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September 15, 2006

Ms. Song Her, Clerk to the Board
State Water Resources Control Board
Division of Water Quality
1001 I Street
Sacramento, CA 95814



**Subject: Proposed Statewide Policy for Once-Through Cooling
Mirant Contra Costa, Pittsburg and Potrero Power Plants**

Dear Ms. Her:

Mirant Delta, LLC ("Mirant Delta") owns and operates the Contra Costa and Pittsburg Power Plants, and Mirant Potrero, LLC ("Mirant Potrero") owns and operates the Potrero Power Plant. These plants, which are all located in the San Francisco Bay Area, have units designated by the California Independent System Operator ("CAISO") as Reliability Must Run ("RMR") units critical for local area electric reliability. All three of these facilities are subject to the U.S. Environmental Protection Agency's Clean Water Act Section 316(b) regulations for existing facilities (the "Phase II Rule"). See 40 C.F.R. §§ 122 *et seq.*; 69 Fed. Reg. 41576 (July 9, 2004). Mirant Delta and Mirant Potrero (collectively "Mirant") are in the process of reviewing the State Water Resources Control Board's CEQA Scoping Document for its "Proposed Statewide Policy on Clean Water Act Section 316(b) Regulations" ("the SWRCB proposed policy") issued for public comment on June 13, 2006, and discussed at a CEQA scoping meeting on July 31, 2006.

Mirant has several concerns regarding the SWRCB proposed policy, and is preparing a more detailed comment letter to follow. However, as a baseline matter, the SWRCB needs to carefully balance any environmental water policy with the State's objectives of ensuring adequate generation, and electric grid reliability. It is well recognized in California that electric generation supply has not kept pace with new, efficient generation additions. State-wide policies with regard to existing generation and environmental goals need to be carefully coordinated and crafted so that the policies will promote new electric resources that meet the state's water, environmental, and infrastructure objectives and allow for a measured approach for replacing the older, less efficient units. A poorly designed water policy without the proper consideration of electric generation requirements could force the premature shutdown of many generating units, which are still needed for electric grid reliability.

The Federal Environmental Protection Agency took over 10 years to develop the Phase II Rule, in a process that encouraged input and comments from many experts and stakeholders. The SWRCB proposed policy should also be conducted in a manner which reviews and receives input from environmental and energy experts. Agencies with electric generation knowledge, such as the California Public Utilities Commission, California Energy Commission and CAISO should be important stakeholders in the development of this policy. Additionally, until the Surfrider Foundation et al. v. EPA opinion addressing the Phase II Rule is issued, it would be premature to

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close any comment period, as the outcome of that case will impact various aspects of the SWRCB proposed policy.

Mirant also supports the comments submitted by the California Council for Environmental and Economic Balance.

If you have any questions or would like to discuss the comment time frame, please contact me at (925) 427-3567. Thank you for the opportunity to comment.

Sincerely,


for

Ronald M. Kino
Director, Environmental Health and Safety