

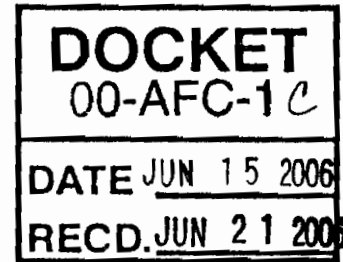
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June 15, 2006

Paul Kramer, Esq.
 California Energy Commission
 Office of Chief Counsel
 1516 9th Street, MS 14
 Sacramento, CA 95814



Re: Contra Costa Unit 8

Dear Mr. Kramer:

On January 13, 2006, Mirant Delta, LLC (Mirant) submitted a petition seeking certain approvals from the California Energy Commission (Commission) related to the Contra Costa Unit 8 Power Project (CC8) and the potential transfer of assets associated with CC8 to Pacific Gas and Electric Company. Although the petition does not seek to change any condition of certification, including any condition related to biological resources, we understand that Staff may have questions regarding certain biological approvals that apply to Mirant's existing Contra Costa Power Plant. The Contra Costa Power Plant includes infrastructure that CC8 will rely on for various services, including the provision of water for cooling purposes. We appreciate the opportunity to provide this brief update.

Mirant's Contra Costa Power Plant, and its Pittsburg Power Plant (referred to herein as the "Plants"), are operating today under incidental take authorizations issued by the U.S. Fish and Wildlife Service (FWS) pursuant to Section 7 of the Endangered Species Act (ESA) in connection with a Clean Water Act section 404 maintenance dredging permit issued by the U.S. Army Corps of Engineers (Corps) in October 2004. The Corps reinitiated consultation with the FWS in February 2006 in response to a January 2006 reinitiation request letter from FWS. Pending the completion of this reinitiation process, Mirant will continue to operate under the FWS 2002 Biological Opinion, as amended by additional terms set forth by FWS in September 2004. Mirant continues to comply with the conditions of the 2002 Biological Opinion and the September 2004 letter and is working closely with FWS to update its incidental take authorizations.

FWS initially issued a Biological Opinion authorizing incidental take of listed species, including the delta smelt, pursuant to Section 7 of the ESA in 2002, in conjunction with three Clean Water Act section 404 permit applications filed by Mirant in 2001 with the Corps: two applications

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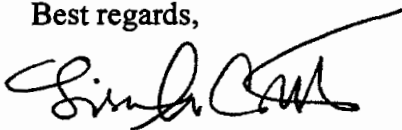
involved the deployment of an experimental aquatic filter barrier (AFB) at each Plant, and the third involved maintenance dredging the Pittsburg Power Plant. In 2003, the California Department of Fish and Game (CDFG) issued a determination that the Biological Opinion was inconsistent with the California Endangered Species Act, in part due to concerns about the efficacy of the proposed AFB. Mirant's application for dredging and maintenance operations remained pending, however, and Mirant proposed alternative conservation measures to those included in the 2002 Biological Opinion in a 2004 Biological Assessment. In response, FWS reinitiated consultation with the Corps in connection with the still-pending dredging permit application. The FWS completed this reinitiation process in September 2004 with a letter (September 2004 letter) that set forth alternative mitigation measures in lieu of the previously proposed AFB. These measures included: (1) the retirement of Pittsburg Units 1-4; (2) year-round implementation of variable frequency drive technology at both Delta Plants; (3) preservation and enhancement of the Montezuma mitigation site; and (4) expanded monitoring efforts, with additional impact minimization measures to be implemented depending on the results of two years of monitoring. The Corps subsequently issued the maintenance dredging permit in October 2004.

Mirant has complied with the conditions of the September 2004 letter and is actively collaborating with FWS, the National Marine Fisheries Service (NMFS), CDFG and the Interagency Ecological Program's Pelagic Organism Decline (POD) Working Group to develop monitoring study plans. These study plans are also being coordinated with the San Francisco and Central Valley Regional Water Quality Control Boards pursuant to Clean Water Act section 316(b) study requirements as part of Mirant's Clean Water Act National Pollution Discharge Elimination System (NPDES) permit renewal process for the Plants.

These studies will inform the process of updating Mirant's incidental take authorizations. As evidenced by its reinitiation of consultation, the Corps retains jurisdiction to consult with FWS with respect to Mirant's dredging permit for the Pittsburg Plant. Moreover, Mirant's continuous diversion of navigable waters provides a continuing nexus for the Corps' Section 7 consultation pursuant to Section 10 of the Rivers and Harbors Act. Mirant may also apply for a permit for dredging at the Contra Costa Power Plant, which would provide an additional nexus for consultation. Thus, Mirant continues to work with the agencies in the context of Section 7 consultation to authorize incidental take. While the studies discussed above to better assess the impacts of the Plants on listed species are ongoing, Mirant is discussing interim conservation measures with FWS pending the resolution of long-term incidental take coverage.

I hope the foregoing update is helpful. Please do not hesitate to contact me (415-544-1105 or lcottle@whitecase.com) should you have questions or require any additional information.

Best regards,



| Lisa Cottle