

**BEFORE THE ENERGY RESOURCES CONSERVATION AND
DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA**

Application for Certification for the
Mirant Willow Pass Generating Station
Project

Docket No. 08-AFC-6

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08-AFC-6	
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**FIRST STATUS REPORT OF
MIRANT WILLOW PASS, LLC**

February 4, 2009

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Introduction

In accordance with the Committee Scheduling Order dated December 31, 2008, Mirant Willow Pass, LLC (“Mirant Willow Pass”) submits its first status report in this proceeding. On June 30, 2008, Mirant Willow Pass submitted an Application for Certification (“AFC”) for the Willow Pass Generating Station (“WPGS”), a 550 megawatt, natural gas-fired electricity generating facility to be located at a site within the existing site of the Pittsburg Power Plant in Pittsburg, California. The AFC was determined to be data adequate on October 8, 2008.

This status report provides an update regarding progress toward (1) completing responses to data requests issued by Commission staff, (2) completing responses to questions posed at the December 19, 2008 Data Response and Issue Resolution Workshop (“Workshop”), and (3) resolving issues raised in staff’s Issues Identification Report dated November 5, 2008 (“Report”).

Discussion

1. Responses to Staff Data Requests

Staff issued its first set of data requests on November 12, 2008 (Data Requests 1-48) and December 4, 2008 (Data Requests 49-57). Mirant Willow Pass submitted responses to most of the data requests on December 15, 2008 and January 5, 2008, respectively. Some of the December 15, 2008 responses were discussed at the Workshop, leading to questions that Mirant Willow Pass is in the process of answering as reported in section 2 below. By letters dated

December 2, 2008 and December 23, 2008, Mirant Willow Pass requested additional time to respond to eight of the data requests and stated objections to three others.

Since then, Mirant Willow Pass has been working to complete responses to the outstanding data requests. For Data Request 10 (Biological Resources), Mirant Willow Pass has been working with Delta Diablo Sanitation District (“DDSD”) to evaluate an alignment and construction techniques for the offsite wastewater supply and discharge pipelines that would avoid impacts and obviate the need for certain biological permits. Mirant Willow Pass will provide an update on this topic in its responses to the Workshop questions.

In the area of Transmission System Engineering, Mirant Willow Pass has engaged its transmission consultant to prepare certain additional transmission studies requested in Data Request 38. The consultant is working on the additional studies, and portions of that work will be completed within the next two weeks, with the remainder to follow in early March. The CAISO has raised concerns about releasing the transmission studies due to the confidentiality of the underlying base cases and contingency files used to perform them. Mirant Willow Pass is working with Commission staff and the CAISO to resolve those concerns and will submit the completed studies to the CAISO for review prior to submitting them to staff. Mirant Willow Pass does not expect this to result in significant delay. The transmission consultant also is working on preparing a response to staff’s request for electronic copies of certain files (Data Request 40). That work is ongoing but will require additional time to complete.

In Data Request 42 (Waste Management), Staff asked for a list of regulatory agencies that reviewed or commented on Phase I and Phase II Environmental Site Assessments (“ESAs”) that were prepared in 1997 and 1998 for the previous owner of the project site. As requested at the Workshop, Mirant Willow Pass is attempting to obtain this information from the previous owner of the project site and will provide an update with any relevant information as it is obtained.

In Data Request 43, Staff asked for a Phase II ESA that addresses all Recognized Environmental Conditions (“RECs”) found in the Phase I ESA submitted with the AFC. Mirant Willow Pass objected to this request and explained that the 1998 Phase II ESA (which has been provided to staff) contains sufficient soil and groundwater analytical data to assess whether the

RECs identified in the 1997 Phase I ESA and in the updated Phase I ESA prepared in 2008 for Mirant Willow Pass could result in potential impacts to workers and public health. Based on discussions at the Workshop, Mirant Willow Pass understands that staff is reviewing the 1998 Phase II ESA and is not requiring another Phase II ESA at this time. Mirant Willow Pass expects to work with staff to provide additional information if necessary to complete staff's analysis.

Staff also asked for a determination of whether any linear facilities will be constructed in areas requiring remediation, and requested a Phase I ESA for linears and a Phase II ESA where RECs are identified (Data Request 44). Mirant Willow Pass has engaged its consultant to prepare the requested Phase I ESA. That work will be completed soon and will be submitted with the responses to the Workshop questions.

In Data Request 48 (Visual Resources), Staff requested a draft landscaping plan "that would mitigate visual impacts from the project at the selected [Key Observation Points]." Mirant Willow Pass objected to this request, which implies, without explanation, that a landscaping plan is required to mitigate visual impacts of the WPGS. Given that the project will replace four existing 211-foot-tall exhaust stacks with two 150-foot, 6-inch-tall exhaust stacks, the anticipated views of industrial features will be reduced as compared to the existing environmental baseline condition. Mirant Willow Pass and staff continue to work on resolving this request.

2. Workshop and Follow Up

Discussion at the Workshop focused on staff's questions and concerns in the areas of Biological Resources, Soil and Water Resources, and Waste Management. Mirant Willow Pass is preparing responses to those questions, which should be ready for submission to staff no later than February 13, 2008.

3. Issues Identified in the Report

The Report identified potentially significant issues in three areas: Biological Resources, Soil and Water Resources, and Waste Management. Mirant Willow Pass previously addressed

these issues in its response dated December 15, 2008, but now takes this opportunity to provide an update on further progress.

In the area of Biological Resources, the Report noted that staff needs additional information regarding the status of biological permits that could be required for installation of the recycled water supply and wastewater discharge pipelines that will connect the WPGS to DDS's wastewater treatment facilities. As noted above, Mirant Willow Pass has been working with DDS to evaluate an alignment and construction techniques for the pipelines that will avoid the need for biological permits that have a lengthy processing time. Mirant Willow Pass will provide an update on this topic in its responses to the Workshop questions.

In the area of Soil and Water Resources, the Report stated that staff does not have sufficient information to determine if there is adequate recycled water supply or operating flexibility built into the WPGS design to ensure that recycled water will be available in sufficient quantities to support plant operations. In its responses to the Workshop questions, Mirant Willow Pass will submit additional information and analysis regarding the reliability of the DDS treatment facilities and the sufficiency of the project's on-site storage capabilities.

In the area of Waste Management, the Report stated that staff needs the results of Phase II ESAs for all identified RECs "in order to properly assess the impacts on worker and public health posed by hazardous wastes present on this site and all linear facilities." As noted above, based on discussions at the Workshop, Mirant Willow Pass understands that staff is reviewing the 1998 Phase II ESA and is not requiring an additional Phase II ESA at this time. In its responses to the Workshop questions, Mirant Willow Pass will provide an update regarding progress toward selecting the agency that likely would assume oversight responsibility for further investigation and any potential remediation at the project site. Mirant Willow Pass expects to work with staff to supply additional information as needed to complete staff's analysis and prepare appropriate conditions of certification.

Conclusion

Mirant Willow Pass appreciates the opportunity to submit this status report. Based on progress to date, the WPGS project remains on track to meet the schedule set forth in the Committee Schedule Order.

February 4, 2009

Respectfully submitted,



Lisa A. Cottle
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PROOF OF SERVICE

I, Karleen M. O'Connor, declare that on February 4, 2009, I served the attached *First Status Report of Mirant Willow Pass, LLC* via electronic mail and first class mail postage prepaid to all parties on the attached service list.

I declare under penalty of perjury that the foregoing is true and correct.



Karleen M. O'Connor

Service List (Docket No. 08-AFC-6)

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