

**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

DOCKET
08-AFC-3

DATE JUN 28 2010

RECD. JUN 28 2010

**PREHEARING CONFERENCE STATEMENT OF
MIRANT MARSH LANDING, LLC**

June 28, 2010

Lisa A. Cottle
Winston & Strawn LLP
101 California Street, Suite 3900
San Francisco, California 94111
Telephone: (415) 591-1579
Facsimile: (415) 591-1400
lcottle@winston.com

Attorneys for Mirant Marsh Landing, LLC

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In accordance with the Notice of Prehearing Conference and Evidentiary Hearing issued on May 26, 2010 (“Hearing Notice”), Mirant Marsh Landing, LLC, the applicant in this proceeding (“Mirant Marsh Landing”), submits this prehearing conference statement. Mirant Marsh Landing filed its Application for Certification in this proceeding on May 30, 2008 seeking a Commission license for the Marsh Landing Generating Station (“MLGS”). On September 15, 2009, Mirant Marsh Landing filed an amendment to the AFC to reflect project design changes. With these design changes, the MLGS will be a 760 megawatt natural gas-fired electricity generating facility that incorporates four Siemens 5000F combustion turbine generators operating in simple cycle mode. The MLGS will be a peaking facility with fast-start and fast-ramping capabilities that offers a high level of operating flexibility. As a peaking facility, the MLGS will have a maximum annual capacity factor of 20 percent.

On March 22, 2010, the Bay Area Air Quality Management District (“BAAQMD”) provided its Preliminary Determination of Compliance (“PDOC”) for the MLGS. On April 26, 2010, Staff issued a Staff Assessment that was intended to present Staff’s final analysis and conclusions for the MLGS, subject to revisions that may be necessary once the BAAQMD issued its Final Determination of Compliance (“FDOC”). On May 4, 2010, Staff held a public workshop to discuss the Staff Assessment and comments from the parties, interested agencies, and the public. Staff also invited parties and interested agencies and the public to submit written comments on the Staff Assessment by May 26, 2010. Mirant Marsh Landing and the City of Antioch were the only parties who submitted comments on the Staff Assessment. On May 12, 2010, the Committee held a status conference and determined that this case was ready to progress to Committee proceedings. At the status conference, the Committee established July 1,

2010 as the date for the prehearing conference and evidentiary hearing. At the status conference, the Committee also established a schedule for the publication of a Revised Staff Assessment that would reflect comments discussed at the Staff workshop and any additional comments received by the due date, followed by the submission of testimony by the applicant and other parties. The Hearing Officer read the schedule at the status conference and requested comment from the conference participants. The schedule was subsequently memorialized in the Hearing Notice.

On June 10, 2010, Staff published its Revised Staff Assessment. The Revised Staff Assessment addresses comments received during the public comment period and reflects other minor edits. The Revised Staff Assessment concludes that, with the mitigation measures in Staff's recommended Conditions of Certification, the MLGS will comply with all applicable laws, ordinances, regulations and standards ("LORS") and will not result in any significant direct, indirect, or cumulative adverse impacts to the environment or in any of the technical areas considered in the Commission's licensing process. Prior to publication of the Revised Staff Assessment, the staff of the BAAQMD provided Staff with the permit conditions that BAAQMD staff anticipated would be included in the FDOC so that those permit conditions could be included in the Revised Staff Assessment. On June 16, 2010, Mirant Marsh Landing filed its Written Testimony, Witness Declarations, and Witness Qualifications ("Applicant's Written Testimony"). On June 23, 2010, Mirant Marsh Landing submitted its proposed findings as allowed by the Hearing Notice and a subsequent extension of the due date. On June 25, 2010, the BAAQMD issued its FDOC for the MLGS confirming that the MLGS will comply with all applicable BAAQMD rules and regulations. The FDOC was sent to the Commission on June 25, 2010. The applicant has reviewed the FDOC and confirmed that the changes in the FDOC's permit conditions are already reflected in the permit conditions in the Air Quality section of the Revised Staff Assessment. This can be confirmed on the record at the evidentiary hearing by the appropriate witnesses for Air Quality.

With these developments, all topics areas are complete and ready to proceed to evidentiary hearing. There are no issues in dispute among the parties to this proceeding and no issues that require adjudication to resolve. As explained in the Applicant's Written Testimony, Mirant Marsh Landing accepts Staff's proposed Conditions of Certification as set forth in the Revised Staff Assessment with two clarifying changes: (1) a modification to the wording of Condition of Certification SOIL & WATER-6 to be consistent with Staff's analysis in the

Revised Staff Assessment; and (2) a correction to the verification for SOIL & WATER-4 to reflect the associated Condition of Certification and applicable LORS. With these two changes, Mirant Marsh Landing accepts all of Staff's proposed Conditions of Certification. At the hearing Mirant Marsh Landing will be prepared to discuss its requested changes.

Below is the information requested in the Hearing Order, organized according to the categories specified in the Hearing Order.

1. Topic areas that are complete and ready to proceed to evidentiary hearing

As explained above, all topic areas are complete and ready to proceed to evidentiary hearing.

2. Topic areas that are not complete and not yet ready to proceed to evidentiary hearing, and the reasons therefor

As explained above, all topic areas are complete and ready to proceed to evidentiary hearing.

3. Topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic

As explained above, there are no disputed issues that require adjudication to resolve.

4. Identity of each witness sponsored by each party (note: witnesses must have professional expertise in the scope of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; and the time required to present direct testimony by each witness

The Applicant's Written Testimony identifies all of the witnesses who are providing testimony on behalf of Mirant Marsh Landing and includes a statement of their qualifications (*see* Appendix A to Applicant's Written Testimony). The table included as Attachment A to this prehearing conference statement identifies, by topic area, the witnesses who are providing the testimony in the Applicant's Written Testimony, along with the Exhibits that each witness is sponsoring as specified in his or her written testimony. Attachment B to this prehearing conference statement is an exhibit list showing all Exhibits that have been identified in this proceeding to date. The Applicant's Written Testimony is marked as Exhibit 42 and the associated witness qualifications are marked as Exhibit 42(w).

Given that there are no disputed issues that require adjudication, Mirant Marsh Landing proposes to submit the Applicant's Written Testimony (Exhibit 42) and all included Exhibits (Exhibits 1-41 and 100-108, as identified on the Exhibit List in Attachment B) into the record by written declaration of the applicant's witnesses. Mirant Marsh Landing stipulates that Staff can do the same with the Revised Staff Assessment and the associated witness declarations.

In addition, two of Mirant Marsh Landing's witnesses will be prepared to provide testimony at the hearing that will be offered as a short informational presentation regarding the MLGS project, and to support Mirant Marsh Landing's requested language changes to Condition of Certification SOIL & WATER-6 and the verification for Condition of Certification SOIL & WATER-4. The live testimony will be a summary of testimony that is included in the Applicant's Written Testimony. The witnesses who will testify at the hearing are identified below along with a summary of the testimony they will provide. Several other witnesses for the applicant will be available to answer questions at the hearing, either in person or by telephone. These witnesses and the subjects of their written testimony are also identified below. As stated above, a statement of qualifications for all of the applicant's witnesses is included in Appendix A to the Applicant's Written Testimony. (Exhibit 42(w).)

Witnesses Providing Testimony at the Hearing: Jonathan Sacks and Anne Connell

Mr. Sacks is a Director of Business Development and Transactions at Mirant Corporation and the Project Director for the MLGS project. Ms. Connell is the Project Manager at URS Corporation for the MLGS project. Mr. Sacks and Ms. Connell are the witnesses providing the Applicant's Written Testimony addressing Project Description (Exhibit 42(b)). Mr. Sacks also is providing the Applicant's Written Testimony on Executive Summary (Exhibit 42(a)), and he is one of the witnesses providing the Applicant's Written Testimony on Facility Design (Exhibit 42(q)), Power Plant Efficiency (Exhibit 42(s)), and Power Plant Reliability (Exhibit 42(t)). Mr. Sacks also provided testimony on the ammonia slip limit in the Applicant's Written Testimony on Air Quality (Exhibit 42(c)). In addition to Project Description, Ms. Connell is one of the witnesses providing the Applicant's Written Testimony on Land Use (Exhibit 42(g)), Soil and Water Resources (Exhibit 42(k)), and Transmission System Engineering (Exhibit 42(u)), and she is providing the Applicant's Written Testimony on Alternatives (Exhibit 42(v)).

Mr. Sacks and Ms. Connell will testify at the hearing as a panel to provide an overview of the MLGS project and to describe its operational capabilities. The panel also will explain Mirant Marsh Landing's requested changes to Staff's proposed Condition of Certification SOIL & WATER-6 and the verification for Condition of Certification SOIL & WATER-4. The panel will be available for questions as needed. The direct testimony should require no more than 20 minutes.

Witnesses Available for Questions at the Hearing

- 1) Transmission System Engineering: Peter Mackin: Mr. Mackin is one of the witnesses providing the Applicant's Written Testimony on Transmission System Engineering. (Exhibit 42(u).) The Applicant's Written Testimony and the Revised Staff Assessment explain that the MLGS will be required to progress through the remainder of the California Independent System Operator's Large Generator Interconnection Process ("LGIP") in order to qualify for a Large Generator Interconnection Agreement. The LGIP ensures compliance with applicable transmission system engineering LORS and ensures that there will be no significant adverse impacts to the transmission system and no violation of applicable reliability standards. Staff has included Condition of Certification TSE-5 to ensure these results. Mr. Mackin will be available to answer questions regarding the LGIP and the manner in which the associated Phase II interconnection study is being prepared. The Phase II interconnection study is expected to be released in July 2010.
- 2) Air Quality: John Lague: Mr. Lague is the primary witness providing the Applicant's Written Testimony on Air Quality. (Exhibit 42(c).) Mr. Lague will attend the hearing and will be available to confirm, as necessary, the consistency of conditions in the FDOC with the conditions that are included in the Revised Staff Assessment, and to answer any questions about the Air Quality analysis.
- 3) Soil and Water Resources: Jack Wittman: Dr. Wittman is one of the witnesses providing the Applicant's Written Testimony on Soil and Water Resources. (Exhibit 42(k).) Dr. Wittman prepared the Aquifer Characterization and Groundwater Model Report that was provided with the amendment to the AFC (Exhibit 20(e)) and the associated presentation at the October 2009 workshop and

responses to Staff's data requests (Exhibits 25, 30(b)). Dr. Wittman will be available at the hearing to answer any questions about the use of groundwater. As noted above, Anne Connell also is providing the Applicant's Written Testimony on Soil & Water Resources. She also will be present at the hearing to answer questions about the project's water use and discharge.

- 4) Waste Management: Erik Skov: Mr. Skov is the witness providing the Applicant's Written Testimony on Waste Management. (Exhibit 42(o).) Mr. Skov will be available by phone to answer any questions about the Waste Management analysis. The Revised Staff Assessment and Applicant's Written Testimony explain that sufficient information is known about existing contamination at the MLGS site to prepare conditions of certification that ensure compliance with applicable LORS and protect workers and the off-site public from exposure. The former owner of the project site, PG&E, is currently working with the California Environmental Protection Agency's Department of Toxic Substances Control ("DTSC") to evaluate the extent of existing known contamination and to develop a remedial action plan for the project site as necessary. Staff has proposed Condition of Certification WASTE-10 to require the project owner to ensure that all DTSC-required remedial work is completed prior to the start of excavation in the affected areas. Condition of Certification WASTE-10 also requires the project owner to provide the Compliance Project Manager with copies of documents submitted to DTSC and copies of written correspondence between PG&E and DTSC regarding the project site. The applicant has provided several documents describing the results of PG&E's work at the site to Staff. The documents that were available as of June 16, 2010 were included as Exhibits to the Applicant's Written Testimony. (*See, e.g.*, Exhibits 34, 36, 38, 41.) Since the Applicant's Written Testimony was filed, PG&E has provided additional documentation and written correspondence and the applicant has submitted copies to Staff. These additional documents have not been marked as Exhibits, but the applicant will bring copies to the hearing and can mark and admit them as requested by the Committee. Ms. Connell, the URS Project Manager for the MLGS project, will be present at the hearing to address the documents as needed.

5. Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of such cross-examination, and the time desired for such cross-examination

The only two parties who have filed testimony in this proceeding are Mirant Marsh Landing and Staff. Mirant Marsh Landing does not anticipate the need to conduct cross-examination of Staff's witnesses, but reserves the right to participate in any discussion and exchange that may take place at the hearing, including those that may take place using the informal hearing procedures described in the Hearing Notice.

Robert Sarvey, Local Clean Energy Alliance ("LCEA"), and Rob Simpson each filed a petition to intervene after the deadline in this proceeding. The Committee denied Mr. Sarvey's late-filed petition to intervene in a written order dated June 21, 2010. Because Mr. Sarvey does not have intervenor status in this proceeding, his purported testimony should not be admitted as an exhibit in this proceeding or included in the evidentiary record. Mr. Sarvey also served his testimony after the 4:00 pm deadline established in the Hearing Notice. The document that Mr. Sarvey submitted on June 21, 2010 should be treated as public comment rather than testimony. Mr. Sarvey has the right to make comments during the public comment portion of the evidentiary hearing, but he should not be permitted to provide testimony or conduct cross examination of witnesses. Mr. Sarvey recently appealed the Committee's denial of his petition to intervene to the full Commission. The applicant maintains that the Committee properly denied Mr. Sarvey's late-filed petition and will urge the Commission to deny Mr. Sarvey's appeal.

The Committee has not yet ruled on the late-filed petitions to intervene of LCEA and Mr. Simpson. The applicant opposes these late-filed interventions and urges the Committee to deny their late-filed petitions for the same reasons that Mr. Sarvey's petition was denied. (*See Applicant's Opposition* filed June 22, 2010.) In addition, even if LCEA and Mr. Simpson were to be granted intervenor status, their purported testimony should be rejected because: (1) both LCEA and Mr. Simpson served their purported testimony after the 4:00 pm deadline established in the Hearing Order; and (2) neither LCEA nor Mr. Simpson submitted witness qualifications or otherwise demonstrated that their witnesses possess professional expertise in the scope of their purported testimony. The documents filed by LCEA and Mr. Simpson therefore should be treated as public comment and not as testimony.

In the event that Mr. Sarvey, LCEA or Mr. Simpson is allowed to participate as an intervenor, the applicant reserves the right to cross-examine their witnesses at the hearing. Any

cross-examination would focus on demonstrating that Mr. Sarvey, LCEA and Mr. Simpson have not presented any relevant concern that has not already been fully addressed and resolved in the Revised Staff Assessment, the FDOC, and the Applicant's Written Testimony. The applicant also reserves the right to request a Committee determination as to whether each offered witness is an expert as defined in the California Evidence Code.

6. An exhibit list identifying exhibits and declarations that each party intends to offer into evidence

As stated above, an Exhibit List with all Exhibits identified to date is included with this prehearing conference statement as Attachment B. Word versions of this prehearing conference statement and the Exhibit List are being sent to the Hearing Officer today.

7. Proposals for briefing deadlines, vacation schedules, and other scheduling matters

Given that there are no disputed issues among the parties, the applicant does not foresee a need for post-hearing briefs. If any briefs are required, they should be due within two weeks after the hearing transcript becomes available.

8. For all topics, the parties shall review the Proposed Conditions of Certification listed in the Revised Staff Assessment (RSA) for enforceability, comprehension, and consistency with the evidence, and submit any proposed modifications

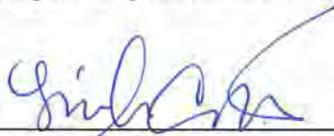
As stated above, Mirant Marsh Landing has requested just two clarifying changes to Staff's proposed Conditions of Certification: one change to the wording in Staff's proposed Condition of Certification SOIL & WATER-6; and one correction to the verification in Staff's proposed Condition of Certification SOIL & WATER-4. These requested changes were described in the Applicant's Written Testimony. (Exhibit 42(k), pp. 43-46.) As explained therein, the applicant is asking for one modification to the wording of Condition of Certification SOIL & WATER-6 to make the requirement consistent with Staff's analysis that the MLGS use of potable water supplied by the City of Antioch for process purposes complies with applicable LORS, including the Commission's policy on the use of fresh water for cooling purposes. The applicant is requesting one correction to the verification for Condition of Certification SOIL & WATER-4 to ensure consistency with the associated Condition of Certification and applicable LORS. The applicant's requested changes are shown in strikethrough and underlined text in the Applicant's Written Testimony, relevant portions of which are included with this prehearing conference statement as Attachment C.

9. The party's comments, if any, on the Committee's intention to use informal hearing procedures

Mirant Marsh Landing does not object to the use of the informal hearing procedures described in the Hearing Order. As stated above, Mirant Marsh Landing intends to present its witnesses as a panel at the hearing. Additional witnesses will be available at the hearing for questions, as also explained above. The applicant anticipates that these witnesses could engage in an informal dialogue with the Committee and counsel for the applicant and Staff.

June 28, 2010

Respectfully submitted,



Lisa A. Cottle
Winston & Strawn LLP
Attorneys for Mirant Marsh Landing, LLC

Attachment A

Table Identifying Witnesses and Exhibits by Topic Area

**Mirant Marsh Landing, LLC's
Witnesses and Exhibits by Topic Area**

Topic Area	Witnesses	Exhibits
Executive Summary	Jonathan Sacks	Exhibit 42(a) - Written Testimony Exhibit 42(a)(1) - Declaration of Jonathan Sacks Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)
Project Description	Jonathan Sacks Anne Connell	Exhibit 42(b)(1-5) - Written Testimony Exhibit 42(b)(6) - Declaration of Jonathan Sacks Exhibit 42(b)(7) - Declaration of Anne Connell Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Exhibit 35 (Letter to Committee re Schedule) Portions of Exhibit 39 (Comments on Staff Assessment) Exhibits 102, 104, 107 (Agency Communications)
Air Quality and Greenhouse Gas Emissions	John Lague Jonathan Sacks	Exhibit 42(c) - Written Testimony Exhibit 42(c)(1) - Declaration of John Lague Exhibit 42(c)(2) - Declaration of Jonathan Sacks Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibits 8, 9 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 30 (Responses to Data Requests) Exhibit 37 (Comments on PDOC) Portions of Exhibit 39 (Comments on Staff Assessment) Exhibit 40 (Responses to Public Comments on PDOC) Exhibits 100 (BAAQMD Letter re Completeness) Exhibit 106 (PDOC) Exhibit 107 (City of Antioch Comments on Staff Assessment) Exhibit 108 (U.S. EPA Letter Confirming No PSD)

Topic Area	Witnesses	Exhibits
Biological Resources	Bill Martin Katherine Caldwell Julie A. Mitchell	Exhibit 42(d) - Written Testimony Exhibit 42(d)(1) - Declaration of Bill Martin Exhibit 42(d)(2) - Declaration of Katherine Caldwell Exhibit 42(d)(3) - Declaration of Julie A. Mitchell Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibits 9, 11, 17, 18, 19 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Exhibit 31 (Responses to Data Requests) Portions of Exhibit 39 (Comments on Staff Assessment)
Cultural Resources	Mark Hale Rebecca Meta Bunse	Exhibit 42(e) – Written Testimony Exhibit 42(e)(1) – Declaration of Mark Hale Exhibit 42(e)(2) – Declaration of Rebecca Meta Bunse Portions of Exhibit 1 (AFC) Exhibits 3, 5 (Confidential Materials) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 9 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)
Hazardous Materials	John Lague	Exhibit 42(f) – Written Testimony Exhibit 42(f)(1) – Declaration of John Lague Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 9 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment) Exhibit 102 (Agency Communication)
Land Use	Julie Bixby Anne Connell	Exhibit 42(g) – Written Testimony Exhibit 42(g)(1) – Declaration of Julie Bixby Exhibit 42(g)(2) – Declaration of Anne Connell Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 9 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Exhibit 33 (Report of Conversation)

Topic Area	Witnesses	Exhibits
		Portions of Exhibit 39 (Comments on Staff Assessment) Exhibits 101, 104, 107 (Agency Communications)
Noise and Vibration	Ronald E. Reeves	Exhibit 42(h) – Written Testimony Exhibit 42(h)(1) – Declaration of Ronald E. Reeves Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibits 9, 11 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment) Exhibit 104 (Agency Communication)
Public Health	Julie E. Mitchell	Exhibit 42(i) - Written Testimony Exhibit 42(i)(1) - Declaration of Julie A. Mitchell Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment) Exhibit 40 (Responses to Public Comments on PDOC)
Socioeconomic Resources	Marvin Feldman Anne Connell	Exhibit 42(j) – Written Testimony Exhibit 42(j)(1) – Declaration of Marvin Feldman Exhibit 42(j)(2) – Declaration of Anne Connell Portions of Exhibit 1 (AFC) Exhibit 2 (Report of Conversation) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 9 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Exhibits 21, 23 (Additional Information) Portions of Exhibit 39 (Comments on Staff Assessment)
Soil and Water Resources	Anne Connell Jack Wittman Rhett Moore Chuck Hicklin	Exhibit 42(k) – Written Testimony Exhibit 42(k)(1) – Declaration of Anne Connell Exhibit 42(k)(2) – Declaration of Jack Wittman Exhibit 42(k)(3) – Declaration of Rhett Moore Exhibit 42(k)(4) – Declaration of Chuck Hicklin Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibits 8, 9, 11 (Responses to Data Requests)

Topic Area	Witnesses	Exhibits
		Portions of Exhibit 20 (Amendment to AFC) Exhibit 25 (Workshop Presentation) Portions of Exhibit 30 (Responses to Data Requests) Exhibit 32 (Responses to Data Requests) Portions of Exhibit 39 (Comments on Staff Assessment) Exhibits 101, 104, 105, 107 (Agency Communications)
Traffic and Transportation	Nayan Amin	Exhibit 42(l) – Written Testimony Exhibit 42(l)(1)) – Declaration of Nayan Amin Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Exhibit 13 (Additional Information) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)
Transmission Line Safety and Nuisance	Tylen Larson Peter Mackin	Exhibit 42(m) – Written Testimony Exhibit 42(m)(1) – Declaration of Tylen Larson Exhibit 42(m)(2) – Declaration of Peter Mackin Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)
Visual Resources	Richard Stuhan David Lawrence	Exhibit 42(n) – Written Testimony Exhibit 42(n)(1) – Declaration of Richard Stuhan Exhibit 42(n)(2) – Declaration of David Lawrence Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)
Waste Management	Erik Skov	Exhibit 42(o) – Written Testimony Exhibit 42(o)(1) – Declaration of Erik Skov Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibits 8, 9 (Responses to Data Requests) Exhibit 10 (Response to Issue Identification Report) Portions of Exhibit 11 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Exhibit 24 (Letter from Former Owner of the Site)

Topic Area	Witnesses	Exhibits
		Exhibit 26 (Response to Data Requests) Exhibit 27 (Clarification re Black Liquor) Exhibit 29 (Response to Data Requests) Portions of Exhibit 30 (Response to Data Requests) Exhibits 34, 36, 38, 41 (Documents Prepared for DTSC) Portions of Exhibit 39 (Comments on Staff Assessment) Exhibit 103 (Agency Communication)
Worker Safety	Lisa Griggs	Exhibit 42(p) – Written Testimony Exhibit 42(p)(1) – Declaration of Lisa Griggs Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 9 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)
Facility Design	Jonathan Sacks Chuck Hicklin	Exhibit 42(q) – Written Testimony Exhibit 42(q)(1) – Declaration of Jonathan Sacks Exhibit 42(q)(2) – Declaration of Chuck Hicklin Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)
Geology and Paleontology	Raymond Rice Joe Stewart	Exhibit 42(r) – Written Testimony Exhibit 42(r)(1) – Declaration of Raymond Rice Exhibit 42(r)(2) – Declaration of Joe Stewart Portions of Exhibit 1 (AFC) Exhibits 4, 6 (Confidential Materials) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)
Power Plant Efficiency	Jonathan Sacks Chuck Hicklin	Exhibit 42(s) – Written Testimony Exhibit 42(s)(1) – Declaration of Jonathan Sacks Exhibit 42(s)(2) – Declaration of Chuck Hicklin Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)

Topic Area	Witnesses	Exhibits
Power Plant Reliability	Jonathan Sacks Chuck Hicklin	Exhibit 42(t) – Written Testimony Exhibit 42(t)(1) – Declaration of Jonathan Sacks Exhibit 42(t)(2) – Declaration of Chuck Hicklin Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)
Transmission System Engineering	Tylen Larson Peter Mackin	Exhibit 42(u) – Written Testimony Exhibit 42(u)(1) – Declaration of Tylen Larson Exhibit 42(u)(2) – Declaration of Peter Mackin Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibits 8, 9 (Responses to Data Requests) Exhibit 10 (Response to Issues Identification Report) Portions of Exhibit 11 (Responses to Data Requests) Exhibits 12, 14, 15, 16 (Responses to Data Requests) Portions of Exhibits 17, 18 (Responses to Data Requests) Portions of Exhibit 20 (Amendment to AFC) Exhibit 22 (CAISO Phase I Interconnection Studies) Exhibit 28 (Revised LGIP Interconnection Request) Portions of Exhibit 39 (Comments on Staff Assessment)
Alternatives	Anne Connell	Exhibit 42(v) – Written Testimony Exhibit 42(v)(1) – Declaration of Anne Connell Portions of Exhibit 1 (AFC) Portions of Exhibit 7 (Supplement to AFC) Portions of Exhibit 20 (Amendment to AFC) Portions of Exhibit 39 (Comments on Staff Assessment)

Attachment B

Exhibit List as of June 28, 2010



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA
 1516 NINTH STREET, SACRAMENTO, CA 95814 - 1-800-822-6228 – WWW.ENERGY.CA.GOV

DOCKET NUMBER: 08-AFC-03

DATED AS OF: JUNE 28, 2010

PROJECT NAME: MIRANT MARSH LANDING, LLC- APPLICATION FOR CERTIFICATION FOR THE MARSH LANDING GENERATING STATION

EXHIBIT LIST AS OF JUNE 28, 2010

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
APPLICANT'S EXHIBITS						
1	Marsh Landing Generating Station Application for Certification, dated May 2008, and docketed May 30, 2008. (a) 1.0 - Executive Summary (b) 2.0 - Project Description (c) 3.0 - Facility Closure (d) 4.0 - Transmission Facilities (e) 5.0 - Natural Gas Supply (f) 6.0 - Water Supply (g) 7.0 - Environmental Information (1) 7.1- Air Quality (2) 7.2- Biological Resources (3) 7.3- Cultural Resources (4) 7.4- Land Use and Agriculture (5) 7.5- Noise (6) 7.6- Public Health (7) 7.7- Worker Safety and Health (8) 7.8- Socioeconomics (9) 7.9- Soils (10) 7.10- Traffic And Transportation (11) 7.11- Visual Resources (12) 7.12- Hazardous Materials Handling (13) 7.13- Waste Management (14) 7.14- Water Resources					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
	<p>(15) 7.15- Geologic Hazards and Resources (16) 7.16- Paleontological Resources</p> <p>(h) 8.0 - Alternatives (i) 9.0 - List of Contributors (j) Appendix A - Civil Engineering Design Criteria (k) Appendix B - Structural Engineering Design Criteria (l) Appendix C - Mechanical Engineering Design Criteria (m) Appendix D - Electrical Engineering Design Criteria (n) Appendix E - Chemical Engineering Design Criteria (o) Appendix F - Preliminary Drainage Calculations (p) Appendix G - Draft Stormwater Pollution Prevention Plan for Construction (q) Appendix H - Transmission Interconnection Requests (1) Appendix H1 - LGIP Interconnection Request, March 7, 2008- Combined Cycle Units (2) Appendix H2 - LGIP Interconnection Request, March 11, 2008 - Simple Cycle Units (r) Appendix I - Water Supply and Wastewater (Will Serve Letter with DDSD) (s) Appendix J - Air Quality Data and Modeling Protocol (1) Appendix J1 - MLGS Air Modeling Protocol (2) Appendix J2 - Agency Comments on Air Modeling Protocol (3) Appendix J3 - Air Quality Modeling Calculations (t) Appendix K - Biological Resources (1) Appendix K1 - Federal Endangered and Threatened Species in Antioch North (2) Appendix K2 - CNPS Special-Status Species in Antioch North (3) Appendix K3 - CNDDDB Occurrences within 10 Miles (u) Appendix L - Cultural Resources Technical Reports (1) Appendix L1 - Archaeological Reconnaissance, Marsh Landing Generating Station, Contra Costa County, California (submitted separately under the rules of Confidentiality and not reproduced here) (2) Appendix L2 - Historical Resources Inventory and Evaluation Report MLGS (3) Appendix L3 - Cultural Resources Record Search (submitted separately under the rules of confidentiality and not reproduced here) (v) Appendix M - Assessor's Parcel Numbers/Ownership Information</p>					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
	<ul style="list-style-type: none"> (w) Appendix N - Equipment Sound Power Levels (x) Appendix O - Public Health Data <ul style="list-style-type: none"> (1) Appendix O1 - Sensitive Receptors within 3 Miles and Nearby Residents (2) Appendix O2 - Toxic Air Contaminant Emission Calculations (y) Appendix P- Traffic Analyses <ul style="list-style-type: none"> (1) Appendix P1 - Existing Traffic Volumes (2) Appendix P2 - Existing Conditions - Level of Service Analysis (3) Appendix P3 - Accident Data (4) Appendix P4 - Near-Term Conditions - Level of Service Analysis (5) Appendix P5 - Near-Term Plus Project Conditions - Level of Service Analysis (6) Appendix P6 - Projected Future Conditions - Level of Service Analysis (7) Appendix P7 - Projected Future Plus Project Conditions - Level of Service Analysis (z) Appendix Q - Hazardous Materials Handling - Summary of Model Results (aa) Appendix R - Phase I Environmental Site Assessment (bb) Appendix S - Paleontological Resources Technical Report (submitted separately under the rules of confidentiality and not reproduced here) (cc) Appendix T - Leadership in Energy and Environmental Design (LEED) Preliminary Score Sheet (dd) Appendix U - City of Antioch Letter of Support 					
2	Mirant Marsh Landing, LLC's Confirmation of the Type of Employees Employed During Operations, dated June 05, 2008, and docketed June 05, 2008.					
3	Mirant Marsh Landing, LLC's Request for Confidential Designation of Confidential Cultural Resources Reports Provided in Connection with the Marsh Landing Generating Station Application for Certification, dated June 5, 2008, and docketed June 5, 2008 (references cultural resources report that was submitted under confidentiality protection and is not reproduced in the Applicant's public exhibits).					
4	Mirant Marsh Landing, LLC's Request for Confidential Designation of Confidential Paleontological Resources Technical Report Provided in Connection with the Marsh Landing Generating Station Application for					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
	Certification, dated June 5, 2008, and docketed June 5, 2008 (references paleontological report that was submitted under confidentiality protection and is not reproduced in the Applicant's public exhibits).					
5	California Energy Commission's Grant of Confidential Designation of Confidential Cultural Resources Reports Provided in Connection with the Marsh Landing Generating Station Application for Certification, dated June 27, 2008, and docketed June 27, 2008.					
6	California Energy Commission's Grant of Confidential Designation of Confidential Paleontological Report Provided in Connection with the Marsh Landing Generating Station Application for Certification, dated June 27, 2008, and docketed June 27, 2008.					
7	<p>Marsh Landing Generating Station Application for Certification Supplement Volumes 1 and 2, dated September 15, 2008, and docketed September 18, 2008.</p> <ul style="list-style-type: none"> (a) 1.0 - Executive Summary (b) 2.0 - Project Description (c) 3.0 - Facility Closure (d) 4.0 - Transmission Facilities (e) 5.0 - Natural Gas Supply (f) 6.0 - Water Supply (g) 7.0 - Environmental Information <ul style="list-style-type: none"> (1) 7.1- Air Quality (2) 7.2- Biological Resources (3) 7.3- Cultural Resources (4) 7.4- Land Use and Agriculture (5) 7.5- Noise (6) 7.6- Public Health (7) 7.7- Worker Safety and Health (8) 7.8- Socioeconomics (9) 7.9- Soils (10) 7.10-- Traffic And Transportation (11) 7.11- Visual Resources (12) 7.12- Hazardous Materials Handling (13) 7.13- Waste Management (14) 7.14- Water Resources (15) 7.15- Geologic Hazards and Resources 					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
	<p>(16) 7.16- Paleontological Resources</p> <p>(h) 8.0 - Alternatives</p> <p>(i) 9.0 - List of Contributors</p> <p>(j) Appendix A - Civil Engineering Design Criteria</p> <p>(k) Appendix B - Structural Engineering Design Criteria</p> <p>(l) Appendix C - Mechanical Engineering Design Criteria</p> <p>(m) Appendix D - Electrical Engineering Design Criteria</p> <p>(n) Appendix E - Chemical Engineering Design Criteria</p> <p>(o) Appendix F - Preliminary Drainage Calculations</p> <p>(p) Appendix G - Draft Stormwater Pollution Prevention Plan for Construction</p> <p>(q) Appendix H - Transmission Interconnection</p> <p>(1) Appendix H1 - LGIP Interconnection Request, March 7, 2008 - Combined Cycle Units</p> <p>(2) Appendix H2 - LGIP Interconnection Request, March 11, 2008 - Simple Cycle Units</p> <p>(3) Appendix H3 - System Impact Study</p> <p>(r) Appendix I - Water Supply and Wastewater (Will Serve Letter with DDSD)</p> <p>(s) Appendix J - Air Quality Data and Modeling Protocol</p> <p>(1) Appendix J1 - MLGS Air Modeling Protocol</p> <p>(2) Appendix J2 - Agency Comments on Air Modeling Protocol</p> <p>(3) Appendix J3 - Air Quality Modeling Calculations</p> <p>(4) Appendix J4 - Windroses and Frequency Distributions</p> <p>(5) Appendix J5 - Bay Area Air Quality Management District Letter of Completeness</p> <p>(t) Appendix K - Biological Resources</p> <p>(1) Appendix K1 - Federal Endangered and Threatened Species in Antioch North</p> <p>(2) Appendix K2 - CNPS Special-Status Species in Antioch North</p> <p>(3) Appendix K3 - CNDDDB Occurrences within 10 Miles</p> <p>(4) Appendix K4 - Agency Communication</p> <p>(u) Appendix L - Cultural Resources Technical Reports</p> <p>(1) Appendix L1 - Archaeological Reconnaissance, Marsh Landing Generating Station, Contra Costa County, California (submitted separately under the rules of confidentiality and not reproduced here)</p> <p>(2) Appendix L2 - Historical Resources Inventory and Evaluation Report MLGS</p> <p>(3) Appendix L3 - Cultural Resources Record Search</p>					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
	<p>(submitted separately under the rules of confidentiality and not reproduced here)</p> <p>(4) Appendix L4 - Archaeologist Qualifications</p> <p>(v) Appendix M - Assessor's Parcel Numbers/Ownership Information</p> <p>(w) Appendix N - Equipment Sound Power Levels</p> <p>(x) Appendix O - Public Health Data</p> <p>(1) Appendix O1 - Sensitive Receptors within 3 Miles and Nearby Residents</p> <p>(2) Appendix O2 - Toxic Air Contaminant Emission Calculations</p> <p>(y) Appendix P - Traffic Analyses</p> <p>(1) Appendix P1 - Existing Traffic Volumes</p> <p>(2) Appendix P2 - Existing Conditions - Level of Service Analysis</p> <p>(3) Appendix P3 - Accident Data</p> <p>(4) Appendix P4 - Near-Term Conditions - Level of Service Analysis</p> <p>(5) Appendix P5 - Near-Term Plus Project Conditions - Level of Service Analysis</p> <p>(6) Appendix P6 - Projected Future Conditions - Level of Service Analysis</p> <p>(7) Appendix P7 - Projected Future Plus Project Conditions - Level of Service Analysis</p> <p>(z) Appendix Q - Hazardous Materials Handling - Summary of Model Results</p> <p>(aa) Appendix R - Phase I Environmental Site Assessment</p> <p>(bb) Appendix S - Paleontological Resources Technical Report (submitted separately under the rules of confidentiality and not reproduced here)</p> <p>(cc) Appendix T - Leadership in Energy and Environmental Design (LEED) Preliminary Score Sheet</p> <p>(dd) Appendix U - City of Antioch Letter of Support</p>					
8	<p>Mirant Marsh Landing, LLC's Notice Re Request for Additional Time to Respond to Staff Data Requests Set 1 (Nos. 1– 54), dated December 02, 2008, and docketed December 02, 2008.</p> <p>(a) Response 8 (Air Quality)</p> <p>(b) Response 31 (Soil and Water Resources)</p> <p>(c) Responses 37- 45 (Transmission System Engineering)</p> <p>(d) Responses 48 and 49 (Waste Management)</p>					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
9	<p>Mirant Marsh Landing, LLC's Responses to Data Request Set 1 (Nos. 1 - 54), dated December 12, 2008, and docketed December 12, 2008</p> <ul style="list-style-type: none"> (a) Responses 1 – 9 (Air Quality) (b) Responses 10 – 13 (Cultural Resources) (c) Responses 14 and 15 (Hazardous Materials Management) (d) Responses 16 – 22 (Land Use) (e) Responses 23 – 26 (Socioeconomics) (f) Responses 27 – 36 (Soil and Water Resources) (g) Responses 37 – 45 (Transmission System Engineering) (h) Responses 46 – 49 (Waste Management) (i) Response 50 (Worker Safety and Fire Protection) (j) Responses 51 – 54 (Biological Resources) (k) Appendix A (Air Quality) <ul style="list-style-type: none"> (1) Appendix A-1 (Construction Emissions) (2) Appendix A-2 (Operational Emissions) (3) Appendix A-3 (Estimated Emissions Data From Siemens) (l) Appendix B (Land Use) <ul style="list-style-type: none"> (1) Appendix B-1 (Subdivision Application Information) (m) Appendix C (Soil and Water) <ul style="list-style-type: none"> (1) Appendix C-1 (Storm Water Control Plan) (n) Appendix D (Transmission) <ul style="list-style-type: none"> (1) Appendix D-1 (Reconductoring Project Preliminary Environmental Analysis) 					
10	<p>Mirant Marsh Landing, LLC's Response to Staff's Issues Identification Report, dated December 15, 2008, and docketed December 15, 2008.</p>					
11	<p>Mirant Marsh Landing, LLC's Responses to the December 18th 2008 Data Response and Issues Resolution Workshop, dated February 2009, and docketed February 12, 2009.</p> <ul style="list-style-type: none"> (a) Response 1 (Soil and Water Resources) (b) Responses 2 and 3 (Waste Management) (c) Responses 4 and 5 (Biological Resources) (d) Response 6 (Transmission System Engineering) (e) Appendix A (Soil and Water) <ul style="list-style-type: none"> (1) Appendix A-1 (Vendor Information) (2) Appendix A-2 (Case Studies, Articles, and Other Publications) (3) Appendix A-3 (Soil and Water- Related Agency Documents) 					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
	(f) Appendix B (Waste Management) (1) Appendix B-1 (Phase I Environmental Site Assessment for Water and Gas Supply Linears)					
12	Mirant Marsh Landing, LLC's Responses to Data Requests 41 and 44: Updated Impact Study, dated February 2009, and docketed February 18, 2009. (a) Responses 41 and 44 (Transmission System Engineering) (b) Appendix A (Updated System Impact Study)					
13	Mirant Marsh Landing, LLC's Letter from URS (A. Connell) to CEC (J. Adams) Re Accident Rate, dated February 23, 2009.					
14	Mirant Marsh Landing, LLC's Responses to Data Request 43: Updated System Impact Study - (Appendix 10), dated March 2009, and docketed March 05, 2009. (a) Response 43 (Transmission System Engineering) (b) Appendix A (Updated System Impact Study Appendix 10, Transient Stability Analyses)					
15	Mirant Marsh Landing, LLC's Updated System Impact Study - Appendix 11 Results of 3 Phase Fault Duty Analysis, dated March 09, 2009, and docketed March 10, 2009.					
16	Mirant Marsh Landing, LLC's Updated System Impact Study - Appendix 10 A - Switching Files (*.swt) Used for Transient Stability Analysis , dated April 2009, and docketed April 28, 2009.					
17	Mirant Marsh Landing, LLC's Request for Additional Time to Respond to Staff Data Requests Set 2 (Nos. 60 - 69) for the Marsh Landing Generating Station (Docket No. 08-AFC-3), dated May 14, 2009, and docketed May 14, 2009.					
18	Mirant Marsh Landing, LLC's Responses to Data Request Set 2 (Nos. 60 - 69), dated May 2009, and docketed May 21, 2009. (a) Responses 60 – 63 (Biological Resources) (b) Responses 64 -69 (Transmission System Engineering)					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
19	<p>Mirant Marsh Landing, LLC's Responses to Data Requests Set 2 (Nos. 60 - 63), dated June 2009, and docketed June 25, 2009.</p> <p>(a) Responses 60 – 63 (Biological Resources)</p>					
20	<p>Marsh Landing Generating Station Application for Certification Amendment, dated September 2009, and docketed September 15, 2009.</p> <p>(a) 1.0 - Introduction (b) 2.0 - Project Description Modifications (c) 3.0 - Environmental Consequences (1) 3.1- Air Quality (2) 3.2- Biological Resources (3) 3.3- Cultural Resources (4) 3.4- Land Use (5) 3.5- Noise (6) 3.6- Public Health (7) 3.7- Worker Safety and Health (8) 3.8- Socioeconomics (9) 3.9- Soils (10) 3.10- Traffic And Transportation (11) 3.11- Visual Resources (12) 3.12- Hazardous Materials (13) 3.13- Waste Management (14) 3.14- Water Resources (15) 3.15- Geologic Hazards and Resources (16) 3.16- Paleontological Resources (d) 4.0 - References (e) Revised/New Appendix I - Aquifer Characterization and Groundwater Model Report (f) Revised Appendix J3 - Air Quality Modeling Calculations (g) Revised Appendix O2 - Toxic Air Contaminant Emission Calculations</p>					
21	<p>Mirant Marsh Landing, LLC's Additional Socioeconomics Information for the Marsh Landing Generating Station Application for Certification Amendment, dated September 21, 2009, and docketed September 21, 2009.</p>					
22	<p>CAISO Transition Cluster Group 1 Phase I Interconnection Study</p>					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
	Reports (Marsh Landing Generating Station Combined Cycle Units and Simple Cycle Units), dated September 24, 2009, and docketed September 24, 2009.					
23	Mirant Marsh Landing, LLC's Clarification Regarding September 17, 2009 Application for Certification Supplement Socioeconomics Section, dated September 28, 2009, and docketed September 28, 2009.					
24	Marsh Landing Generating Station Letter from PG&E (D. Harnish) to Mirant (J. Sacks) re: Response to CEC Data Requests regarding Pre-Closing Remediation Conditions and Pre-Sale Contamination Condition, Mirant Marsh Landing Generating Station, Antioch, CA, dated October 13, 2009, and docketed October 13, 2009.					
25	Marsh Landing Generating Station Aquifer Characterization and Groundwater Modeling (Presentation from Issues Resolution Workshop) by Rhett Moore and Jack Wittman, dated October 14, 2009, and docketed October 14, 2009.					
26	Marsh Landing Generating Station Work Plan for Soil & Groundwater Sampling and Focused Health Risk Assessment prepared for PG&E by AMEC Geomatrix, dated November 20, 2009, and docketed November 20, 2009.					
27	Mirant Marsh Landing, LLC's Clarification Regarding the Storage of Black Liquor, dated November 20, 2009.					
28	Mirant Marsh Landing, LLC's Revised LGIP Interconnection Request Submitted to CAISO on September 21st for the Currently Proposed MLGS Consisting of Four Simple Cycle Units, dated November 24, 2009, and docketed November 24, 2009.					
29	Marsh Landing Generating Station Focused Site Investigation Report and Human Health Risk Assessment prepared for PG&E by AMEC Geomatrix, dated January 15, 2010, and docketed January 15, 2010.					
30	Mirant Marsh Landing, LLC's Responses to Data Request Set 3: (Nos. 70 - 98), dated February 2010, and docketed February 11, 2010. (a) Responses 70 – 76 (Air Quality) (b) Responses 77 – 93 (Water Resources)					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
	(c) Responses 94 – 98 (Waste Management)					
31	Mirant Marsh Landing, LLC's Responses to Data Request Set 3b: (Nos. 99 - 101), dated February 2010, and docketed February 23, 2010. (a) Responses 99 – 101 (Biological Resources)					
32	Mirant Marsh Landing, LLC's Responses to Data Request Set 3: (Nos. 82 and 83), dated February 2010, and docketed February 23, 2010. (a) Responses 82 and 83 (Water Resources) (b) Appendix A (Revised Draft Construction Stormwater Pollution Prevention Plan) (c) Appendix B (Revised Draft Stormwater Control Plan) (d) Appendix C (Draft Drainage, Erosion, and Sediment Control Plan)					
33	Mirant Marsh Landing, LLC's Report of Conversation re Clarification of Land Use, Subdivision between URS (A. Connell) and Aspen Environmental Group (N. Vahidi), dated March 09, 2010, and docketed March 09, 2010.					
34	Marsh Landing Generating Station Facility Investigation and Risk Assessment Work Plan prepared for PG&E by AMEC Geomatrix, dated March 17, 2010, and docketed March 17, 2010.					
35	Mirant Marsh Landing, LLC's Letter to Committee Members Regarding Contractual Deadlines for the Marsh Landing Generating Station, dated March 25, 2010, and docketed March 25, 2010.					
36	Marsh Landing Generating Station Addendum to Facility Investigation and Risk Assessment Work Plan prepared for PG&E by AMEC Geomatrix, dated April 08, 2010, and docketed April 08, 2010.					
37	Mirant Marsh Landing, LLC's Comments on Preliminary Determination of Compliance for the Marsh Landing Generating Station, dated April 29, 2010, and docketed April 29, 2010.					
38	Marsh Landing Generating Station Work Plan Documents prepared for PG&E by AMEC Geomatrix dated May 2010, and docketed May 17, 2010.					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
39	<p>Mirant Marsh Landing, LLC's Comments on the Staff Assessment, dated May 2010, and docketed May 24, 2010.</p> <ul style="list-style-type: none"> (a) Executive Summary (b) Project Description (c) Air Quality And Greenhouse Gas Emissions (d) Biological Resources (e) Cultural Resources (f) Hazardous Materials (g) Land Use (h) Noise And Vibration (i) Public Health (j) Socioeconomic Resources (k) Soil And Water Resources (l) Traffic And Transportation (m) Transmission Line Safety And Nuisance (n) Visual Resources (o) Waste Management (p) Worker Safety (q) Facility Design (r) Geology And Paleontology (s) Power Plant Efficiency (t) Power Plant Reliability (u) Transmission System Engineering (v) Alternatives (w) General Conditions (x) Attachments <ul style="list-style-type: none"> (1) Applicant's Preliminary Comments on the Staff Assessment (2) Additional Information Related to Air Quality <ul style="list-style-type: none"> (i) Clarification on Cumulative Analysis (ii) Revised NO2 Emissions during Construction (iii) Information on Ammonia Slip (iv) Copy of Mirant Delta's May 11, 2010 Air Permit Amendment Request (3) Revised Calculation for Nitrogen Deposition (4) Additional Water Information 					
40	<p>Mirant Marsh Landing, LLC's Responses to Public Comments Received Regarding Preliminary Determination of Compliance for the Marsh Landing Generating Station, docketed June 4, 2010.</p>					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
41	Marsh Landing Generating Station Investigation Report and Updated Human Health Risk Assessment prepared for PG&E by AMEC Geomatrix, dated June 15, 2010.					
42	<p>Mirant Marsh Landing, LLC's Written Testimony, Declarations, and Witness Qualifications, dated June 16, 2010, and docketed June 16, 2010.</p> <ul style="list-style-type: none"> (a) Executive Summary <ul style="list-style-type: none"> (1) Declaration of Jonathan Sacks (b) Project Description <ul style="list-style-type: none"> (1) Figure 1-1 (2) Figure 1-2 (3) Figure 1-3 (4) Figure 1-4 (5) Figure 1-5 (6) Declaration of Jonathan Sacks (7) Declaration of Anne Connell (c) Air Quality And Greenhouse Gas Emissions <ul style="list-style-type: none"> (1) Declaration of John Lague (2) Declaration of Jonathan Sacks (d) Biological Resources <ul style="list-style-type: none"> (1) Declaration of Bill Martin (2) Declaration of Katherine Caldwell (3) Declaration of Julie A. Mitchell (e) Cultural Resources <ul style="list-style-type: none"> (1) Declaration of Mark Hale (2) Declaration of Rebecca Meta Bunse (f) Hazardous Materials <ul style="list-style-type: none"> (1) Declaration of John Lague (g) Land Use <ul style="list-style-type: none"> (1) Declaration of Julie Bixby (2) Declaration of Anne Connell (h) Noise And Vibration <ul style="list-style-type: none"> (1) Declaration of Ronald E. Reeves (i) Public Health <ul style="list-style-type: none"> (1) Declaration of Julie A. Mitchell (j) Socioeconomic Resources <ul style="list-style-type: none"> (1) Declaration of Marvin Feldman (2) Declaration of Anne Connell (k) Soil And Water Resources <ul style="list-style-type: none"> (1) Declaration of Anne Connell 					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
	<ul style="list-style-type: none"> (2) Declaration of Jack Wittman (3) Declaration of Rhett Moore (4) Declaration of Chuck Hicklin (l) Traffic And Transportation <ul style="list-style-type: none"> (1) Declaration of Nayan Amin (m) Transmission Line Safety And Nuisance <ul style="list-style-type: none"> (1) Declaration of Tylen Larson (2) Declaration of Peter Mackin (n) Visual Resources <ul style="list-style-type: none"> (1) Declaration of Richard Stuhan (2) Declaration of David Lawrence (o) Waste Management <ul style="list-style-type: none"> (1) Declaration of Erik Skov (p) Worker Safety <ul style="list-style-type: none"> (1) Declaration of Lisa Griggs (q) Facility Design <ul style="list-style-type: none"> (1) Declaration of Jonathan Sacks (2) Declaration of Chuck Hicklin (r) Geology And Paleontology <ul style="list-style-type: none"> (1) Declaration of Raymond Rice (2) Declaration of Joe Stewart (s) Power Plant Efficiency <ul style="list-style-type: none"> (1) Declaration of Jonathan Sacks (2) Declaration of Chuck Hicklin (t) Power Plant Reliability <ul style="list-style-type: none"> (1) Declaration of Jonathan Sacks (2) Declaration of Chuck Hicklin (u) Transmission System Engineering <ul style="list-style-type: none"> (1) Declaration of Tylen Larson (2) Declaration of Peter Mackin (3) Declaration of Anne Connell (v) Alternatives <ul style="list-style-type: none"> (1) Declaration of Anne Connell (2) Declaration of (w) Appendix A- Witness Qualifications (x) Appendix B- Tentative Exhibit List as of June 16, 2010 					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
CORRESPONDENCE FROM OTHER AGENCIES						
100	Letter from the Bay Area Air Quality Management District (B. Lusher) to URS (M. Strehlow), Assigning an Application Number to Marsh Landing Generating Station and Confirming the Completeness of Application, dated June 30, 2008, and docketed June 30, 2008.					
101	Letter from City of Antioch (V. Carniglia) to CEC (M. Monasmith) re Preliminary Review of Marsh Landing Generating Station Application for Certification, dated July 2, 2008, and docketed July 2, 2008.					
102	Letter from Contract Costa Health Services (D. Nixon) to CEC (M. Monasmith) re Comments on Marsh Landing Generating Station Application for Certification, dated July 2, 2008, Docketed July 2, 2008.					
103	Letter from the Department of Toxic Substances Control (J. Naito) to the CEC (M. Monasmith) Requesting to be Included on the Distribution List, dated March 02, 2009, and docketed March 02, 2009.					
104	Letter from the City of Antioch (V. Carniglia) to the CEC (M. Monasmith) Conceptually Supporting the Proposed Marsh Landing Generating Station Power Plant, and Notifying the Adoption of A Resolution Authorizing an Annexation Agreement with Mirant and Another Resolution to Enter into a Project Agreement with MLGS, dated November 30, 2009, and docketed November 30, 2009.					
105	Letter from the City of Antioch (R. Bernal) to Mirant Marsh Landing, LLC (J. Chillemi) re Use of Potable Water and Discharge of Process Wastewater from the Project, dated February 17, 2010, and docketed February 17, 2010.					
106	Bay Area Air Quality Management District Preliminary Determination of Compliance, dated March 2010, and docketed March 24, 2010.					
107	Letter from the City of Antioch (V. Carniglia) to the CEC (M. Monasmith) re Comments Regarding Staff Assessment, dated May 25, 2010, and docketed May 25, 2010.					
108	Letter from United States Environmental Protection Agency (G. Rios) to the BAAQMD (B. Bateman) Confirming that Marsh Landing Generating Station and Contra Costa Power Plant Should be Treated as Separate Facilities For Purposes of PSD Permitting, dated June 7, 2010.					

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
ENERGY COMMISSION STAFF'S EXHIBITS						
300	Marsh Landing Generating Station Revised Staff Assessment, dated June 2010, and docketed June 10, 2010.					
301	Bay Area Air Quality Management District Final Determination of Compliance, dated June 25, 2010.					

Attachment C

Copy of Applicant's Written Testimony (Exhibit 42(k)), pp. 43-46

Showing Applicant's Proposed Changes to
Staff's Proposed Condition of Certification SOIL & WATER-6, and
the Verification for Staff's Proposed Condition of Certification SOIL & WATER-4

Board Resolution 75-58 also focuses on the use of fresh water for evaporative cooling and defines “evaporative cooling facilities” as “evaporative towers, cooling ponds, or cooling canals, which utilize evaporation as a means of wasting rejected heat to the atmosphere.” This is another reference to the cooling system utilized in combined cycle power plants to reject power plant process generated heat. The MLGS does not include any of these types of facilities.

The MLGS complies with the Commission and Board water policies because it will not use any water for the purpose of rejecting power plant process or waste heat to the atmosphere. As explained above, the MLGS does not have a steam turbine or the associated steam cycle, and therefore will not use water in a wet cooling system that condenses steam back into water. The MLGS will not otherwise use any water as a means of rejecting waste heat produced by power plant processes to the atmosphere.

The MLGS will use a small amount of water to reduce the temperature of the ambient air as it enters the CTGs to improve CTG power output and efficiency. However, this use complies with state water policy because it reflects a project design that minimizes the use of water. Other power plant technologies and designs use water in larger volumes than MLGS requires. As referenced above, a combined cycle facility using wet cooling towers will use large volumes of water to reject process heat and facilitate the condensation process. Some simple cycle plant designs also use water in larger volumes than MLGS, particularly those that use intercooler technology (such as the LMS 100) with wet cooling towers. The MLGS will use a smaller amount of water as compared with these alternative technologies, particularly when water use is evaluated as a function of total AFY of water required for each MW of total MLGS power plant capacity. In this respect, even if MLGS uses its maximum 50 AFY of water, it will use only 0.06 AFY of water for each MW of power plant capacity. This demonstrates that the MLGS use of water to cool ambient air reflects a project design that minimizes the use of water and complies with state water policy.

Compliance with state water policy is further demonstrated by Mirant’s agreement to fund a water conservation program (WCP) that will help encourage conservation of City water supplies. This requirement is reflected in the Revised Staff Assessment as Condition of Certification SOIL & WATER-6. Staff agrees with these determinations, as reflected in the Soil and Water Resources section of the Revised Staff Assessment.

IV. Revised Staff Assessment and Proposed Licensing Conditions

We have reviewed the Soil and Water Resources section of the Revised Staff Assessment issued on June 10, 2010. It recommends the adoption of six Conditions of Certification identified as SOIL & WATER-1 through SOIL & WATER-6. Mirant Marsh Landing has no objection to the basic requirements reflected in these Conditions of Certification, but does have one requested language change to Condition of Certification SOIL & WATER-6, and one correction to the verification for Condition of Certification SOIL & WATER-4, as specified below.

Proposed Change to Condition of Certification SOIL & WATER-6:

In its analysis of potential impacts and compliance with LORS, Staff concludes that the project’s use of a limited volume of fresh water supplied by the City of Antioch for process uses will not

result in any significant adverse environmental impacts and complies with Commission and Board water policies, consistent with the discussion provided in the testimony above. (See Revised Staff Assessment, pp. 4.9-19 through 4.9-20 (“the use of City water for MLGS process water needs would not create a significant impact on water supplies,” and 4.9-23 through 4.9-24 (“the project does not use water for cooling purposes because it utilizes a project design that minimizes the use of water” and “the MLGS is proposing technologies that reduce water consumption which are consistent with state policies designed to conserve fresh water supplies”).) Staff therefore concludes that the use of City of Antioch water as an alternative primary source of process water should be approved, and specifies that “prior to using City water as its primary supply of process water, the project owner would be required to submit documentation to the CPM explaining the selection of City water as the primary source, which may be based on technical feasibility and/or project economics.” (Id., p. 4.9-19.)

The language in Condition of Certification SOIL & WATER-6 is not fully consistent with Staff’s conclusions because it suggests that the project’s use of City of Antioch water may not comply with Commission and Board policies absent a showing that the use of brackish groundwater is “environmentally undesirable” or “economically unsound.” These statements should be modified to be consistent with Staff’s analysis in the Revised Staff Assessment and with the testimony provided above, by making the following changes to SOIL & WATER-6 (changes shown in strikethrough and underlined text):

SOIL & WATER-6: Prior to the use of groundwater or potable water for operation of the MLGS, the project owner shall install and maintain metering devices as part of the water supply and distribution system to monitor and record in gallons per day the volume of groundwater and potable water supplied to the MLGS. The metering devices shall be operational for the life of the project. An annual summary of daily water use by the MLGS, differentiating between groundwater, potable water, and recycled water (if applicable) shall be submitted to the CPM in the annual compliance report. Process water use shall not exceed 50 AFY from any source. Water supplied to MLGS shall be used for evaporative cooler makeup, service water, and water for combustion turbine washes and meet the following condition:

The primary MLGS water source shall be brackish groundwater. Once annually, the project owner shall sample groundwater quality at both pumping wells. The project owner shall treat plant wastewater (effluent) to meet Delta Diablo Sanitation District’s (DDSD’s) discharge requirements or implement zero liquid discharge technologies to manage the plant’s process wastewater. Laboratory test results from the groundwater quality sample and the effluent sample, shall be submitted to the CPM in the annual compliance report.

Prior to installing a connection to the City of Antioch water supply system for an alternative source, the project owner shall provide

evidence to the CPM that City has agreed to supply emergency backup water to the project in sufficient quantities to meet the project's needs at a flow rate comparable with the flow rate provided by one on-site well. For the purpose of this condition, the term emergency shall mean the operation and/or emergency issues that arise with the two proposed wells or with mobile water filtration and ion exchange trailers, or the permanent water treatment plant. The City's supply must provide access to a quantity sufficient to meet MLGS demand due to Acts of God, natural disaster and other circumstances beyond the control of the project owner and it is necessary for the MLGS to continue to operate at peaking load capacity. Any connection to a water supply line shall be properly metered throughout the period of time of the emergency.

The project owner may provide evidence to the CPM that the water source described above is not feasible. **Such evidence may be based on technical feasibility and/or project economics.** ~~The use of brackish groundwater and ZLD technologies are consistent with the State Water Resources Control Board's Policy 75-58 and Energy Commission water policy. The project owner may provide evidence to the CPM that the use and disposal of brackish groundwater is "environmentally undesirable" or "economically unsound" and therefore not feasible for MLGS. The project owner, at the recommendation of the CPM, shall identify a primary alternative water supply as described herein:~~

The primary alternative MLGS water source shall be City of Antioch fresh water supply. No more than 50 acre-feet of fresh water shall be supplied annually. The project owner shall pay a fee equal to no more than \$1,000 per acre-foot of City of Antioch water consumed annually (potable water for personnel consumption, eyewash stations, showers, and sanitary needs not included) to City of Antioch's water conservation program to implement new water conservation measures. The water conservation program may change with CPM approval. A payment of \$15,000 shall be made to the City to offset fresh water used for construction and initiate the water conservation program. Water conservation fees are not required for use of recycled water during construction or operation. The project owner shall maintain the facilities necessary to obtain brackish groundwater as a back up water supply. Brackish groundwater or recycled water (when feasible) may be used to supplement the fresh water sources.

Correction to Verification for Condition of Certification SOIL & WATER-4:

Staff's proposed Condition of Certification SOIL & WATER-4 requires the project owner to comply with the requirements of General NPDES Permit for Discharges of storm water associated with industrial activity, and requires the project owner to develop and implement a Storm Water Pollution Prevention Plan (Industrial SWPPP) for the operation of the MLGS that has been approved by the Compliance Project Manager (CPM). This accurately reflects requirements applicable to the MLGS. Mirant Marsh Landing will prepare an Industrial SWPPP for the MLGS in accordance with the General NPDES Permit for Discharges of Storm Water Associated with Industrial Activities (Order No. 97-03-DWQ), as stated in the Revised Staff Assessment at p. 4.9-15.

However, the verification for Condition of Certification SOIL & WATER-4 incorrectly references the Contra Costa Clean Water Program's municipal stormwater permit (cited as San Francisco Bay Regional Water Quality Control Board (RWQCB) Order No. R2-2003-0022), instead of the General NPDES Permit for Discharges of Storm Water Associated with Industrial Activities (Order No. 97-03-DWQ). In addition, the reference to San Francisco RWQCB is incorrect as the MLGS falls within the jurisdiction of the Central Valley RWQCB. The verification for SOIL & WATER4 therefore should be modified as follows (changes shown in strikethrough and underlined text):

Verification: Prior to commercial operation, the project owner shall submit to the CPM a copy of the industrial SWPPP prepared in accordance with ~~San Francisco Bay RWQCB Order No. R2-2003-0022~~ **General NPDES Permit for Discharges of Storm Water Associated with Industrial Activities (Order No. 97-03-DWQ)**. The project owner shall submit copies to the CPM of all correspondence between the project owner and the ~~San Francisco Bay~~ **Central Valley** RWQCB regarding the Industrial SWPPP within 10 days of its receipt or submittal. This information shall include a copy of the Notice of Intent for compliance with the General NPDES permit for operation of the MLGS.

**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

DECLARATION OF SERVICE

I, Lisa A. Cottle, declare that on June 28, 2010, I served and filed copies of the attached *Prehearing Conference Statement 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
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.



Lisa A. Cottle



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

**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