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June 5, 2008

VIA OVERNIGHT MAIL

Melissa Jones
Executive Director
California Energy Commission
1516 9th Street
Sacramento, CA 95814

COMPLETED

| | |
|---------------------------|-------------|
| DOCKET 08-AFC-3 | |
| DATE | JUN 05 2008 |
| RECD. | JUN 06 2008 |

Re: Request for Confidential Designation of Confidential Paleontological Resources Technical Report provided in connection with the Marsh Landing Generating Station Application for Certification (Docket No. 08-AFC-3)

Dear Ms. Jones:

Pursuant to Title 20 California Code of Regulations § 2505, Mirant Marsh Landing, LLC, ("Mirant Marsh Landing") hereby submits this application for confidential designation for the attached *Appendix S Confidential Paleontological Resources Technical Report*, ("Paleontological Report"), which was prepared by URS for submission as part of the Application for Certification ("AFC") for the Marsh Landing Generating Station ("MLGS"). The AFC was submitted on May 30, 2008.

Mirant Marsh Landing requests that California Energy Commission ("Commission") designate and maintain the Paleontological Report as confidential. This request is made in accordance with Appendix B, Section (g)(16) of the Commission's Rules of Practice and Procedure and Power Plant Site Certification Regulations, which requires that paleontological information be submitted to the Commission under a request for confidentiality. The Paleontological Report identifies confidential paleontological, geological, and geophysical information, such as the potential location and content of paleontological sites, paleontological resource inventory results, and the results of geotechnical investigations. This information is set forth in detail in Sections 1.5 through 4 of the Paleontological Report. The Paleontological Report comprises a total of 17 pages.

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The Commission has the authority to designate the Paleontological Report as confidential pursuant to California Government Code Section 6254(e). Section 6254(e) exempts the following from public disclosure:

Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

The information in the Paleontological Report includes geological and geophysical data.

Pursuant to this authority, the Paleontological Report should be kept confidential indefinitely. Paleontological, geological and geophysical resources are important assets that provide information about current geologic conditions, including the potential for the presence of fossils. Publication of the location and specific descriptions of these potential locations could lead to disruption or destruction of the sites. Thus, in order to protect the integrity of these potential paleontological sites, these site descriptions and locations should be kept confidential.

Mirant Marsh Landing has provided the information in a non-confidential, aggregated form in the Paleontological Resources section of Mirant Marsh Landing's AFC. Further aggregation of the information is unnecessary. Masking the information in the Paleontological Report would not be a useful exercise, as the best document to inform the public of Mirant's investigation on this subject is the AFC itself, which contains aggregated information and does not disclose information that may lead to damage of potential paleontological resources.

The Paleontological Reports have not been disclosed and are known only to Mirant personnel and Mirant's outside consultants, engineers and attorneys. These Cultural Resources Reports have not been publicly disclosed. The Cultural Resources Reports have been marked as "CONFIDENTIAL" and have maintained on a secure document management website. Only persons with permission and an access password have access to the website.

For the reasons specified above, the Commission should designate the Paleontological Report as confidential.

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I certify under penalty of perjury that the information contain in this application for confidential designation is true, correct, and complete to the best of my knowledge. I also certify that I am authorized to make this application and certification on behalf of Mirant Marsh Landing.

Best regards,

Handwritten signature of Lisa A. Cottle in black ink.

Lisa A. Cottle

Attachment

cc: Mike Monasmith, California Energy Commission (w/o attachment)
Jon Sacks, Mirant Marsh Landing, LLC (w/o attachment)
Anne Connell, URS (w/o attachment)