, 1991.

The Honorable Lawton Chiles
Governor
The Capitol, Room 210
Tallahassee, Florida 32399

The Honorable Jim Smith
Secretary of State
The Capitol, LL-10
Tallahassee, Florida 32399

The Honorable Robert A. Butterworth
Attorney General
The Capitol, Plaza Level
Tallahassee, Florida 32399

The Honorable Bob Crawford
Commissioner of Agriculture
The Capitol, Plaza Level
Tallahassee, Florida 32399

The Honorable Gerald A. Lewis
State Comptroller
The Capitol, Room 2001
Tallahassee, Florida 32399

The Honorable Tom Gallagher
State Treasurer and Insurance Commissioner
The Capitol, LL-27
Tallahassee, Florida 32399

The Honorable Betty Castor
Commissioner of Education
The Capitol, Plaza Level
Tallahassee, Florida 32399

Gary P. Sams
Douglas S. Roberts
Post Office Box 6526
Tallahassee, FL 32314

Hamilton S. Oven, Jr., P.E.
Florida Department of Environmental
Regulation
2600 Blair Stone Road, Room 309L
Tallahassee, FL 32399-2400

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General Counsel
Florida Department of Community Affairs
2740 Centerview Drive
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Vernon Whittier
Assistant General Counsel
Department of Transportation
Haydon Burns Building
605 Suwannee Street, M.S. #58
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John Fumero
South Florida Water Management District
Post Office Box 24680
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Department of Natural Resources
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Michael Palecki, Esquire
Division of Legal Services
Florida Public Service Commission
101 East Gaines Street
Fletcher Building, Room 212
Tallahassee, Florida 32399-0850

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Delray Beach, FL 33482-4514

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Planning Council
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Assistant County Attorney
Martin County
2401 Southeast Monterey Road
Stuart, Florida 34996

Susan M. Coughanour
James Golden
South Florida Water Management District
Post Office Box 24680
West Palm Beach, FL 33416-4680

Brian Sodt
Central Florida Regional Planning Council
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Bartow, Florida 33830-2089

Ralph Artigliere, Attorney
Central Florida Regional Planning
Council
Anderson & Artigliere
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Lakeland, Florida 33807

John D. Cassels, Jr.
Counsel for Okeechobee County
Post Office Box 968
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Okeechobee, Florida 34972


RICHARD T. DONELAN, Jr.
Assistant General Counsel
Department of Environmental
Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400
904/488-9730

BEFORE THE GOVERNOR AND CABINET
OF THE STATE OF FLORIDA

In Re: APPLICATION FOR)	
POWER PLANT SITE CERTIFICATION)	DOAH CASE NO. 90-8072EPP
OF INDIANTOWN COGENERATION)	DER CASE NO. PA 90-31
PROJECT)	
<hr/>		

FINAL ORDER

BY THE GOVERNOR AND CABINET

The Governor and Cabinet, sitting as the Siting Board, pursuant to the Florida Electrical Power Plant Siting Act, Section 403.501 et seq., Florida Statutes (Supp 1990), have reviewed the Recommended Order dated August 5, 1991, which is attached as Exhibit 1. No exceptions have been filed by any party. Therefore, it is

ORDERED:

1. The Recommended Order is adopted as the final order of the Siting Board.
2. The Siting Board finds that the proposed power plant site, including a 330 MW coal-fired cogeneration facility and associated cooling water pipeline, is consistent and in compliance with local land use plans and zoning ordinances.

DONE AND ENTERED THIS 24th day of September,
1991, in Tallahassee, Florida pursuant to the vote of the
Governor and Cabinet, sitting as the Siting Board, at a duly
constituted Cabinet meeting, September 24, 1991.

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to S120.52
Florida Statutes, with the designated Depart-
ment Clerk, receipt of which is hereby acknow-
ledged.

Randy C. Carter 10-1-91
Clerk Date

BY THE GOVERNOR AND CABINET
SITTING AS THE SITING BOARD

Lawton Chiles
LAWTON CHILES
GOVERNOR



State of Florida
Division of Administrative Hearings
The DeSoto Building, 1230 Apalachee Parkway
Tallahassee, FL 32399-1550
(904) 488-9675 • SunCom: 278-9675
August 5, 1991

Sharyn L. Smith
Director

Ann Cole
Clerk

Honorable Lawton Chiles
Governor
State of Florida
The Capitol
Tallahassee, FL 32399

Honorable Jim Smith
Secretary of State
State of Florida
The Capitol, PL02
Tallahassee, FL 32399-0250

Honorable Robert A. Butterworth
Attorney General
State of Florida
The Capitol
Tallahassee, FL 32399-1050

Honorable Tom Gallagher
Treasurer and Insurance
Commissioner
State of Florida
The Capitol
Tallahassee, FL 32399-0300

Honorable Bob Crawford
Commissioner of Agriculture
State of Florida
The Capitol
Tallahassee, FL 32399-0810

Honorable Gerald A. Lewis
Comptroller
State of Florida
The Capitol, Plaza Level
Tallahassee, FL 32399-0350

Honorable Betty Castor
Commissioner of Education
State of Florida
The Capitol
Tallahassee, FL 32399

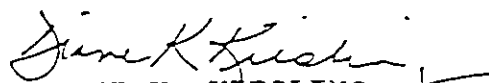
Re: Application for Power Plant Site Certification of
Indiantown Cogeneration Project, DOAH Case No. 90-
8072EPP

Dear Siting Board:

Enclosed is my Recommended Order in the Land Use portion of the referenced case. Exhibits received in evidence have been delivered to Richard T. Donelan, Jr., at the Department of Environmental Regulation. A transcript of this hearing was not filed with the Division.

As required by Section 120.58(5), Florida Statutes, please provide the Division of Administrative Hearings a copy of your final order in this case within 15 days of rendition.

Sincerely,


DIANE K. KIESLING
Hearing Officer

DKK:dw
Enclosure
cc: (See next page)

RECEIVED
8/5/91

Siting Board
August 5, 1991
Page 2

cc: Douglas S. Roberts, et al.
Richard T. Donelan, Jr.
Steven Pfeiffer , et al.
H. R. Bishop, et al.
Fred W. Van Vonno
John Fumero
Roger G. Saberson
Peter Merritt
Ken Plante
Robert V. Elias
Brian Sodt
John D. Cassels, Jr.
James Antista
Hamilton S. Oven, Jr.
Board of Trustees of the Internal Improvement Trust Fund

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

In Re:	APPLICATION FOR POWER PLANT) SITE CERTIFICATION OF) INDIANTOWN COGENERATION) PROJECT)	DOAH CASE NO. 90-8072EPP DER CASE NO. 90-31
--------	--	--

RECOMMENDED ORDER

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Hearing Officer, Diane K. Kiesling, held a formal hearing in the above-styled case on July 30, 1991, in Indiantown, Florida.

APPEARANCES

For Indiantown Cogeneration Project:	Gary P. Sams Douglas S. Roberts Hopping Boyd Green & Sams 123 S. Calhoun Street Post Office Box 6526 Tallahassee, FL 32314
For Department of Environmental Regulation.	Richard T. Donelan Assistant General Counsel 2600 Blair Stone Road Tallahassee, FL 32399-2400
For Department of Community Affairs	Steven Pfeiffer, General Counsel 2740 Centerview Drive Tallahassee, FL 32399-2100
For Department of Transportation	H. R. Bishop Assistant General Counsel Haydon Burns Building 605 Suwannee Street Tallahassee, FL 32399
For Martin County:	Fred W. Van Vonno Assistant County Attorney 2401 Southeast Monterey Road Stuart, FL 34996

STATEMENT OF THE ISSUES

The issue for determination is whether the proposed Indiantown Cogeneration, L.P. (ICL) Project site is consistent and in compliance with existing land use plans and zoning ordinances of Martin County and Okeechobee County, Florida. See Section 403.508(2), Florida Statutes. No party to the proceeding disputes that the site is consistent and in compliance with the plans and ordinances in effect on December 21, 1990, when the application was filed.

PRELIMINARY STATEMENT

Pursuant to the Florida Electrical Power Plant Siting Act, Sections 403.501 - 403.519, Florida Statutes, on December 21, 1990, ICL filed an application for power plant site certification (SCA) for the construction and operation of a coal-fired cogeneration project at a site in western Martin County. This Project is known as the Indiantown Cogeneration Project. The statutory scheme requires this land use hearing and a separate certification hearing, which will be held at a later date.

At the hearing, ICL presented the testimony of Stephen Sorrentino, Charles Carlton, Analee Moore, and Paul Darst. ICL Exhibits 2-7, 9-12, 15, 17-28 were admitted into evidence. The Department of Community Affairs (DCA) called Paul Darst.

A Joint Proposed Recommended Order of ICL, DER, DCA, and Martin County was filed on August 2, 1991, and admitted as ICL Exhibit 29. No other parties filed briefs or proposed recommended orders. All parties who did not join in the Joint

Proposed Recommended Order or did not appear at the land use hearing have waived their opportunity to contest land use issues. Said waivers have been made both tacitly and expressly.

The Joint Proposed Recommended Order is incorporated in this Recommended Order.

FINDINGS OF FACT

1. ICL published notices of this land use hearing on June 15, 1991, in The Stuart News, on June 19, 1991, in The Indiantown News, and on June 16, 1991, in The Okeechobee News. Notices of this hearing were published by the Department of Environmental Regulation in the Florida Administrative Weekly on June 28, 1991. ICL mailed notice of this hearing to the chief executives of the local and regional authorities with responsibility for zoning and land use planning whose jurisdiction includes the site. The Applicant, ICL, posted a notice of this hearing at the proposed site.

2. ICL proposes to construct and operate a 330 MW cogeneration facility which captures waste heat from electrical generation to produce steam for industrial processes. The facility will burn pulverized coal to generate electricity for sale to Florida Power & Light Company (FPL) and supply up to 225,000 pounds per hour of steam for drying operations at the adjacent Caulkins Citrus Processing plant.

3. Steam generation will be accomplished by means of a pulverized coal boiler. The boiler will be of an outdoor natural-circulation type in which coal will be mixed with air and ignited. Electricity will be generated by passing steam produced

by the boiler through an extraction-condensing turbine generator. Sulfur oxide and nitrogen oxide compounds and particulates will be removed from the boiler exhaust gases using various removal systems.

4. Coal will be delivered by trains arriving from the north. A rail loop and coal unloading, handling and storage facilities will be constructed onsite. Ash will be temporarily stored in onsite silos before being removed from the site.

5. A new site access road will be constructed along the western and southern boundary of the site to provide access to State Road 710 and West Farm Road. A railroad spur across the adjacent Florida Steel plant site will connect the site to the CSX railroad.

6. The proposed project will include a water pipeline that will extend 19 miles southeast from Taylor Creek/Nubbin Slough in Okeechobee County to the facility site. An intake structure will be constructed at Taylor Creek/Nubbin Slough to pump water to the plant site. To distribute electricity generated, the ICL facility's electrical switch yard will connect to an existing FPL electrical transmission line which crosses the northern portion of the Project site.

Site for Indiantown Cogeneration Project

7. The site for the proposed Indiantown Cogeneration Project is a 220 acre tract which lies approximately 20 miles west of Stuart, three miles northwest of Indiantown and nine miles east of Lake Okeechobee. To the north of the Site are the Caulkins Citrus Processing Plant and a vacant Florida Steel

Corporation plant site. Both of these facilities border State Road 710 and the CSX Railroad.

8. The proposed corridor for the cooling water pipeline to serve the Project is within the existing CSX Railroad right-of-way which parallels State Road 710, running southeast from the intake structure location in Okeechobee County to the site. The permanent right-of-way for the pipeline is to be located within this corridor.

Consistency and Compliance of the
Project Site with Local Land Use Plans
of Martin County

9. The proposed site is designated for "Industrial" use on the Land Use Map adopted by the Martin County Board of County Commissioners (BOCC) as part of its 1990 Comprehensive Growth Management Plan (Martin Plan).

10. The Martin Plan was the local land use plan in effect in Martin County on the date ICL filed this SCA. This Plan encouraged future development of industrial uses, including cogeneration facilities, to occur under a planned unit development industrial zoning classification. The evidence at the hearing established that the Project is consistent and in compliance with the Martin Plan in effect on the date ICL filed the SCA.

11. During the PUD(i) rezoning process discussed below, the proposed project was also reviewed by Martin County for consistency with the other policies of the Martin Plan. The project, as proposed, was found to be consistent with this Plan.

12. On July 9, 1991, the Martin County BOCC adopted a land text amendment (ICL Exhibit 9), which added steam/electricity cogeneration plants as permitted uses within areas designated Industrial. The Department of Community Affairs has made no determination as to the amendment's compliance or non-compliance with Chapter 163 and specifically reserves its responsibility to review the amendment pursuant to its statutory authorization.

Consistency of the Project Site
With Martin County Zoning Regulations

13. The Project is consistent and in compliance with the industrial zoning of Martin County that was in effect for the Project Site on December 21, 1990, the date ICL filed its SCA.

14. On July 23, 1991, the BOCC granted petitions by ICL to change the zoning for the proposed site from M-3 and M-1, industrial, to Planned Unit Development (industrial) or PUD(i); to grant a height exception for structures higher than 60 feet; and to grant an advertised conditional use for utilities. All parties present throughout the land use hearing have stipulated that this zoning change and related approvals do not affect adversely the use of the site as the location for the proposed power plant while still protecting the public interest under the applicable land use plan and zoning ordinances of Martin County.

15. The later-adopted PUD(i) zoning criteria for the Project are contained in a document titled "Indiantown Cogeneration Project Planned Unit Development Zoning Agreement" between ICL, the current property owners, and the Martin County BOCC, dated July 23, 1991.

16. The PUD Agreement establishes certain conditions and standards upon which construction and operation of the ICL project may be undertaken at the proposed site. The Agreement incorporates and references various other local regulations with which a project at this site must comply. The PUD(i) zoning agreement also recognizes that final approval for the project will be obtained under the Florida Electrical Power Plant Siting Act, Chapter 403, Part II, Florida Statutes, and that the final development plan of approval contemplated by the Agreement would be obtained through this certification process.

17. The PUD(i) Agreement provides that ICL shall have the right to develop the project in accordance with applicable laws, ordinances and regulations; with the provisions and requirements of the PUD(i) Zoning Agreement; and with the Preliminary and Final Development Plans.

18. Exhibit D to the PUD(i) Zoning Agreement is a Preliminary Development Plan for the ICL project. This exhibit provides a conceptual layout for the proposed project that is subject to modification based on detailed site planning and engineering required as part of the certification of the Project in conjunction with the final development plan approval (site certification process). The Project, as proposed in the SCA, is consistent with this Preliminary Development Plan.

19. A development schedule for the proposed project is established in Exhibit E to the PUD(i) Agreement. This timetable contemplates and incorporates site certification by the Governor and Cabinet under the Florida Electrical Power Plant Siting Act.

ICL will be able to develop the Project proposed in the SCA consistent with this timetable.

20. Twenty-two (22) Special Conditions are established for the Indiantown Cogeneration Project in Exhibit F to the PUD Agreement. ICL has committed to meet all of the Special Conditions and its design, as developed to date and presented in the site certification application, is consistent and in compliance with all twenty-two Special Conditions. The special conditions are:

- A. Special Conditions 1 and 4 require that certain precautions be taken in the event that archaeological artifacts or endangered plants and animals are discovered on the site.
- B. A \$1 million Community trust program is to be created by ICL to benefit projects in the Indiantown community, under Special Condition 2. Special Condition 8 requires ICL to encourage Project employees to live and become active in the Indiantown Community. Under Special Condition 10, ICL is to make employment applications available in the Indiantown area during periods of significant hiring.
- C. Special Condition 3 provides that ICL is solely responsible for obtaining necessary drainage permits from the South Florida Water Management District and that Martin County has no responsibility for funding of Project drainage improvements.

- D. With regard to special Condition 5, the Department of Community Affairs concurs that the evidence at the land use hearing established that the Project at this location is consistent and in compliance with local land use plans and zoning ordinances in effect as of December 21, 1990.
- E. Special Condition 6 prohibits disposal of wastewater filter cake at the Martin County landfill.
- F. Under Special Condition 7, ICL agrees not to haul fill to or from the Site without Martin County approval. This is in compliance with the Excavation and Fill provisions of the Martin County Code, Sections 33-804, 805, 806, and 809.
- G. A hazardous waste management plan, consistent with a hazardous waste management plan attached to the Zoning Agreement, is required by Special Condition 8.
- H. Landscaping along the access road and around the administration buildings and parking areas is required by Special Condition 10. This condition satisfies the requirements of the Martin County Landscape Code, Chapter 23, Article III of the Martin County Code.
- I. Special Condition 13 requires that plant operations not cause unreasonable levels of sound to reach the boundary of any existing adjacent residential

district. ICL is to provide general public notice of any planned steamblows. No quantitative noise standards are established by Martin County.

J. Special Condition 14 establishes performance standards which are consistent with the provisions of Section 33-581.44(G) and (H) of the Martin County Code. The performance standards establish limits on the density of smoke; size of particulates; emissions of odors, dust and dirt, and of obnoxious gases and fumes; sewage disposal; set-backs for unenclosed buildings; fire protection measures; building heights; vegetative buffers adjacent to S.R. 710; and Project lighting. Several of these special performance standards provide additionally for compliance to be shown as part of the final certification order under the Florida Electrical Power Plant Siting Act.

K. Special Conditions 15 and 17 provide that potable water and wastewater services for the Project will be supplied by the Indiantown Company. Final agreements for the provisions of these services are to be provided as part of the final development plan approval.

L. Special Condition 16 provides for protection of upland and wetland preserve areas as shown on the approved development plans. This condition complies with the upland and wetland preservation

policies of the Martin County Comprehensive Growth Management Plan.

- M. The size and dimension criteria of project facilities are governed by Special Condition 18.
- N. Special Condition 19 requires that soil erosion and sedimentation be controlled during construction through such practices as wetting, seeding or sodding of exposed areas. Under Special Condition 20, shoulders of Project roadways are to be stabilized.
- O. Pursuant to Special Condition 22, a south-bound turn lane on S.R. 710 is to be constructed at the entrance road to the Project.
- P. Permitted uses on the site are set out in Special Condition 23, allowing uses including pulverized coal electric generating unit, coal handling and storage facilities, rail transportation facilities, and other associated facilities. The uses permitted are described in greater detail in attachment 4 to that Exhibit F.

21. The ICL Project, as designed, committed to by ICL, and proposed in the site certification application, is consistent and in compliance with the foregoing provisions of the PUD(i) Zoning Agreement.

Project Compliance with
Martin County Height Limitations

22. On July 23, 1991, the Martin County BOCC adopted a special exception to allow heights in excess of 60 feet for

facilities associated with the Indiantown Cogeneration Project. The project, as proposed, is consistent and in compliance with the provisions of this height exception. The PUD(i) Zoning Agreement in Special Condition 13 establishes maximum heights of the various project facilities; and the proposed Indiantown Cogeneration Project, as designed, committed to by ICL and proposed in the site certification application, complies with all of them.

Consistency and Compliance of the
Water Pipeline, Rail Spur and Site Access Road with
Local Land Use Plans and Zoning
Ordinances of Martin and
Okeechobee Counties

23. The location and construction of the cooling water pipeline is consistent with the policies of the Martin County Comprehensive Growth Management Plan that protect the residential quality of life and prevent impacts to tree canopies and soil erosion from such uses. The Martin County Zoning Code provides, in Chapter 35, Article II, that normal linear distribution facilities, such as the proposed water pipeline, are excepted from the definition of those utilities that are treated as advertised conditional uses. The water pipeline is, therefore, a permitted use in all zoning districts in Martin County.

24. The Electric Utility Element of the adopted Okeechobee County Comprehensive Plan (Okeechobee Plan) provides that support facilities needed to provide electric utility service are deemed consistent with that Plan and are an allowed use in all land use categories. The water pipeline and intake structure are necessary support facilities to the Indiantown

Cogeneration Project and, therefore, are consistent with the Okeechobee Plan. The Okeechobee County zoning ordinance allows, in any zoning district, installations necessary to the performance of an essential service, including water systems. Such facilities are to conform to the character of the zoning district. The water pipeline and intake structure are consistent with these provisions of the Okeechobee County zoning regulations.

25. The Martin Plan provides that new rail facilities and roads be designed to minimize impacts on natural systems, which ICL has done in the siting of the rail spur and site access road to serve the site. The proposed location of the site access road is in the basic alignment of a future road between S.R. 710 and West Farm Road shown in the Traffic Circulation Element of the Martin Plan. The site access road to be constructed by ICL fulfills this objective of the Plan. Martin County zoning regulations are silent on the issue of the location of a rail spur or new roads. The proposed access road and rail spur are, therefore, consistent and in compliance with Martin County land use plans and zoning ordinances.

CONCLUSIONS OF LAW

1. The Division of Administrative Hearings has jurisdiction over the parties to, and the subject matter of, these proceedings. Section 403.508(1), Florida Statutes.

2. The sole issue for determination in this land use hearing is whether the project site is consistent and in compliance with existing land use plans and zoning ordinances of

Martin County and Okeechobee County, Florida. Section 403.508(2), Florida Statutes.

3. Any defects in the publication of notice of this hearing due to the publication schedules of the various newspapers are immaterial due to the breadth of notice given for this hearing. Pursuant to Section 403.5095, Florida Statutes, and Rule 17-17.161(2), Florida Administrative Code, any such defects are found to be inadvertent and immaterial and not to have affected the ability of the public to participate in this hearing. The notice time frames are adjusted accordingly.

4. For project facilities located within Martin County, the applicable land use plans and zoning ordinances are those adopted by Martin County in effect as of December 21, 1990, the date of ICL's site certification application. It has been established by competent, substantial evidence, and all parties present throughout the land use hearing have stipulated, that the proposed power plant site, as the location for a coal-fired cogeneration facility with a capacity of 330 megawatts, the access road and the rail spur, are consistent and in compliance with the Martin County Comprehensive Growth Management Plan and with the zoning ordinances of Martin County for this site and project.

5. The heights of facilities proposed by ICL in its design and site certification application are consistent and in compliance with the special height exception granted by Martin County.

6. ICL's proposed water pipeline is a permitted use in all Martin County zoning districts and is consistent with Martin County's land use plans. Accordingly, the proposed pipeline corridor is consistent and in compliance with the applicable land use plans and zoning ordinances of Martin County.

7. The Indiantown Cogeneration Project Planned Unit Development Zoning Agreement and the land use text amendment regarding cogeneration plants within areas designated Industrial as adopted by the Martin County Board of County Commissioners subsequent to the filing of the Site Certification Application do not affect the proposed site in a manner so as to prevent or impair its use as a location for this project. Section 403.508(2), Florida Statutes (Supp. 1990). This order in no way disturbs the legal status of the PUD Agreement and the obligations of ICL and Martin County under its provisions.

8. The Department of Community Affairs concurs that the evidence at the land use hearing established that the project at the proposed location is consistent with the existing Martin County Comprehensive Plan and land development regulations. DCA specifically reserves, and this order does not affect, its responsibility to review, pursuant to Chapter 163, Part II, Florida Statutes (1989), the land use text plan amendment adopted by the Martin County BOCC on July 9, 1991, which added steam/electricity cogeneration plants as permitted uses within areas designated Industrial. Further, DCA has made no determination as to the amendment's compliance or non-compliance with Chapter 163.

9. For Project facilities located in Okeechobee County, the applicable land use plans and zoning ordinances are those adopted by Okeechobee County in effect as of December 21, 1990. Section 403.508(2), Florida Statutes (Supp. 1990). The Okeechobee County Zoning Code is applicable to the location of the water pipeline and intake structure located in Okeechobee County.

10. It has also been established by competent, substantial evidence that the proposed locations for the water intake structure and the water pipeline in Okeechobee County are consistent and in compliance with the Okeechobee County Comprehensive Plan and the Okeechobee County Zoning Ordinance. ICL's proposed water pipeline is a permitted use in all Okeechobee County zoning districts.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby

RECOMMENDED:

That the Governor and Cabinet, sitting as the Siting Board, enter a final order determining that the proposed Indiantown Cogeneration Project and its site (including the associated water pipeline and intake structure), as proposed in the Site Certification Application, are consistent and in compliance with land use plans and zoning ordinances of Martin and Okeechobee Counties.

DONE AND ENTERED this 5th day of August, 1991, in Tallahassee, Leon County, Florida.

Diane K. Kiesling

DIANE K. KIESLING, Hearing Officer
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550
(904) 488-9675

Filed with the Clerk of the Division
of Administrative Hearings this 5th
day of August, 1991.

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS: All parties have the right to submit written exceptions to this Recommended Order. All agencies allow each party at least 10 days in which to submit written exceptions. Some agencies allow a larger period within which to submit written exceptions. You should contact the agency that will issue the final order in this case concerning agency rules on the deadline for filing exceptions to this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.

Copies furnished:

Douglas S. Roberts
Gary P. Sams
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Post Office Box 6526
Tallahassee, FL 32314
(Counsel for Applicant)

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Kathryn Funchess, Assistant General Counsel
David L. Jordan, Assistant General Counsel
G. Stephen Pfeiffer, General Counsel
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