

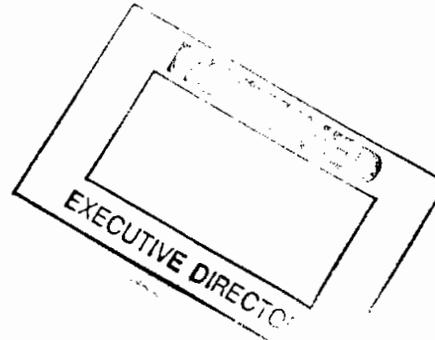
GALATI | BLEK LLP

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06-AFC-2	
DATE	JUN 29 2007
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COMPLETED
CONFIDENTIAL

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June 29, 2007



Mr. B.B. Blevins
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

**Subject: Request For Confidentiality
Water Supplement C
Appendices 2.3A and 3.14
Highgrove Project (06-AFC-2)**

Dear Mr. Blevins,

AES Highgrove, LLC (AES) is the owner of the Highgrove Project. AES requests that the attached information be designated confidential pursuant to 20 CCR Section 2505. This information is being supplied to the California Energy Commission (CEC) as Confidential Appendices 2.3A and 3.14 to Water Supplement C.

In support of its application for confidential designation, AES provides the following information:

APPLICANT: AES Highgrove, LLC
ADDRESS: 690 N. Studebaker Rd
Long Beach, CA 90803

1(a). Title, date and description (including number of pages) of the record for which you request confidential designation.

Confidential Appendices 2.3A and 3.14 to Water Supplement C

1(b). Specify the part(s) of the record for which you request confidential designation.

Confidential Appendices 2.3A and 3.14 to Water Supplement C

2. *State and justify the length of time the Commission should keep the record confidential.*

Confidential Appendix 2.3A should be kept confidential indefinitely to protect confidential and trade secret information that if disclosed would provide information to AES competitors about its actual costs of power production. In the competitive environment of a Long Term Solicitation the disclosure of such information would place AES at a competitive disadvantage.

Confidential Appendix 3.14 to Water Supplement C should be kept confidential indefinitely to protect the locations of domestic water supply wells. Pursuant to direction from the area Water Master, Steven Mains, the compilation of a map depicting the locations of domestic water supply wells should be kept confidential to avoid encouraging or facilitating terrorist acts. If the descriptions of the locations of the domestic water supply wells are released to the public domain, there is a risk of well and/or water supply tampering. Mr. Mains can be contacted at:

Steve Mains, Water Master Support Services
Office: 951-780-5636
Cell: 951-201-6571

3. *State the provisions of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) apply to the record. Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.*

Government Code Section 6254(k) provides for the protection from disclosure of trade secrets. Under the controlling case of Uribe v. Howie (1971) 10 Cal App 3d 194, 207-208, 96 Cal Rptr 493, 500-501:

“A trade secret may consist of any formula, pattern, device or compilation of information which is used in one’s business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.” (Emphasis Added)

The information contained in Confidential Appendix 2.3A is a special compilation developed by AES of actual operating and capitol costs and provides AES with an advantage over potential competitors who do not know AES's cost information. The cost information is critical to developing the pricing being bid into the competitive power purchase agreement process. Disclosure of such information would allow AES competitors opportunity to use the information in its pricing decisions and such use would be adverse to AES. Such disclosure could be adverse to the public in that it would render the public bidding process unfair.

Confidential Appendix 3.14 specifically identifies locations of domestic water supply wells. AES believes that since the area Water Master has asked that the information be kept confidential for security reasons, the information should be treated with the same protection afforded to Cultural Resources under Government Code Sections 6254 (e) and 6254(k). Protection provided is analogous to that given to Native American sacred places under Section 6254 (r) of the Government Code. It is in the public interest to protect against the potential for damage to a domestic water supply.

4. *State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.*

AES believes the CEC staff requires the specific information to properly analyze the potential effects of the proposed water supply and to determine whether the process water supply complies with CEC policies. Aggregation of information would hinder a complete CEC analysis. However, AES believes the CEC can incorporate a generalized summary of information to properly state the basis for its analysis without disclosing information specific enough to place AES at a commercial disadvantage or facilitate terrorist acts to domestic water supplies.

5. *State how the record is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.*

AES has not disclosed any of the subject information to anyone other than its employees, attorneys, and consultants working on the Highgrove Project. Moreover, this information has not been disclosed to persons employed by or working for AES except on a "need-to-know" basis. AES is marking this information "Confidential" and is instituting a policy that segregates this information from other Highgrove Project files and that

access to it be restricted to a designated confidential information manager within AES or its attorneys/consultants.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct and complete to the best of my knowledge and that I am authorized to make the application and certification on behalf of the applicant.

A handwritten signature in black ink, appearing to read 'SAG', with a long horizontal flourish extending to the right.

Scott A. Galati
Counsel for AES Highgrove, LLC