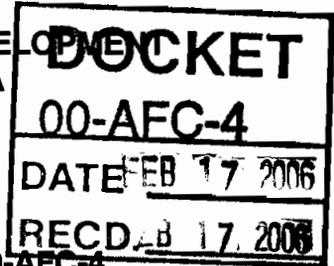


**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA**



**In the Matter of:  
Application for Certification for Mirant  
Corporation's POTRERO UNIT 7  
POWER PLANT PROJECT**

Docket No. 00-AFC-4

**ORDER DENYING CONTINUED  
SUSPENSION and  
TERMINATING PROCEEDING**

### **I. BACKGROUND**

On November 15, 2005, Applicant requested that this proceeding continue to be suspended until November 15, 2006 ("Applicant's Request for Continued Suspension of Proceedings"). Intervenors Our Children's Earth (OCE), Southeast Alliance for Environmental Justice (SAEJ), and Communities for a Better Environment (CBE) jointly filed an opposition to this request (November 21, 2005; "Intervenors OCE, SAEJ and CBE Opposition to Request for Continued Suspension of Proceedings"). The City and County of San Francisco (CCSF), also an Intervenor, then moved that the Commission terminate this proceeding (November 22, 2005; "Motion for Termination and Response of the City and County of San Francisco to the Applicant's Request for Continued Suspension of Proceedings").

Staff took no position on Applicant's request (Response to Order, filed December 21, 2005). Finally, Applicant filed its "Response to Objections for Continued Suspension of Proceedings and Motion for Termination" on January 6, 2006.

On February 1, 2006, the Commission assigned this case to the Standing Siting Committee.

### **II. DISCUSSION**

The Application for Certification (AFC) for the Potrero Unit 7 project dates to May 31, 2000; it was accepted as data adequate on October 11, 2000. Staff released its Final Staff Assessment on February 12, 2002. The prior Committee last held hearings on this proposal in May 2003. The proceeding was first suspended, at Applicant's request, on November 13, 2003. On December 3, 2004, this suspension was renewed until November 15, 2005.

Thus, there has been no substantive progress on this case for a period of years. To grant a third suspension would only prolong this inactivity. The existing record in this case is undeniably stale. All portions would need to be reviewed to determine remaining

relevancy and applicability in any attempt to revive the existing proposal. This, in turn, would lead to extensive supplemental analysis and new analysis of all project aspects in light of the environmental, technical, and social circumstances as they now exist. This is tantamount to fling a new AFC.

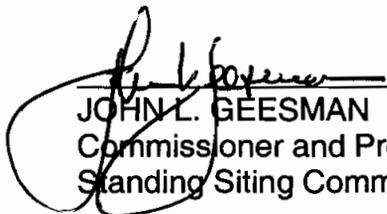
### III. ORDER

The Applicant's motion to continue the suspension of these proceedings is DENIED.

Intervenor CCSF's motion to terminate this proceeding is GRANTED.

In accordance with section 1720.2(b) of our regulations [20 Cal. Code Regs §1720.2(b)], the full Commission will consider the present ORDER at its March 1, 2006 regularly scheduled business meeting. Parties desiring to comment upon this ORDER shall file and serve such written comments, in the normal fashion, no later than 12:00 noon on Monday, February 27, 2006.

Dated: February 17, 2006

  
\_\_\_\_\_  
JOHN L. GEESMAN  
Commissioner and Presiding Member  
Standing Siting Committee

  
\_\_\_\_\_  
JAMES D. BOYD  
Commissioner and Associate Member  
Standing Siting Committee

Proof of Service List (Revised on 2/17/06)  
filed with Original Document. Mailed from  
Sacramento on Feb 17, 2006).

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF:  
APPLICATION FOR CERTIFICATION FOR MIRANT  
CORPORATION'S POTRERO UNIT 7  
POWER PLANT PROJECT

DOCKET No. 00-AFC-4

**NOTICE OF COMMISSION HEARING RE: COMMITTEE ORDER TERMINATING PROCEEDING**

**NOTICE IS HEREBY GIVEN** that the full Commission will consider the February 17, 2006 *Committee Order Denying Continued Suspension and Terminating Proceeding* as part of its regularly scheduled business meeting as follows:

**WEDNESDAY, March 1, 2006**  
**Beginning at 10:00 a.m.**  
**California Energy Commission**  
**Hearing Room A**  
**1516 9<sup>th</sup> Street**  
**Sacramento, California**  
*[Wheelchair Accessible]*

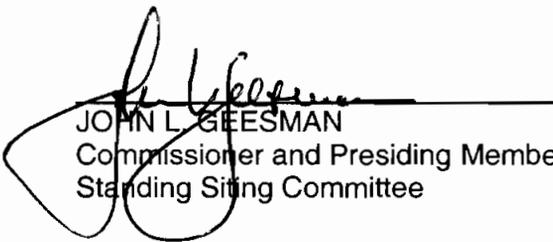
Commission regulations, section 1720.2(b) [20 Cal. Code of Regs., § 1720.2(b)] requires that the full Commission approve any Committee Order terminating a proceeding.

The Energy Commission's Public Adviser is available to assist the public in participating at the hearing. If you need information concerning public participation, please contact the Commission's Public Adviser, Margret J. Kim at (916) 654-4489 or (800) 822-6228 or email: [pao@energy.state.ca.us](mailto:pao@energy.state.ca.us). If you require special accommodation to participate in this event, contact Lou Quiroz at (916) 654-5146. Media inquiries should be directed to Claudia Chandler, Assistant Executive Director for Media and Public Communications, at (916) 654-4989.

Technical questions concerning the project should be addressed to James Reede, the Staff Project Manager, at (916) 653-2145. Questions of a legal or procedural nature should be directed to Stanley Valkosky, the Chief Hearing Officer, at (916) 654-3893.

Information concerning the status of the project, as well as notices and other relevant documents, is available on the Energy Commission's Internet web page at: [www.energy.ca.gov/sitingcases/potrero](http://www.energy.ca.gov/sitingcases/potrero).

Dated February 17, 2006, at Sacramento, California.

  
JOHN L. GEESMAN  
Commissioner and Presiding Member  
Standing Siting Committee

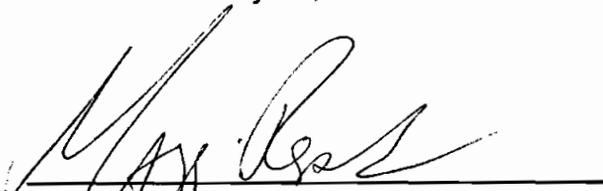
  
JAMES D. BOYD  
Commissioner and Associate Member  
Standing Siting Committee

**Proof of Service List (Revised on 2/17/06)**  
**filed with Original Document. Mailed from**  
**Sacramento on Feb 17, 2006**

**CALIFORNIA ENERGY COMMISSION**1516 NINTH STREET  
SACRAMENTO, CA 95814-5512**TO: ALL PARTIES****RE: Potrero Power Project  
Proof of Service List  
Docket No. 00-AFC-4**

Attached is the Proof of Service List for the above mentioned project. Current as of February 17, 2006. The Proof of Service List on the Commission's Web Site at **[www.energy.ca.gov/sitingcases/potrero](http://www.energy.ca.gov/sitingcases/potrero)** has also been updated. Please use this list for your future filings and submittals.

Dated: February 17, 2006

  
\_\_\_\_\_  
Maggie Read  
Legal Secretary  
Hearing Adviser's Office

Attachment

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of:	)	Docket No. 00-AFC-4
	)	
Application for Certification for Mirant	)	<b>PROOF OF SERVICE</b>
Corporation's POTRERO POWER	)	<i>[Revised 2/17/06]</i>
<u>PLANT UNIT 7 PROJECT</u>	)	

**DOCKET UNIT**

*Instructions: Send an original signed document plus 12 copies and/or an electronic copy plus one printed copy to the address below.*

**CALIFORNIA ENERGY COMMISSION  
DOCKET UNIT, MS-4  
Attn: Docket No. 00-AFC-4  
1516 Ninth Street  
Sacramento, CA 95814-5512  
docket@energy.state.ca.us**

*Also send a printed or electronic copy of all documents to each of the following:*

**APPLICANT**

**\* Mark Osterholt  
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P.O. Box 192  
Pittsburg, California 94565  
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**\* Jeffrey S. Russell  
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**COUNSEL FOR APPLICANT**

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**INTERESTED AGENCIES**

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(BAAQMD), Permit Evaluation  
Attn: Steve Hill, Manager  
939 Ellis Street  
San Francisco, CA 94109  
**shill@baaqmd.gov**

Regional Water Quality Control Board  
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Attn: Derek Whitworth  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
dwhitworth@waterboard.ca.gov

San Francisco Bay Conservation and  
Development Commission (BCDC)  
Attn: Leslie D. Lacko  
50 California Street, Suite 2600  
San Francisco, CA 94111  
**Lesliel@bcdca.gov**

California Dept. of Fish & Game  
Attn: George Isaac  
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USEPA – CWA Stds. & Permits Office  
Attn: Terry Oda  
75 Hawthorne St. (WTR-5)  
San Francisco, CA 94105-3901

USEPA – CWA Stds & Permits Office  
Attn: Nancy Yoshikawa  
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San Francisco, CA 94105-3901

National Marine Fisheries Service  
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777 Sonoma Avenue, Room 325  
Santa Rosa, CA 95404

### **INTERVENORS**

Southeast Alliance for Environmental  
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120 Jerrold Avenue  
San Francisco, CA 94124

Coalition for Fair Employment in  
Construction  
Attn: Eric Christen  
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Jody London  
Grueneich Resource Advocates  
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San Francisco, CA 94104  
**Jlondon@gralegal.com**

### **Counsel for SAEJ and OCE:**

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Attn: Jacqueline Minor  
Deputy City Attorney  
San Francisco City Attorney's Office  
City Hall, 1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94102  
**Jacqueline\_minor@ci.sf.ca.us**

Camp, Dresser & McKee, Inc.  
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Walnut Creek, CA 94596  
**pomponiar@cdm.com**

Executive Director  
Our Children's Earth Foundation(OCE)  
Attn: Tiffany Schauer  
100 First Street  
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San Francisco, CA 94105

Potrero Boosters Neighborhood  
Association (PBNA)  
Attn: John DeCastro, President  
1459 18th Street, #133  
San Francisco, CA 94107  
**john\_decastro@yahoo.com**

Shana Lazerow  
Communities for a Better Environment  
(CBE)  
1440 Broadway, Suite 701  
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**slazerow@cbeal.oeg**

Dogpatch Neighborhood Association  
(DNA)  
c/o John Borg  
888 Illinois Street  
San Francisco, California 94107  
**borg@three8.com**

**INTERESTED PARTIES**

Edward Hatter  
Potrero Hill Neighborhood House  
953 De Haro Street  
San Francisco, CA 94107

**DECLARATION OF SERVICE**

I Maggie Read declare that on February 17, 2006, I deposited copies of the attached Order Denying Continued Suspension and Terminating Proceeding, Notice of Commission Hearing and All Parties Letter in the United States mail at Sacramento, CA with first class postage thereon fully prepaid and addressed those identified on the Proof of Service list above. Transmission via electronic mail was consistent with the requirements of the California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. I declare under penalty of perjury that the foregoing is true and correct.

  
[signature]

## INTERNAL DISTRIBUTION LIST

FOR YOUR INFORMATION ONLY! Parties DO NOT mail to the following individuals. The Energy Commission Docket Unit will internally distribute documents filed in this case to the following:

JOHN L. GEESMAN, Commissioner  
Presiding Member  
MS-31

JAMES D. BOYD, Commissioner  
Associate Member  
MS-34

Stanley W. Valkosky  
Hearing Officer  
MS-9

James Reede  
Project Manager  
MS-15

Dick Ratliff  
Staff Counsel  
MS-14

Jonathan Blee  
Assistant Chief Counsel  
MS-14

### PUBLIC ADVISER

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Public Adviser's Office  
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**pao@energy.state.ca.us**