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STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

Application for Certification for the Alamos
Energy Center

Docket No. 13-AFC-01

**NOTICE OF OBJECTION TO
CALIFORNIA ENERGY COMMISSION STAFF'S
DATA REQUEST SET 5**

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September 25, 2014

STATE OF CALIFORNIA
Energy Resources Conservation
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**NOTICE OF OBJECTION TO CALIFORNIA ENERGY COMMISSION STAFF'S
DATA REQUEST SET 5**

Pursuant to Section 1716(f) of the California Energy Commission's ("Commission") regulations,¹ AES Southland Development, LLC (the "Applicant"), provides this notice of objection to Data Request Set 5 issued by Commission Staff on September 5, 2014. Without waiving its objections to Data Request Set 5, the Applicant reserves the right, but undertakes no obligation, to provide responses in full or in part to the extent it is reasonable and feasible to do so.

Section 1716 of the Commission's regulations provides that a "party may request from an applicant ... information which is reasonably available to the Applicant which is relevant to the application proceedings or reasonably necessary to make any decision on the ...application."²

The Applicant objects to these data requests as not meeting the requirements of Section 1716. Specifically, the Applicant objects to Staff's Data Requests 76-81, relating to trash and debris in the Alamitos Bay not generated by the Alamitos Generating Station ("AGS"), and Data Request 82, relating to the State Water Resources Control Board's ("SWRCB's") environmental analysis of its *Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling* ("Policy") as not meeting the requirements of Section 1716.

Data Requests 76-81

Data Requests 76-81 ask for descriptions of how debris collected at the intake screens of the once-through cooling ("OTC") intake water system is disposed, how the composition, and volume of the debris has varied over the years, an estimate of the annual volume of sea water accompanying the debris, and other options for debris removal and clean-up.

¹ As set forth in Title 20 of the California Code of Regulations ("C.C.R.").

² 20 C.C.R. § 1716(b).

First, the Applicant objects to Data Requests 76-81 as the OTC system at the Alamos Generating Station is not part of a facility under the jurisdiction of the California Energy Commission. The Application for Certification for the Alamos Energy Center does not request authorization from the Energy Commission to shut down the OTC system. The OTC system is subject to the jurisdiction of the SWRCB. On May 4, 2010, after a thorough environmental review in compliance with the California Environmental Quality Act (“CEQA”), the SWRCB adopted a policy regulating the use of seawater for cooling purposes at power plants in California. That policy requires the Alamos Generating Station to reduce the use of seawater by at least 93% by December 31, 2020. Therefore, the shutdown of the OTC will occur independent of whatever action the Energy Commission takes with respect to the AFC.

Second, the Applicant objects to Data Requests 76-81 as the information requested is not reasonably available to the Applicant. The AGS has not recorded the composition of trash or debris, does not have records of historical volumes, and has never been required to track such data.

Third, the Applicant objects to Data Requests 76-81 as requesting information not relevant to this proceeding. The Applicant notes that the information requested in DR 76-81 relates to the presence of debris in Alamos Bay that is not caused by the operation of the existing AGS or the proposed AEC. The fact that the AGS has been ordered by the SWRCB to shut down the OTC intake system cannot be said to be a direct or indirect impact of the AES project.

Data Request 82

Data Request 82 requests “more detail on how the potential impacts of debris from intake screens was specifically addressed in the EIR or any other [SWRCB] document developed for adoption of the rules.” The Applicant objects to Data Request 82 on the same grounds as Data Requests 76-81. We note that the intake screens do not result in the discharge of debris into the Alamos Bay, as implied in this data request. We also note that the preface to this data request mischaracterizes the Applicant’s August 15, 2014 (TN 202948) email to Staff. That email did not state that the SWRCB “had evaluated the potential environmental impacts from trash that would no longer be removed from Alamos Bay”. Instead, that email stated:

The Final Substitute Environmental Impact Document, the CEQA equivalent document prepared pursuant to the SWRCB’s certified regulatory program for its approval of California OTC policy, expressly found that the implementation of the State’s once through cooling policy would not have any significant “Water Quality” impacts at Alamos.


As further stated in the Applicant’s August 15, 2014 email, the continued operation of existing or new pumps and use of the AGS intakes and outfalls for water quality purposes in the Alamos Bay does not comply with the provisions of the SWRCB Policy for power generation or critical system maintenance. However, if other entities were to find a regulatory path for the continued operation of the pumps and intakes/outfalls, AES would be a willing and active partner in such a

solution. The Applicant will continue discussions initiated by interested stakeholders, outside the AFC proceeding, should one of those stakeholders decide to propose an independent project with existing or new pumps that would use the AGS intakes and outfalls that are no longer used for power plant operations.

Dated: September 25, 2014

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

By  _____

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