

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

Application for Certification for the  
Mirant Marsh Landing Generating Station Project

Docket No. 08-AFC-3

<b>DOCKET</b>
<b>08-AFC-3</b>
DATE <u>JAN 06 2010</u>
RECD. <u>JAN 07 2010</u>

**SEVENTH STATUS REPORT OF  
MIRANT MARSH LANDING, LLC**

January 6, 2010

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**SEVENTH STATUS REPORT OF  
MIRANT MARSH LANDING, LLC**

In accordance with the Committee Scheduling Order dated December 31, 2008, Mirant Marsh Landing, LLC (“Mirant Marsh Landing”) submits its seventh status report. Mirant Marsh Landing is requesting certification for the Marsh Landing Generating Station (“MLGS”), a nominal 760 megawatt natural gas-fired electricity generating facility to be located at a site in Contra Costa County, California that is in the process of being annexed into the City of Antioch.

As reported previously, Mirant Marsh Landing has entered into a power purchase agreement (“PPA”) with Pacific Gas and Electric Company (“PG&E”) that provides for the MLGS to be online and operating in May 2013. To commence construction in time to meet this online date, it is critical to obtain a Commission decision granting certification for the MLGS by the end of May. PG&E has asked the California Public Utilities Commission to approve the PPA within the same time frame (by June 1, 2010).

Mirant Marsh Landing recognizes that this proposes a very tight schedule, particularly in light of the Siting Division’s heavy workload and resource constraints. To date, progress in this case has been slowed by delays in the issuance of the Preliminary Determination of Compliance (“PDOC”) by the Bay Area Air Quality Management District (“BAAQMD”). Mirant Marsh Landing has been working closely with the BAAQMD over the last few months to answer questions and provide information needed to complete the PDOC. Mirant Marsh Landing expects the PDOC to be issued very soon, hopefully within the next two weeks. We will also submit responses to Staff’s questions related to Air Quality shortly after the release of the PDOC.

Once the PDOC is issued, it will be critical for this case to progress on an expedited time frame. Mirant Marsh Landing has asked Staff to prioritize this proceeding and to support an expedited schedule to ensure that this viable, needed project is not derailed. Mirant Marsh Landing is scheduled to have further discussions with staff on this topic, and expects to submit a

motion to the Committee seeking an expedited schedule once there is a definitive release date for the PDOC.

To date, Staff has not yet issued formal data requests addressing the amendment that Mirant Marsh Landing filed on September 16, 2009. Mirant Marsh Landing continues to request that these data requests be issued as soon as possible. In the meanwhile, Mirant Marsh Landing has been working with PG&E, the former owner of the project site, to prepare a work plan and conduct additional sampling that Staff requires to complete its analysis in the area of Waste Management. The work plan submitted to Staff on November 20, 2009 reflects discussions at the October 14, 2009 workshop and has been reviewed by Staff for consistency with the workshop discussions. On-site sampling and analytical testing are now complete and the risk assessment and report preparation are in progress. Mirant Marsh Landing expects to submit the report by mid-January. This should enable Staff to complete its Waste Management analysis for the project in short order.

With this work completed, one significant open question is whether Staff requires additional information to complete its analysis in the area of Soil and Water Resources. In its amendment, Mirant Marsh Landing proposed to use a de minimus amount of brackish groundwater to supply project water needs. In support of the amendment, Mirant Marsh Landing submitted a detailed groundwater report demonstrating that the project's use of brackish groundwater will not have any significant adverse impacts on groundwater, surface water, or wells in the project vicinity. Staff has stated that it intends to issue data requests addressing the amendment, but has not done so despite months of delay. If there are data requests on the amendment, Mirant Marsh Landing requests that they be issued immediately. Any further delay in completing the data analysis phase threatens the overall project schedule.

As discussed above, Mirant Marsh Landing has made a contractual commitment to develop and construct the MLGS in time to meet a May 2013 online date. We appreciate all efforts to advance the project toward a certification decision by the end of May.

January 6, 2010

Respectfully submitted,



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Lisa A. Cottle

Winston & Strawn LLP

Attorneys for Mirant Marsh Landing, LLC

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**DECLARATION OF SERVICE**

I, Lisa A. Cottle, declare that on January 6, 2010, I served and filed copies of the attached *Seventh Status Report of Mirant Marsh Landing LLC (Docket No. 08-AFC-3)*. The original document filed with the Docket Unit is accompanied by a copy of the most recent Proof of Service list, located at the web page for this project at <http://www.energy.ca.gov/sitingcases/marshlanding/index.html>. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

- For service to all other parties: Sent electronically to all email addresses on the Proof of Service list; and by depositing in the United States mail at San Francisco, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list to those addresses **NOT** marked as "email preferred."

**AND**

- For filing with the Energy Commission: Sent an original paper copy and one electronic copy, mailed and emailed respectively, to the address below:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 08-AFC-3  
1516 Ninth Street, MS-4  
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I declare under penalty of perjury that the foregoing is true and correct.



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Lisa A. Cottle



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APPLICATION FOR CERTIFICATION  
FOR THE MARSH LANDING  
GENERATING STATION

Docket No. 08-AFC-3

PROOF OF SERVICE  
(Revised 11/30/2009)

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