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**Re: Staff Data Requests 1 through 54 for the Marsh Landing
Generating Station (Docket No. 08-AFC-3)**

Dear Mr. Monasmith, Presiding Member Boyd, and Associate Member Douglas:

Mirant Marsh Landing, LLC, the applicant seeking certification of the Marsh Landing Generating Station ("MLGS"), ("Mirant Marsh Landing") submits this notice pursuant to Section 1716(f) of the regulations of the California Energy Commission ("Commission")¹ regarding Staff Data Requests 1 through 54 ("Data Requests"). Mirant Marsh Landing is working diligently to prepare responses to the Data Requests and expects to submit most of its responses on or before December 15, 2008, the thirty-day deadline provided for under Section 1716(f). As explained below, however, Mirant Marsh Landing requires additional time

¹ Title 20 of the California Code of Regulations § 1716(f) ("Section 1716(f)").

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to complete its responses to thirteen Data Requests, namely Data Request 8 (Air Quality), Data Request 31 (Soil and Water Resources), Data Requests 37-45 (Transmission System Engineering), and Data Requests 48-49 (Waste Management).

For Data Requests 37-45, which address Transmission System Engineering, extra time is needed to allow Mirant Marsh Landing's third party transmission consultant to prepare certain studies and reports that normally would be provided by the California Independent System Operator ("CAISO") and Pacific Gas and Electric Company ("PG&E"). As the Commission is aware, the CAISO had suspended the processing of applications for Large Generator Interconnection Agreements ("LGIAs") while it devised a new system for reviewing and approving LGIA applications. Mirant Marsh Landing has met the requirements to have the MLGS included in the CAISO's "transition cluster group" and expects the CAISO and PG&E to resume processing its application some time later this month. Although Mirant Marsh Landing has engaged a third party transmission consultant to prepare the studies and data that Staff requires to conduct its analysis of the MLGS, not all of the information requested in the Data Requests can be prepared by a consultant. Instead, PG&E and the CAISO will need to supply certain requested data and analyses, as explained below. For other Data Requests, Mirant Marsh Landing's consultant simply requires additional time to complete the studies and prepare the requested data. The consultant has been in regular contact with Staff's technical leads in the area of Transmission System Engineering to agree upon the scope of those studies and the format of the required data. The responses below reflect those discussions.

Each Data Request addressed herein is reproduced below under headings noting the applicable technical area. Except as otherwise specified, capitalized terms have the meanings assigned in the Data Requests.²

Air Quality

Data Request 8: Please provide documentation (such as a Report of Conversation or correspondence with BAAQMD staff) that confirms that the October 2008 dispersion modeling has been completed to the satisfaction of the BAAQMD.

Response to Data Request 8: Mirant Marsh Landing requires additional time to provide the requested documentation. BAAQMD staff has informed Mirant Marsh Landing that the Preliminary Determination of Compliance ("PDOC") will include this confirmation. The PDOC is expected to be issued in late January 2009. Mirant Marsh Landing does not expect to receive the requested confirmation in advance of issuance of the PDOC, but will share with Staff

² Mirant Marsh Landing also asserts a general objection to each of Data Requests 1-54 (whether or not such objections are separately set forth in this or any subsequent response) to the extent that it: (1) seeks disclosure of information containing privileged communications or attorneys' work product on grounds that such discovery is not permissible under the California Evidence Code (the inadvertent disclosure of such information is not intended to be a waiver of any privilege or protection and shall not be deemed a waiver of any privilege or protection); or (2) purports to require Mirant Marsh Landing to obtain information from or with respect to persons or entities over which Mirant Marsh Landing has no control.

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any relevant correspondence that might be received from BAAMQD. To date BAAQMD staff has not mentioned any issues with the re-modeling submitted by Mirant Marsh Landing in October 2008.

Soil and Water Resources

Data Request 31: Please provide a DDSB Board approved agreement for the long-term delivery (30-35 years) of tertiary treated recycled water at a peak delivery rate of 1,400 gallons per minute and up to 1.5 million gallons per day.

Response to Data Request 31: Mirant Marsh Landing is not able to provide the requested agreement at this time. Mirant Marsh Landing and DDSB are in discussions regarding the terms of a long-term recycled water supply agreement for the MLGS, but an agreement has not yet been finalized. Mirant Marsh Landing expects to have an executed DDSB Board-approved agreement in place before construction of the MLGS begins. DDSB has provided a “will serve” letter for the MLGS, which was submitted with the AFC.

Transmission System Engineering

Data Requests 37–40: The SIS, using the 2013 Summer Peak Full-loop base case, indicates that under normal and contingency conditions, some 230 kV transmission lines in the study area will be loaded above their line ratings. The proposed mitigations for the overloads will be: transmission line re-rates, reconductoring, and reducing the proposed MLGS generation. The overloaded lines are:

- Contra Costa – Brentwood 230 kV lines,
- Contra Costa – Wind Master 230 kV lines,
- Delta Pump – Wind Master 230 kV lines,
- Las Positas – Newark D 230 kV lines,
- Cayetano –USWP – JRW – Lonetree 230 kV lines.

Data Request 37: Please select the mitigation alternative and provide evidence showing the selected mitigation measure is feasible and effective

Data Request 38: If re-rate is selected, please provide the following:

a. Provide the current line ratings and the current wind speeds that are used for all the proposed re-rate lines listed above.

b. Provide the future line ratings and wind speeds that would be used for all the proposed re-rate lines listed above.

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c. Provide evidence showing re-rate of these transmission lines is feasible and effective (letter from the California ISO).

Data Request 39: If reconductoring is selected, please provide the following:

a. Detailed information on each of the reconducted transmission lines. Information should include the number of poles required (new or existing), pole configurations, conductor types, sizes, and lengths.

b. Provide a general environmental analysis and any recommended mitigation measures sufficient to meet CEQA requirements for indirect project impacts.

Data Request 40: If de-generation is selected, please provide the following:

a. Provide the amount of MLGS generation reduction required to mitigate the transmission line overloads under normal and contingency conditions.

b. Provide evidence showing the de-generation is feasible and effective (letter from California ISO).

Response to Data Requests 37-40: Mirant Marsh Landing is not able to select a mitigation alternative or confirm its feasibility at this time. As noted above, the CAISO had suspended processing LGIA applications while it devised a new system for reviewing and approving LGIA applications. Mirant Marsh Landing filed its LGIA application and submitted its deposit in time for the MLGS to be included in the CAISO's transition cluster group. Prior to November 25, 2008 (the deadline set by the CAISO), Mirant Marsh Landing submitted the required forms and additional payments to the CAISO for inclusion as part of the transition cluster study which resumes the CAISO's LGIA process. Commencing this month, Mirant Marsh Landing expects to be able to re-initiate discussions with the CAISO and PG&E regarding appropriate and feasible mitigation measures, although some of these analyses will be part of the CAISO's LGIA process. Mirant Marsh Landing will follow up with Staff in response to Data Requests 37-40 as soon as it receives the requisite feedback from the CAISO and PG&E. While awaiting this feedback, Mirant Marsh Landing will submit, as part of its response due December 15, 2008, a general environmental analysis based on typical reconductoring information as requested in Data Request 39(b).

Data Request 41: Please provide Category "C" study on:

a. Selected bus outages within the study area,

b. Selected outages caused by selected breaker failures (excluding bus tie and sectionalizing breakers) at bus section,

c. Selected combination of any two-generator/transmission line/transformer outages (except ones included in the Category "B") within the study area.

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Response to Data Request 41: Mirant Marsh Landing requires additional time to respond to Data Request 41. Mirant Marsh Landing has engaged its third party transmission consultant to prepare the requested study and the work is in progress, but will not be complete by December 15, 2008. Mirant Marsh Landing will submit responses to Staff on a rolling basis as they become available from the consultant. Mirant Marsh Landing understands that its consultant will be able to finish all of the work committed to herein in response to Data Requests 37-45 by early February 2009.

Data Request 42: Please provide a Short Circuit Duty Analyses.

Response to Data Request 42: Mirant Marsh Landing is unable to perform or provide the requested Short Circuit Duty Analyses. PG&E owns the existing transmission system and is the only entity that can perform these Short Circuit Duty Analyses accurately. Neither Mirant Marsh Landing nor its consultant have access to the impedance models and equipment rating limitations of every serial element in the PG&E Bay Area system, which are needed to perform the Short Circuit Duty Analyses accurately. Additionally, Short Circuit Duty Analyses will be performed by PG&E at the request of the CAISO in later studies. It is expected that the equipment upgrades associated with Short Circuit Duty Analyses would be limited to inside the existing footprints of existing substations.

Data Request 43: Please provide a Dynamic Stability Analyses.

Data Request 44: Please provide a Reactive Power Deficiency Analysis

Response to Data Requests 43 and 44: Mirant Marsh Landing requires additional time to respond to Data Requests 43 and 44. Mirant Marsh Landing has engaged its consultant to prepare the requested analyses and the work is in progress, but will not be complete by December 15, 2008. Mirant Marsh Landing will submit responses to Staff on a rolling basis as they become available from the consultant, and will submit everything no later than early February 2009.

Data Request 45: Please provide system protection and substation evaluation.

Response to Data Request 45: Mirant Marsh Landing is unable to perform or provide the requested system protection and substation evaluation. PG&E owns the existing transmission system and is the only entity that can perform this evaluation accurately. Also, a thorough Short Circuit Duty Analysis is required to complete this request accurately, and PG&E is best positioned to complete that, as explained in response to Data Request 42 above. As explained in that response, neither Mirant Marsh Landing nor its consultant have access to the impedance models and equipment rating limitations of every serial element in the PG&E Bay Area system, which are needed to perform the Short Circuit Duty Analyses accurately. Additionally, Short Circuit Duty Analyses will be performed by PG&E at the request of the CAISO in later studies. It is expected that the equipment upgrades associated with Short Circuit Duty Analyses would be limited to inside the existing footprints of existing substations.

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Waste Management

Data Request 48 Please provide an estimated date for the demolition of the fuel oil tanks on the proposed project site, along with a schedule and workplan for investigation and possible remediation of soils in the vicinity of the tanks. The schedule and workplan should also be reviewed and approved by the Department of Toxic Substances Control (DTSC) prior to submittal to the Energy Commission, unless other arrangements are made with staff to address or accommodate DTSC review.

Data Request 49: Please provide a schedule and workplan for investigation and possible remediation of soils and groundwater in all of the following areas of the proposed project site:

- a. areas identified as having “remedial issues”;
- b. areas potentially impacted by the CCPP septic system discharges;
- c. areas around the former construction debris piles; and
- d. areas around the former paint storage shed.

The schedule and workplan should also be reviewed and approved by the Department of Toxic Substances Control (DTSC) prior to submittal to the Energy Commission, unless other arrangements are made with staff to address or accommodate DTSC review.

Response to Data Requests 48 and 49: Mirant Marsh Landing requires additional time to respond to Data Requests 48 and 49. Mirant Marsh Landing is not yet in a position to propose a workplan for investigation of soils and groundwater at the tank site. First, as stated in the AFC, demolition of the existing fuel oil tanks may not occur as part of the project proposed in the AFC. Instead, Mirant Delta, LLC (owner of the tanks and an affiliate of Mirant Marsh Landing) (“Mirant Delta”) may opt to conduct such demolition prior to certification of the MLGS project as part of Mirant Delta’s on-going operation of the site. Mirant Delta is still evaluating possible courses of action. Demolition of the tanks could begin as early as first quarter 2009 as part of Mirant Delta’s operations. On the other hand, as stated in Table 2.7-3 of the AFC, demolition of the five tanks would occur during the first six months of construction if conducted as part of the MLGS project.

Second, Mirant Delta is contractually obligated to allow the former owner of the site to review workplans relating to certain instances of remediation at the site. This obligation arises from contractual arrangements in which the former owner retained responsibility for certain remediation activities at the site. Once Mirant Delta has finalized its plans relating to demolition of the existing fuel tanks and satisfied its contractual obligations with respect to the former owner of the site, Mirant Marsh Landing will follow up with Staff in response to Data Requests 48 and 49.

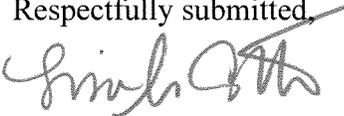
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Finally, the soils beneath the five fuel oil tanks are not currently accessible. It is therefore not feasible (or necessary) to undertake investigation activities in these areas until demolition and/or removal of these structures has been completed. Mirant Marsh Landing will address the need to further investigate any identified RECs in sufficient time to allow construction to proceed. As is typical for construction activities at heavy industrial sites such as a power plant, potential exposure to subsurface contaminants by construction workers or the public during construction activities would be managed through the development of a Site Safety Plan for activities during construction. This would provide proper monitoring, personnel protection equipment, and engineering controls during construction to minimize potential exposures.

* * * *

We appreciate your consideration of this response. Mirant Marsh Landing looks forward to working with Staff and the Committee to provide the information needed to analyze the MLGS.

Respectfully submitted,


Lisa A. Cottle
Winston & Strawn LLP
Attorneys for Mirant Marsh Landing, LLC

Cc: Docket Office (08-AFC-3)
Proof of Service List

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

Application for Certification for the
Mirant Marsh Landing Generating Station

Docket No. 08-AFC-3

PROOF OF SERVICE

I, Lisa A. Cottle, declare that on December 2, 2008, I served the attached *Notice re Staff Data Requests 1 through 54 for the Marsh Landing Generating Station (Docket No. 08-AFC-3)* via electronic mail to all parties on the attached service list. I also sent a signed original of the foregoing via overnight delivery to the recipients specified on the first page, and mailed a properly addressed copy via first class mail with postage prepaid to all other parties on the attached service list.

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



Lisa A. Cottle

Service List (Docket No. 08-AFC-3)

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