

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

DOCKET	
08-AFC-3	
DATE	JUN 27 2008
RECD.	JUL 02 2008

RE: **Application for Confidentiality, Paleontological 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 "Appendix S Confidential Paleontological Resources Technical Report" (Paleontological Report). The application states, in part:

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. . . . ¶ 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.

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 Paleontological Report meets the requirements of confidentiality and is granted confidentiality in its entirety. Consequently, this information will be kept confidential for an indefinite period.

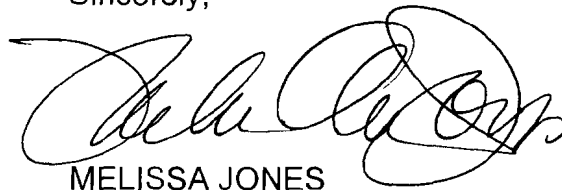
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Any subsequent submittals related to paleontological resources can be deemed confidential as specified in this letter without the need for a new application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), if Mirant 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', written in a cursive style.

MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager