



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

January 8, 2010

Mr. Brian Bateman
Director of Engineering
Bay Area AQMD
939 Ellis Street
San Francisco, CA 94109-7799

Re: Marsh Landing Generating Station

Dear Mr. Bateman:

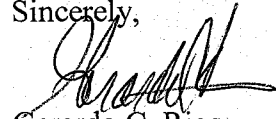
This letter responds to a letter dated November 3, 2009, to Alexander Crockett and Allan Zabel from counsel for Mirant Corporation. That letter included an attachment entitled "Mirant Marsh Landing PSD/NSR Analysis" (hereinafter "Analysis").

Paragraph VII.1 of the U.S. EPA-Bay Area Air Quality Management District Agreement for Delegation of Authority to Issue and Modify Prevention of Significant Deterioration Permits subject to 40 CFR 52.21 provides that "[t]he District shall follow EPA guidance on any matter involving the interpretation of Sections 160-169 of the Clean Air Act of 40 CFR 52.21 relating to applicability determinations, PSD permit issuance and enforcement." Based on that provision, you requested Mirant to provide the Analysis to us detailing the facts relating to a facility that is proposing to be constructed as a new source in your jurisdiction, called Marsh Landing Generating Station. The Analysis also refers to and discusses several EPA policy documents evaluating EPA's interpretation of when co-located sources with common ownership constitute a single stationary source for purposes of PSD applicability.

As the policy documents discussed in the Analysis indicate, EPA considers the permitting authority to have broad discretion in applying this standard. We have reviewed the documents you requested Mirant to provide and your reasons for exercising your agency's permitting authority to treat the facility that will be constructed by Mirant Marsh Landing as a separate entity from the existing Contra Costa Power Plant owned and operated by Mirant Delta. Based on our review of the facts set forth in the Analysis, we agree that the Bay Area Air Quality Management District can reasonably exercise your discretionary permitting authority to treat the Marsh Landing Generating Station and Contra Costa Power Plant as separate sources rather than a single stationary source. We also note in particular that the Mirant Marsh Landing facility, although not subject to PSD permitting, will be required under your permitting rules to install and comply with California Best Available Control Technology, which is generally equivalent to EPA's Lowest Achievable Emission Reduction technology.

Our evaluation of your decision is limited to the specific facts set forth in Mirant's Analysis and does not establish precedent for any other project or projects. We appreciate your cooperation in permitting stationary sources. Please call me at (415) 972-3974 if you have further questions.

Sincerely,



Gerardo C. Rios
Chief, Permits Office
Air Division