

**FOR IMMEDIATE RELEASE**

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**AIDEA Files Suit Against Golden Valley Electric Over the  
Healy Clean Coal Project  
Claiming Breach of Contract, Lack of Good Faith and Fair Dealing  
and Unjust Enrichment**

Today, the Alaska Industrial Development and Export Authority (AIDEA) filed suit in Fairbanks Superior Court against the Fairbanks electric cooperative Golden Valley Electric Association (GVEA) to enforce AIDEA's rights to re-start and operate the Healy Clean Coal Project (HCCP) to produce electric power for the Railbelt. GVEA is in breach of an agreement both parties entered into in 2000 to settle a 1998 litigation regarding the coal-fired power plant. The settlement agreement expressly requires GVEA to provide AIDEA a full opportunity to maximize the economic utility of HCCP, including providing AIDEA a long-term lease to operate the HCCP, but GVEA has refused to do so. The suit requests an award of damages against GVEA in excess of \$167,000,000 for harm GVEA caused by preventing HCCP from operating and by using facilities at Healy paid for by AIDEA while denying AIDEA use of those same facilities.

AIDEA reluctantly takes this step to finally resolve issues surrounding the Healy Clean Coal Project. In announcing the legal action, AIDEA Executive Director Ron Miller stated, "It's unfortunate that we had to go to court to get control of a plant the State of Alaska owns, but the Board and management of GVEA left us no alternative."

Miller added, “When AIDEA’s new Board was appointed by Governor Murkowski they committed to him that they would do everything possible to re-start HCCP so the plant could produce competitively-priced electricity for the Railbelt consumers. We met with GVEA’s Board and management for over 2 ½ years trying to resolve issues, but they refused to act in good faith so we are forced to bring the issues to court.”

As an example of GVEA’s lack of good faith Miller cited the example that, “When AIDEA approached GVEA staff to discuss a ground lease for the plant, they said they would give us a lease for the site only if AIDEA either agreed not to operate the plant or agreed to let GVEA control plant development and operation.”

Miller emphasized, “HCCP belongs to the people of Alaska and the AIDEA Board is committed to protecting this investment of nearly \$300 million of federal tax dollars and State funds. It’s unfortunate that GVEA’s Board and management have exposed their rate-payers to the claims in this lawsuit,” adding, “Our fight is not with the GVEA members but with their Board and management. AIDEA is in fact a member of the co-op since we pay GVEA nearly \$40,000 per month for electricity.”

Miller concluded by noting that AIDEA had been approached by parties other than GVEA regarding restarting HCCP. As announced last month, AIDEA and Homer Electric Association (HEA) entered into a Letter Agreement on October 3, 2005, regarding joint efforts to restart the power plant. AIDEA and HEA are moving forward with their plans.

The Complaint, HCCP Project Fact Sheet and photo of the power plant may be found on:

[www.aidea.org](http://www.aidea.org).

### **HCCP Timeline**

- 1989, GVEA and Usibelli Coal Mine, Inc. proposed to the US Department of Energy (DOE) to construct with DOE funding a coal-fired power plant using clean coal combustion technology to be located at Healy, Alaska.

- AIDEA assumed management of the project in 1991 after the Alaska Legislature appropriated \$25 million for preliminary development work.
- In December 1991, AIDEA and GVEA executed a Power Sales Agreement that required GVEA to purchase power from HCCP when the plant achieved “commercial operation”.
- Construction of HCCP began in May 1995 and start-up operations were initiated in 1998 and completed in December 1999.
- May 1998, before start-up operations were complete, GVEA filed suit against AIDEA seeking a declaratory judgment that “commercial operation” could not be achieved by the January 1, 2000, the date set in the Power Sales Agreement.
- Late 1999, an independent engineer approved by GVEA and AIDEA evaluated HCCP’s performance to determine whether the plant could achieve “commercial operation”. The engineer reported that operation results during a 90-day test were inconclusive primarily because the properties of the coal burned during the test differed from the specifications of the test protocol; however, the engineer concluded, “We know of no reason why HCCP will not operate on a sustained basis if operated and maintained according to standard utility practice if the coal quality remains above 7200 btu/lb...”
- January 1998 to December 1999, during demonstration testing of HCCP, GVEA purchased approximately 419,000 Mwh of electricity from the plant.
- March 2000, AIDEA and GVEA entered into an agreement to settle GVEA’s lawsuit. The Settlement Agreement gave GVEA an option to proceed with either a full or partial retro-fit of the plant. The agreement also obligated GVEA to enter into agreements that are necessary and appropriate to provide AIDEA a full opportunity to maximize the economic utility of HCCP.

- April 2003, GVEA notified AIDEA that it decided not to pursue either full or partial retrofit and that it was terminating the 1991 Power Sales Agreement.
- May 2003 the AIDEA and GVEA Boards met and formed a working group of board members and management from both sides to resolve HCCP issues.
- March 2004, GVEA presented to AIDEA what was labeled an “Offer to Purchase” HCCP that provided for the possibility of payments to AIDEA over a 40-year period.
- June 2004, AIDEA’s board declined GVEA’s offer concluding that the proposal would have actually cost AIDEA more money than could have been recovered through any payments from GVEA.
- July 2004, AIDEA notified GVEA it was examining strategies leading to a restart of HCCP and asked GVEA to meet to discuss a ground lease and other matters.
- August 2004, GVEA issued a press release saying they would cooperate with AIDEA on the restart, but wanted nothing else to do with HCCP.
- Fall 2004-Winter 2005, AIDEA and GVEA staff met to discuss technical issues related to the restart of HCCP.
- March 2005, AIDEA sent GVEA a proposal for a ground lease.
- April 2005, GVEA notified AIDEA they are too busy to discuss a ground lease.
- May 2005, AIDEA continued with its plan to restart HCCP and requested GVEA grant access to the site around the plant for environmental testing. GVEA refused access until AIDEA has a lease.

- August 2005, GVEA proposed a ground lease on terms that would prohibit the operation of HCCP.
- August 2005, in a meeting with AIDEA staff, GVEA stated they would give AIDEA a lease for the site and cooperate with HCCP development only if AIDEA agreed not to operate the plant or agreed to allow GVEA to control plant development and operation.
- Summer-Fall 2005, AIDEA discusses options for restart of HCCP with parties other than GVEA.
- October 2005, AIDEA and Homer Electric Association sign Letter Agreement to work together on restart of HCCP.
- November 7, 2005, AIDEA files suit against GVEA claiming they are in breach of the 2000 Settlement Agreement because they refuse to enter into agreements that allow AIDEA to maximize the economic benefits of HCCP.

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