

Certified Mail No. Z-120-759-620
Return Receipt Requested



ORLANDO UTILITIES COMMISSION

500 SOUTH ORANGE AVENUE ▪ P. O. BOX 3193 ▪ ORLANDO, FLORIDA 32802 ▪ 407/423-9100

November 13, 1996

RECEIVED

NOV 18 1996

**BUREAU OF
AIR REGULATION**

Mr. John C. Brown, Jr., P. E.
Administrator Title V Section
Florida Department of
Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Responsible Official - Title V

Dear Mr. Brown:

Enclosed for updating of your files is a copy of the ratified Orlando Utilities Commission's "Designated Representative Agreement for Indian River Plant and Stanton Energy Center By and Between Orlando Utilities Commission Frederick f. Haddad, Jr., and Gregory A. DeMuth" and a copy of the Certificate of Representation for both the Stanton Energy Center and the Indian River Plant.

I trust these documents will demonstrate that I have been appropriately delegated the authority to act in all matters relating to Title V permits and submittals.

Thank you for your consideration. Should you have any questions or require additional information, please call me at 407/423-9100.

Sincerely,

A handwritten signature in black ink that reads "Gregory A. DeMuth".

Gregory A. DeMuth, Director
Environmental Division/
Alternate Designated Representative

GAD:rc
Enclosures

xc: F. F. Haddad
T. B. Tart
R. F. Hicks

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ORLANDO UTILITIES COMMISSION
MEETING AGENDA ITEM

Official Use Only
A-37

- Affirmative Item
- To be Ratified
- Other/ _____

For Meeting of: April 9, 1996
 From: Thomas B. Tart, Esq.
 Signature: *Thomas B. Tart*
 Exhibits: Indemnification Agreement

SUBJECT:

Indemnification Agreement

SUMMARY:

The EPA's Clean Air Act Amendments of 1990 require that a responsible corporate official or an alternate certify all submittals required under the Acid Rain portion of the Act. There are significant civil and criminal penalties associated with non-performance of duties of the responsible officials. The document is an agreement between the Commission and the selected responsible official and the alternate providing indemnification to the extent permitted by law.

FISCAL DATA: *(As applicable, cite funding source; original approval date and contract amount, contract effective date, cumulative change orders, recurring costs (e.g., operating & maintenance)).*

N/A

RECOMMENDED ACTION:

Ratification of Indemnification Agreement to cover Frederick F. Haddad, Jr. and Gregory A. DeMuth.

APPROVED BY
COMMISSION
4/9/96

Designated Representative Agreement

for

**Indian River Plant and
Stanton Energy Center**

By and Between

Orlando Utilities Commission

Frederick F. Haddad, Jr.

and

Gregory A. DeMuth

THIS AGREEMENT, made as of the 9th day of April 1996, is by and between Orlando Utilities Commission, a Statutory Commission, Frederick F. Haddad, Jr., an individual, and Gregory A. DeMuth, an individual (all collectively referred to as the "Parties" or, in the singular, as the "Party").

WITNESSETH:

WHEREAS, the Indian River Plant (IRP) and Stanton Energy Center (SEC) are affected sources under Title IV (the "Acid Rain Program") of the Clean Air Act Amendments of 1990 (the "Act") (PL 101-549) and are owned by the Orlando Utilities Commission (OUC).

WHEREAS, the Acid Rain Program requires the owners and operators of each affected source to designate a natural person to represent the source in matters pertaining to the Acid Rain Program requirements, including the holding, transfer or disposition of allowances allocated or the units at the affected source and the submission of permit applications, compliance plans and monitoring information for the affected source; and

WHEREAS, the rules to implement the Acid Rain Program ("Acid Rain Program Rules," to be codified at 40 C.F.R. Parts 72-78) allow the owners and operators of an affected source to designate an alternative representative to represent the source in matters pertaining to the Acid Rain Program;

NOW, THEREFORE, the Parties hereto agree for good and adequate consideration to the following terms and conditions.

I. APPOINTMENT OF A DESIGNATED REPRESENTATIVE AND AN ALTERNATE DESIGNATED REPRESENTATIVE

The Parties agree that Frederick F. Haddad, Jr. shall be appointed as the Designated Representative ("DR") and Gregory A. DeMuth shall be appointed as the Alternate Designated Representative ("ADR") to represent OUC, as Owner of IRP and SEC, in all matters pertaining to the Acid Rain Program.

II. FILING OF CERTIFICATES OF REPRESENTATION

Pursuant to the Acid Rain Program Rules, the DR and ADR must file a Certificate of Representation, EPA Form 7610-1, (copy attached) with the Administrator of the United States Environmental Protection Agency ("EPA"), to be authorized to represent an affected source in matters pertaining to the Acid Rain Program. Frederick F. Haddad, Jr. and Gregory A. DeMuth, as the DR and ADR, respectively, agree to file a Certificate of Representation with the Administrator of the EPA, in accordance with 40 C.F.R. § 72.24, upon execution of this Agreement. Frederick F. Haddad, Jr. and Gregory A. DeMuth shall be authorized to represent and legally bind OUC, as the DR and ADR, respectively, upon receipt of the Certificate of Representation by the Administrator of the EPA.

III. RIGHTS AND OBLIGATIONS OF THE DR AND THE ADR

- A. The DR and ADR shall have the rights and obligations specified in the Act and the Acid Rain Program Rules.
- B. The ADR shall have the authority to sign and certify submissions to the EPA or any other applicable permitting authority in lieu of the DR whenever the DR is unavailable. The term "unavailable" shall include, but not be limited to, illness or absence from the premises of IRP or SEC.
- C. If conflicting actions are taken by the DR and the ADR, the actions of the DR shall take precedence.

IV. ALLOWANCE TRANSFERS

All transfers of allowances shall be executed by the DR.

V. TERMINATION

- A. This Agreement may be terminated by any Party upon 30 days written notice. Frederick F. Haddad, Jr. and Gregory A. DeMuth agree to continue to represent OUC, as DR and ADR, respectively, until a superseding Certificate of Representation is filed with the Administrator of the EPA.
- B. If Frederick F. Haddad, Jr. or Gregory A. DeMuth should leave the employment of OUC, their authority to act as DR or ADR shall cease immediately upon termination of employment. The DR or ADR shall give 30 days prior written notice of any voluntary termination of employment and the DR shall assist in the selection of and filing of a Certificate of Representation for any successor DR selected by OUC.

VI. To the extent permitted by law, OUC agrees to indemnify and hold the DR and ADR harmless from and against any losses, liabilities, costs, expenses, suits, actions, claims and all other obligations and proceedings whatsoever, including without limitation, all judgments rendered against and all fines and penalties imposed upon the DR and ADR, for any reasonable attorneys' fees and any other costs of litigation (hereinafter referred to as "liabilities") arising out of this Agreement, including without limitation, injuries to persons or damage to property caused by, or in any way attributable to, the performance of the DR's or ADR's duties pursuant to this Agreement, except that OUC's obligation to indemnify the DR or ADR shall not apply to any liabilities to the extent the liabilities arise from the DR's or ADR's gross negligence or are the direct consequences of the DR's or ADR's fraudulent or dishonest conduct. If this indemnity provision is unenforceable under the applicable state law, this Article shall be interpreted to impose the maximum legal obligation permitted under such law.

VII. **APPLICABLE LAWS AND JURISDICTION**

Except to the extent federal law as evidenced in the Acid Rain Program is applicable, the rights and obligations of the Parties arising out of this Agreement shall be governed in all respects by the laws of the State of Florida.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first above written.

ORLANDO UTILITIES COMMISSION

By: 

Its: GENERAL MANAGER & CEO

Frederick F. Haddad, Jr.



Gregory A. DeMuth



Attachment



Certificate of Representation

For more information, see instructions and refer to 40 CFR 72.24

This submission is: New Revised

Step 1

Identify the source by plant name, State, and ORIS code from NADB

Plant Name	Indian River Plant	State	FL	ORIS Code	683
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Enter requested information for the designated representative

Name	Frederick F. Haddad, Jr.		
Address	5100 Alafaya Trail Orlando, FL 32831		
Phone Number	407/658-6444	Fax Number	407/244-8794

Enter requested information for the alternate designated representative (optional)

Name	Gregory A. DeMuth		
Address	500 S. Orange Avenue P.O. Box 3193 Orlando, Florida 32802		
Phone Number	407/423-9100	Fax Number	407/236-9616

Step 4

Complete Step 5, read the certifications and sign and date

I certify that I was selected as the designated representative or alternate representative, as applicable, by an agreement binding on the owners and operators of the affected source and each affected unit at the source.

I certify that I have given notice of the agreement, selecting me as the designated representative or alternate designated representative, as applicable for the affected source and each affected unit at the source identified in this certificate of representation, daily for a period of one week in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice.

I certify that I have all necessary authority to carry out my duties and responsibilities under the Acid Rain Program on behalf of the owners and operators of the affected source and of each affected unit at the source and that each such owner and operator shall be fully bound by my actions, inactions, or submissions.

I certify that I shall abide by any fiduciary responsibilities imposed by the agreement by which I was selected as designated representative or alternate designated representative, as applicable.

I certify that the owners and operators of the affected source and of each affected unit at the source shall be bound by any order issued to me by the Administrator, the permitting authority, or a court regarding the source or unit.

Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, an affected unit, or where a utility or industrial customer purchases power from an affected unit under life-of-the-unit, firm power contractual arrangements, I certify that:

I have given a written notice of my selection as the designated representative or alternate designated representative, as applicable, and of the agreement by which I was selected to each owner and operator of the affected source and of each affected unit at the source; and

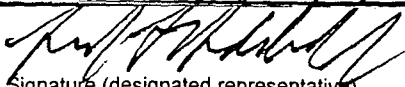
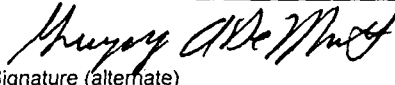
Allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement or, if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in accordance with the contract.

The agreement by which I was selected as the alternate designated representative includes a procedure for the owners and operators of the source and affected units at the source to authorize the alternate designated representative to act in lieu of the designated representative.

Indian River Plant Plant Name (from Step 1)

Certification

I am authorized to make this submission on behalf of the owners and operators of the affected source or affected units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.

 Signature (designated representative)	Date 6/17/96
 Signature (alternate)	Date 6/19/96

Step 5
 Provide the name of every owner and operator of the source and each affected unit at the source. Identify the units they own and/or operate by boiler ID# from NADB. For owners only, identify each state or local utility regulatory authority with jurisdiction over each owner

Orlando Utilities Commission Name				<input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> Operator		
ID# 1	ID# 2	ID# 3	ID# C	ID# D	ID#	ID#
ID#	ID#	ID#	ID#	ID#	ID#	ID#
Regulatory Authorities						

Kissimmee Utility Authority Name				<input checked="" type="checkbox"/> Owner <input type="checkbox"/> operator		
ID# C	ID# D	ID#	ID#	ID#	ID#	ID#
ID#	ID#	ID#	ID#	ID#	ID#	ID#
Regulatory Authorities						

Florida Municipal Power Agency Name				<input checked="" type="checkbox"/> Owner <input type="checkbox"/> operator		
ID# C	ID# D	ID#	ID#	ID#	ID#	ID#
ID#	ID#	ID#	ID#	ID#	ID#	ID#
Regulatory Authorities						

EPA

Certificate of Representation

Page 1

For more information, see instructions and refer to 40 CFR 72.24

This submission is: New Revised

Step 1

Identify the source by plant name, State, and ORIS code from NADB

Curtis H. Stanton Energy Center	FL	564
Plant Name	State	ORIS Code

Enter requested information for the designated representative

Frederick F. Haddad, Jr.	
Name	
Address	
5100 Alafaya Trail Orlando, FL 32831	
407/658-6444	407/244-8794
Phone Number	Fax Number

Enter requested information for the alternate designated representative (optional)

Gregory A. DeMuth	
Name	
Address	
500 S. Orange Avenue P.O. Box 3193 Orlando, Florida 32802	
407/423-9100	407/236-9616
Phone Number	Fax Number

Step 4

Complete Step 5, read the certifications and sign and date

I certify that I was selected as the designated representative or alternate representative, as applicable, by an agreement binding on the owners and operators of the affected source and each affected unit at the source.

I certify that I have given notice of the agreement, selecting me as the designated representative or alternate designated representative, as applicable for the affected source and each affected unit at the source identified in this certificate of representation, daily for a period of one week in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice.

I certify that I have all necessary authority to carry out my duties and responsibilities under the Acid Rain Program on behalf of the owners and operators of the affected source and of each affected unit at the source and that each such owner and operator shall be fully bound by my actions, inactions, or submissions.

I certify that I shall abide by any fiduciary responsibilities imposed by the agreement by which I was selected as designated representative or alternate designated representative, as applicable.

I certify that the owners and operators of the affected source and of each affected unit at the source shall be bound by any order issued to me by the Administrator, the permitting authority, or a court regarding the source or unit.

Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, an affected unit, or where a utility or industrial customer purchases power from an affected unit under life-of-the-unit, firm power contractual arrangements, I certify that:

I have given a written notice of my selection as the designated representative or alternate designated representative, as applicable, and of the agreement by which I was selected to each owner and operator of the affected source and of each affected unit at the source; and


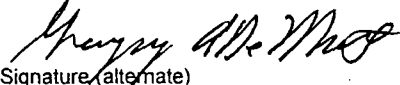
Allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement or, if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in accordance with the contract.

The agreement by which I was selected as the alternate designated representative includes a procedure for the owners and operators of the source and affected units at the source to authorize the alternate designated representative to act in lieu of the designated representative.

Curtis H. Stanton Energy Center
Plant Name (from Step 1)

Certification

I am authorized to make this submission on behalf of the owners and operators of the affected source or affected units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.

 Signature (designated representative)	Date 6/17/96
 Signature (alternate)	Date 6/17/96

Step 5
Provide the name of every owner and operator of the source and each affected unit at the source. Identify the units they own and/or operate by boiler ID# from NADB. For owners only, identify each state or local utility regulatory authority with jurisdiction over each owner

Orlando Utilities Commission				<input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> Operator		
Name						
ID# 1	ID# 2	ID#	ID#	ID#	ID#	ID#
ID#	ID#	ID#	ID#	ID#	ID#	ID#
Regulatory Authorities						

Kissimmee Utility Authority				<input checked="" type="checkbox"/> <input type="checkbox"/> operator		
Name						
ID# 1	ID#	ID#	ID#	ID#	ID#	ID#
ID#	ID#	ID#	ID#	ID#	ID#	ID#
Regulatory Authorities						

Florida Municipal Power Agency				<input checked="" type="checkbox"/> <input type="checkbox"/> operator		
Name						
ID# 1	ID# 2	ID#	ID#	ID#	ID#	ID#
ID#	ID#	ID#	ID#	ID#	ID#	ID#
Regulatory Authorities						