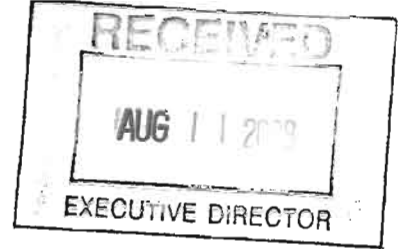


**COMPLETED**

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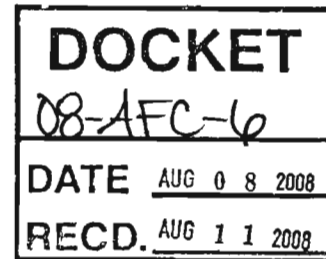
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August 8, 2008

**VIA OVERNIGHT MAIL**

Melissa Jones  
Executive Director  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814



**Re: Request for Confidential Designation of the Confidential Literature Search Results Supplement provided in response to the CEC Data Adequacy Review for the Willow Pass Generating Station Application for Certification (Docket NO. 08-AFC-06)**

Dear Ms. Jones:

As requested, Mirant Willow Pass, LLC ("Mirant Willow Pass") is enclosing three (3) hard copies and one (1) compact disk of its *Appendix C2 Confidential Literature Search Results* supplement ("Literature Search Results"), which was prepared by URS for submission in response to the California Energy Commission's ("Commission") Data Adequacy Review of the Application for Certification ("AFC") for the Willow Pass Generating Station ("WPGS"), dated July 30, 2008. Mirant Willow Pass is also enclosing a Request for Confidential Designation of the Literature Search Results. This Request for Confidential Designation is identical to the Request for Confidential Designation submitted on August 6, 2008, which included two (2) hard copies and two (2) compact disks for Mirant Willow Pass's Literature Search Results.

Please do not hesitate to contact me with any questions.

Best regards,

Karleen M. O'Connor

Enclosures

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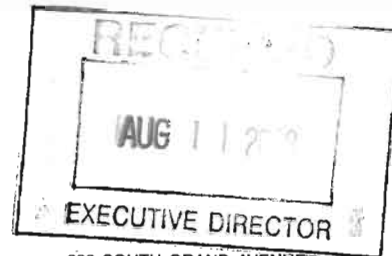
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August 8, 2008

## VIA OVERNIGHT MAIL

Melissa Jones  
Executive Director  
California Energy Commission  
1516 9th Street  
Sacramento, CA 95814

**Re: Request for Confidential Designation of the Confidential Literature Search Results Supplement provided in response to the CEC Data Adequacy Review for the Willow Pass Generating Station Application for Certification (Docket NO. 08-AFC-06)**

Dear Ms. Jones:

Pursuant to Title 20 California Code of Regulations § 2505, Mirant Willow Pass, LLC, ("Mirant Willow Pass") hereby submits this application for confidential designation for the attached *Appendix C2 Confidential Literature Search Results* supplement ("Literature Search Results"), which was prepared by URS for submission in response to the California Energy Commission's ("Commission") Data Adequacy Review of the Application for Certification ("AFC") for the Willow Pass Generating Station ("WPGS"). Specifically, the Data Adequacy Recommendations, dated July 30, 2008, requested:

Please provide copies, under confidential cover, of all technical reports whose survey coverage is wholly or partly within .25 mile of the area surveyed for the project or copies of any studies reporting on any archeological excavations or architectural surveys within the literature search area. The technical reports that appeared to be missing are: S-009095, 009214, 009583, 10268, 013256, 013831, 017890, 017993, 018352, 018440, 022464, 22929, 022930, 24322, 024323, 024986, 030387, 030579, 031375, 032182, 034161, 034182.

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Mirant Willow Pass requests that the Commission designate and maintain the Literature Search Results as confidential. This request is made in accordance with Appendix B, Section (g)(2)(C)(i) of the Commission's Rules of Practice and Procedure and Power Plant Site Certification Regulations, which requires that literature search results for cultural, historical and archaeological information be submitted to the Commission under a request for confidentiality. Additionally, the Commission's Data Adequacy Recommendations specifically request that the Literature Search Results be provided under confidential cover.

The Literature Search Results contain confidential information regarding the literature search that was performed within the WPGS project vicinity. This information is set forth in Appendix C2. The Literature Search Results comprise a total of 1003 pages.

Mirant Willow Pass requests that the Commission keep the Literature Search Results confidential permanently. The requested time frame is consistent with the definition of public records contained in California Government Code Section 6254.10, which specifies that:

Nothing in this chapter requires disclosure of records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency.

*Id.* The Literature Search Results disclose information regarding the potential for archaeological sites to be located in the WPGS project vicinity. In addition, California Government Code Section 6254(r) authorizes public agencies to refrain from disclosing information regarding Native American graves, cemeteries and sacred places. *Id.* The Literature Search Results also discuss the potential for such sites to be located in the project vicinity. The California Public Records Act also recognizes the confidentiality principles of federal law. (California Gov. Code, § 6254(k).) The federal Archaeological Resources Protection Act, 16 U.S.C. § 470hh(a), establishes a national legal policy that all types of archaeological and cultural resource site locations must be kept confidential in order to preserve them.

Government Code Sections 6254.10, 6254(r) and 6254(k) authorize the Commission to maintain the enclosed Literature Search Results as confidential. The Literature Search Results disclose the results of the search for sensitive cultural resources in the WPGS project vicinity and provide information regarding the presence or suspected presence of archeological sites, Native American graves, cemeteries and sacred places, and other historically significant sites. Publication of the search results could invite curiosity and potentially lead to destruction or theft of cultural resources. The Commission therefore should maintain the Literature Search Results as confidential.

Melissa Jones  
August 8, 2008  
Page 3

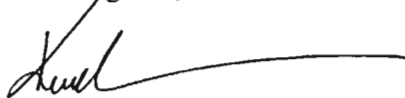
Mirant Willow Pass has provided the Literature Search Results in response to the Commission's Data Adequacy Review, and aggregation of the information is unnecessary. Masking the information in the Literature Search Results would not be a useful exercise, as the best document to inform the public of Mirant's investigation on this subject remains the AFC, which contains aggregated information regarding cultural and archeological resources and does not disclose specific information regarding research and reconnaissance results.

The Literature Search Results have not been publicly disclosed and are known only to Mirant personnel and Mirant's outside consultants, engineers and attorneys. The Literature Search Results have been marked as "CONFIDENTIAL" and are maintained on a secure document management website. Only persons with permission and an access password have access to the website.

For the reasons specified above and the specific statutory protection provided for cultural records, the Commission should designate the Literature Search Results as confidential.

I certify under penalty of perjury that the information contain in this application for confidential designation is true, correct, and complete to the best of my knowledge. I also certify that I am authorized to make this application and certification on behalf of Mirant Willow Pass.

Best regards,



Karleen M. O'Connor

Attachment

cc: Michelle Woods, California Energy Commission (w/o attachment)  
Jon Sacks, Mirant Willow Pass, LLC (w/o attachment)  
Kathy Rushmore, URS (w/o attachment)  
Lisa Cottle (w/o attachment)