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VIA OVERNIGHT DELIVERY

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Re: NRG Marsh Landing, LLC Application for Confidential Designation of Cultural Resources Report provided in connection with the Marsh Landing Generating Station (08-AFC-3C)

Dear Ms. Stora:

Pursuant to Title 20 California Code of Regulations Section 2505 ("Section 2505"), NRG Marsh Landing, LLC, a Delaware limited liability company ("NRG Marsh Landing"), hereby submits this application for confidential designation for the attached Marsh Landing Generating Station ("MLGS") *Cultural Resources Report* ("Cultural Resources Report"). The MLGS is a 760 megawatt natural gas-fired peaking facility owned and operated by NRG Marsh Landing that was approved by the California Energy Commission ("Commission") in a final decision issued on August 25, 2010 in Docket 08-AFC-3 (the "Final Decision"). The Cultural Resources Report was prepared by URS Corporation in accordance with Condition of Certification CUL-4 of the Final Decision and presents a summary of all cultural resources activities conducted for the MLGS project, including inventories, resource evaluation, worker education, and construction monitoring.

NRG Marsh Landing requests that the Commission designate and maintain the Cultural Resources Report as confidential and not disclose the Cultural Resources Report or the information contained therein to the public or any third party. NRG Marsh Landing requests that the Commission keep the Cultural Resources Report confidential permanently. The requested

time frame is consistent with the definition of public records contained in California Government Code Section 6254.10, which specifies that:

Nothing in this chapter requires disclosure of records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency.

The Cultural Resources Report discloses information regarding cultural resources discovered at the MLGS site during excavation and construction.

The California Public Records Act also recognizes the confidentiality principles of federal law. (California Government Code, § 6254(k).) The federal Archaeological Resources Protection Act, 16 U.S.C. § 470hh(a), establishes a national legal policy that all types of archaeological and cultural resource site locations must be kept confidential in order to preserve them.

California Government Code Sections 6254.10 and 6254(k) authorize the Commission to maintain the Cultural Resources Report as confidential. The Cultural Resource Report discloses details regarding cultural resource finds, including the precise location of the discoveries. Publication of these details could invite curiosity and potentially lead to destruction or theft of cultural resources.

Aggregation of the information contained in the Cultural Resources Report is unnecessary and inappropriate under the circumstances. The Cultural Resources Report has not been disclosed publicly and is known only to NRG Marsh Landing's personnel outside consultants, engineers and attorneys.

For the reasons specified above and the specific statutory protection provided for cultural records, the Commission should designate the Cultural Resource Report as confidential.

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

Very truly yours,



Lisa A. Cottle

Winston & Strawn LLP

Counsel for NRG Marsh Landing, LLC

Enclosure: Sealed envelope containing *Cultural Resources Report*