

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

June 27, 2008

Ms. Lisa A. Cottle  
Winston & Strawn, LLP  
101 California Street  
San Francisco, CA 94111-5894

<b>DOCKET</b> 08-AFC-3	
DATE	JUN 27 2008
RECD.	JUL 02 2008

RE: **Application for Confidentiality, Cultural Information,  
Mirant Marsh Landing Generation Station,  
Docket No. 08-AFC-03**

Dear Ms. Cottle:

On June 6, 2008, Mirant Marsh Landing, LLC, (Mirant) filed an application for confidentiality in the above-referenced docket. The application seeks confidentiality for "Appendices L1 and L3 Confidential Cultural Resources Reports" (Cultural Resources Reports). The application states, in part:

The Cultural Resources Reports contain confidential information regarding the archaeological reconnaissance (Appendix L1) and cultural resources records search (Appendix L3) that were performed within the MLGS project vicinity. This information is set forth in Sections 2.2 and 3.5 through 6.1, as well as Appendix A and B of Appendix L1 and Appendix L3. The Cultural Resources Reports comprise a total of 242 pages. . . . ¶ Publication of the search results and accompanying analysis could invite curiosity and potentially lead to destruction or theft of cultural resources.

A properly filed application for confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the [Energy] Commission to keep the record confidential."

The California Public Records Act recognizes the confidentiality principles of federal law. (Gov. Code, § 6254(k).) The Archaeological Resources Protection Act establishes a clear, national legal policy that all types of archaeological, paleontological, and cultural resource site locations must be kept confidential in order to preserve them. (16 U.S.C. § 470hh.) Non-disclosure of cultural resources, such as the information that has been submitted with this application, is expressly in the public interest.

The information contained in the Cultural Resources Reports meet the requirements of confidentiality and is granted confidentiality in its entirety. Consequently, this information will be kept confidential for an indefinite period.

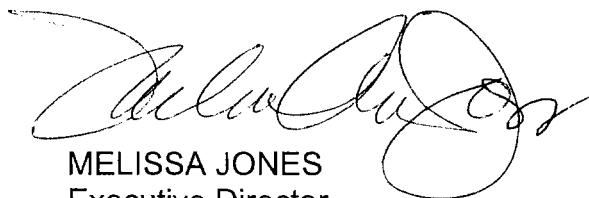
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**Any subsequent submittals related to cultural resources can be deemed confidential as specified in this letter without the need for a new application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), if Mirant files a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination.**

Persons may petition to inspect or copy the records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

If you have any questions concerning this matter, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melissa Jones', with a large, stylized flourish at the end.

MELISSA JONES  
Executive Director

cc: Docket Unit  
Energy Commission Project Manager