APPLICATION FOR CERTIFICATION FOR THE MARSH LANDING GENERATING STATION PROJECT

COMMITTEE ORDER DENYING PETITION TO INTERVENE

Upon consideration of the Petition to Intervene filed by Petitioner Robert Simpson ("Petitioner"), the Committee designated to conduct proceedings in this matter makes the following findings:

1. An undated Petition to Intervene was filed on June 21, 2010 in the above-captioned proceeding by:

   Robert Simpson
   27126 Grandview Avenue
   Hayward CA. 94542
   (510) 909-1800 Voice
   rob@redwoodrob.com

2. The Petition contains the information required by section 1207 of the Commission's regulations (Cal. Code Regs., tit. 20, § 1207);

3. Commission Staff and the Applicant filed objections to the Petition on the grounds that it was untimely and good cause for the late filing was not shown;

4. Petitioner's interests may or may not be relevant to the above-captioned proceeding. Mr. Simpson alleges only a general statement that state citizens are obligated to protect the environment contained in the California Environmental Quality Act's statement of legislative intent and his membership in various organizations. He fails to describe the specific effects that this proposed project may have upon him. Because we deny the petition on timeliness grounds, we need not resolve whether Petitioner's interests are relevant;

5. The Petition is untimely in that it was filed after the deadline set forth in section 1207(b) -- no later than the Prehearing Conference or 30-days before the start of evidentiary hearings, whichever is earlier. That deadline was June 1, 2010 and was clearly stated in the May 26, 2010 Notice of Prehearing Conference and
Evidentiary Hearing. The Petition was filed on June 21, 2010, the deadline for the filing of testimony by Commission Staff and parties other than the Applicant and a mere 10 days before the evidentiary hearings; and

6. Petitioner has not shown good cause for allowing his late filed Petition. He participated in Bay Area Air Quality Management District proceedings relating to the project. He has participated in previous Energy Commission proceedings and knows or should know about our deadlines for participation as an intervenor. Petitioner could have petitioned to intervene at any point in this proceeding, which has been active since September 2008. His assertion that he is entitled to wait until the filing of the Supplemental Staff Assessment before deciding to intervene is contrary to requirements of Section 1207(b). The Staff Assessment filed in April 2010 clearly indicated that it was the only Staff Assessment that would be published in this matter, subject to a possible supplementation. (Executive Summary, p. 1-1, Introduction, pp. 2-2 – 2-3.) Similar intentions to publish a single, rather than draft and final, assessments were disclosed in the February 17 and April 15, 2010 Staff Status Reports 6 and 7.

THEREFORE, the Committee ORDERS that the Petition to Intervene in this matter be DENIED. Petitioner may, as a member of the public, present public comments prior to or during the evidentiary hearings but cannot present evidence, cross-examine witnesses, or exercise any other privilege available to formal parties in this proceeding.

Dated June 28, 2010, at Sacramento, California.

Original signed by: ____________________________
JAMES D. BOYD
Vice Chair and Presiding Member
Marsh Landing AFC Committee

Original signed by: ____________________________
KAREN DOUGLAS
Chairman and Associate Member
Marsh Landing AFC Committee
APPLICATION FOR CERTIFICATION  
FOR THE MARSH LANDING GENERATING STATION  

Docket No. 08-AFC-3  

PROOF OF SERVICE  
(Revised 6/21/2010)

APPLICANT  
Chuck Hicklin, Project Manager  
Mirant Corporation  
P.O. Box 192  
Pittsburg, CA 94565  
E-mail preferred  
chuck.hicklin@mirant.com

Jonathan Sacks, Project Director  
Steven Nickerson  
Mirant Corporation  
1155 Perimeter Center West  
Atlanta, GA, 30338  
E-mail preferred  
jon.sacks@mirant.com  
steve.nickerson@mirant.com

CONSULTANTS  
*Anne Connell  
Dale Shileikis  
URS Corporation  
Post Montgomery Center  
One Montgomery Street, Suite 900  
San Francisco, CA 94104-4538  
E-mail preferred  
Anne_Connell@URSCorp.com  
Dale_shileikis@URSCorp.com

COUNSEL FOR APPLICANT  
Lisa Cottle  
Takako Morita  
Winston & Strawn LLP  
101 California Street  
San Francisco, CA 94111-5802  
E-mail preferred  
lcottle@winston.com  
tmorita@winston.com

INTERESTED AGENCIES  
California ISO  
E-mail Preferred  
e-recipient@caiso.com

INTERVENORS  
California Unions for Reliable Energy  
(“CURE”)  
Gloria D. Smith & Marc D. Joseph  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, California 94080  
gsmith@adamsbroadwell.com  
mdjoseph@adamsbroadwell.com

ENERGY COMMISSION  
JAMES D. BOYD  
Vice Chair & Presiding Member  
jboyd@energy.state.ca.us

KAREN DOUGLAS  
Chair & Associate Member  
kldougla@energy.state.ca.us

Paul Kramer  
Hearing Officer  
pkramer@energy.state.ca.us

Mike Monasmith  
Project Manager  
mmonasmi@energy.state.ca.us

Kerry Willis  
Staff Counsel  
kwillis@energy.state.ca.us

Jennifer Jennings  
Public Adviser  
publicadviser@energy.state.ca.us

* indicates change
DECLARATION OF SERVICE

I, Maggie Read, declare that on June 28, 2010, I served and filed copies of the attached Committee Order Denying Petition to Intervene. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [http://www.energy.ca.gov/sitingcases/marshlanding/index.html].

The documents have 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:

(Check all that Apply)

For service to all other parties:

  □ sent electronically to all email addresses on the Proof of Service list;
  □ by personal delivery;
  □ by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses NOT marked “email preferred.”

AND

For filing with the Energy Commission:

  □ sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

OR

□ depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 08-AFC-3
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original signed by:_____
Maggie Read
Hearing Adviser’s Office