ATTACHMENT H

MCMG Tracking Matrix – 11-07-07 Updated Version

MIRANT ISSUES TRACKING MATRIX

Updated 11-07-2007

Area	Actions to be Undertaken	City Role and Responsibility	Status
1. Land Use Regulations	Revocation of Special Use Permit No. 2296 granted to Mirant's predecessor in 1989.	City Attorney's Office and Planning and Zoning Department to undertake necessary actions.	Revoked by City Council December 18, 2004; lawsuit filed by Mirant January 18, 2005. Trial occurred January 10 - 12, 2006. Final order, not in City's favor, entered on February 24th 2006; notice of appeal filed on March 17th 2006 with the City's Petition for appeal due by May 24th, late summer/fall decision on weather State Supreme Court to accept the case. The Virginia Supreme Court issued its opinion on April 20, 2007 upholding the Circuit Court's decisions reversing the City revocation of the plant's special use permits and the plant's non-complying use status.
	Revocation of the non-complying use status of the Potomac River plant and making it a nonconforming use.	City Attorney's Office and Planning and Zoning Department to undertake necessary actions.	Revoked by City Council December 18, 2004; lawsuit filed by Mirant January 18, 2005. Trial occurred January 10 - 12, 2006. Final order, not in City's favor, entered on February 24th 2006; notice of appeal filed on March 17th 2006 with the City's Petition for appeal due by May 24th, late summer/fall decision on weather State Supreme Court to accept the case. The Virginia Supreme Court issued its opinion on April 20, 2007 upholding the Circuit Court's decisions reversing the City revocation of the plant's special use permits and the plant's non-complying use status.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
2. NOx Reduction	Comments on the NOx Consent Decree filed in federal court on September 27, 2004, that requires Mirant to undertake several measures to address NOx and other emissions at Alexandria plant.	T&ES and City consultants preparing comments on proposed NOx consent decree.	Proposed comments on NOx consent decree were considered by the City Council at the October 26, 2004 meeting. City comments were submitted to DOJ on November 8, 2004. Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree. Revised Consent Decree will be subject to formal Public Comment period. City intends to formally submit comments. Revised Consent Decree lodged with U.S. District Court on May 8, 2006. City filed on July 14, 2006 a motion opposing revised Consent Decree. In January 2007, DOJ made a motion to the US District Court to enter the proposed Amended Consent Decree and to deny the pending motion filed by the City. On April 20, 2007, the United States District Court granted the motion submitted by the Department of Justice, the Maryland Department of the Environment and the Virginia Department of Environmental Quality to enter the Amended Consent Decree.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	Comments on the amendments to Virginia DEQ operating permit for Potomac River plant that have been proposed based on the NOx Consent Decree.	T&ES and City consultants will prepare comments on proposed amendments.	City comments on amendments were docketed for Council consideration at the October 26, 2004 meeting and were submitted to State on October 28, 2004. Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree. The State APC Board is to decide on all Mirant's permits.
	Under the NOx consent decree, Mirant is required to install Separated Over-Fire Air (SOFA) and low-NOx burners on Units 3, 4, and 5.	If NOx Consent decree is approved, T&ES and City consultants will track progress on installation of this equipment. (This will also be one of the tracking items for the facility audit.)	Installation of this equipment is required by May 2005. Mirant completed installation of low-NOx burners in December 2004. Unit 5 SOFA was completed on March 28, 2005 Unit 3 SOFA was completed on May 16, 2005 Unit 4 SOFA was completed on June 13, 2005 In January 2007, DOJ made a Motion to the US District Court to enter the proposed Amended Consent Decree and to deny the pending motion filed by the City. On April 20, 2007, the United States District Court granted the motion submitted by the Department of Justice, the Maryland Department of the Environment and the Virginia Department of Environmental Quality to enter the Amended Consent Decree.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	Outside of the NOx consent decree, Mirant is pursuing the installation of low-NOx burners on Units 1 and 2.	T&ES, City Attorney and the consultants will track progress on installation of this equipment. (This will be one of the tracking items for the facility audit.)	Mirant completed this work in December 2004.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	Under the NOx consent decree, maximum ozone season NOX caps are imposed on the Potomac River plant and the other regional Mirant facilities.	T&ES and City consultants will track compliance with these caps. (This will be one of the tracking items for the facility audit.)	Potomac Plant emissions on declining schedule to 1,475 tons by 2010. Mirant system-wide ozone season emissions are on a declining schedule to 5,200 tons by 2010. Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree. The proposed Clean Power Rules -2005 in MD appears to require reductions comparable to the ones proposed in the Consent Decree at Mirant's MD plants. In other words, Mirant's MD Plants will be required to make reductions in the NOx emissions regardless of the consent decree. Revised Consent Decree will be subject to formal Public Comment period. City intends to formally submit comments. Revised Consent Decree lodged with U.S. District Court on May 8, 2006. City filed on July 14, 2006 a motion opposing revised Consent Decree. In January 2007, DOJ made a Motion to the US District Court to enter the proposed Amended Consent Decree and to deny the pending motion filed by the City. On April 20, 2007, the United States District Court granted the motion submitted by the Department of Justice, the Maryland Department of the Environment and the Virginia Department of Environmental Quality to enter the Amended Consent Decree.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	Under the NOx consent decree, a maximum annual NOx cap is imposed on the system (comprised of four Mirant regional facilities).	T&ES and City consultants will track compliance with these caps. (This will be one of the tracking items for the facility audit.)	Mirant system-wide annual emissions are on a declining schedule to 16,000 tons by 2010. Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree. Revised Consent Decree will be subject to formal Public Comment period. City intends to formally submit comments. Revised Consent Decree lodged with U.S. District Court on May 8, 2006. City filed on July 14, 2006 a motion opposing revised Consent Decree. In January 2007, DOJ made a Motion to the US District Court to enter the proposed Amended Consent Decree and to deny the pending motion filed by the City. On April 20, 2007, the United States District Court granted the motion submitted by the Department of Justice, the Maryland Department of the Environment and the Virginia Department of Environmental Quality to enter the Amended Consent Decree.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	Under the NOx consent decree, a maximum ozone season NOx cap is imposed on the system (comprising of four Mirant regional facilities).	T&ES and City consultants will track compliance with these caps. (This will also be one of the tracking items for the facility audit.)	By 2008, Mirant system-wide is to be at an ozone season emissions rate of 0.15 lb/MMBTU. Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree The proposed Clean Power Rules -2005 in MD appears to require reductions comparable to the ones proposed in the Consent Decree at Mirant's MD plants. In other words, Mirant's MD Plants will be required to make reductions in the NOx emissions regardless of the consent decree. Revised Consent Decree will be subject to formal Public Comment period. City intends to formally submit comments. Revised Consent Decree lodged with U.S. District Court on May 8, 2006. City filed on July 14, 2006 a motion opposing revised Consent Decree. In January 2007, DOJ made a Motion to the US District Court to enter the proposed Amended Consent Decree and to deny the pending motion filed by the City. On April 20, 2007, the United States District Court granted the motion submitted by the Department of Justice, the Maryland Department of the Environment and the Virginia Department of Environmental Quality to enter the Amended Consent Decree.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
3. Fine Particulates (including PM2.5 and PM10)	Under NOx consent decree, as a Supplement Environmental Project (SEP), Mirant is required to install bottom ash and fly ash silo secondary filtration system using secondary baghouses.	T&ES and City consultants will track progress on the installation of this equipment. (This will be one of the tracking items for the facility audit.)	Mirant is to submit plans for this equipment to VDEQ within 90 days after the entry of the NOx consent decree. The NOx consent decree requires the installation of this equipment by September 2005. Mirant is pursuing the project with an alternative design. Vented air from silos will be ducted to Unit 1 precipitator. Mirant expects installation during August/September 2005. All materials are on-site and Mirant's contractor plans to start installation on October 3, 2005. Piping installation is complete and the vent system has been in operations since 12/13/05. System was installed and is operational.
	Under NOx consent decree, as a SEP, Mirant is required to install an upgrade to the ash loading equipment (pug mill style ash loader on 3rd ash silo).	T&ES and City consultants will track progress on the installation of this equipment. (This will be one of the tracking items for the facility audit.)	Mirant is to submit plans for this equipment to VDEQ within 90 days after the entry of the NOx consent decree. The NOx consent decree requires the installation of this equipment by June 2006. Bid process underway. Installation initially planned for summer of 2006. The new ash loader was installed in April, 2007 and is now operational.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	Under NOx consent decree, as a SEP, Mirant is required to equip ash loading system with dust suppression system.	T&ES and City consultants will to track progress on the installation of this equipment. (This will be one of the tracking items for the facility audit.)	Mirant is to submit plans for this equipment to VDEQ within 90 days after the entry of the NOx consent decree. The NOx consent decree requires its installation no later than June 2005. Installation was completed on all three ash silos on September 9, 2005. Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree. System was installed and is operational.
	Under the NOx consent decree, as a SEP, Mirant is required to install a truck washing facility.	T&ES and City consultants will track progress on the installation of this facility. (This will be one of the tracking items for the facility audit.)	Mirant is to submit plans for this facility to VDEQ within 90 days after the entry of the NOx consent decree. The NOx consent decree requires its installation no later than June 2005. Truck wash was installed in June 2004 and is used daily except for periods of below freezing weather in winter. Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree. Truck washing facility is operational.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
4. Coarse Particulate (including particulates > PM10)	Under the NOx consent decree, as a SEP, Mirant is required to install coal pile wind erosion and dust suppression system.	T&ES and City consultants will track progress on the installation of this system. (This will also be one of the tracking items for the facility audit.)	Mirant is to submit plans for this system to VDEQ within 30 days after the entry of the NOx consent decree. The NOx consent decree requires its installation by April 2005. The dust suppression system was installed in May 2004. Installation of fencing and screening material was completed on February 23, 2005. Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree. Dust suppression system was installed and is operational.
	Under the NOx consent decree, as a SEP, Mirant is required to install a coal stackout conveyor dust suppression system.	T&ES and City consultants will track progress on the installation of this system. (This will also be one of the tracking items for the facility audit.)	Mirant is to submit plans for this system to VDEQ within 30 days after the entry of the NOx consent decree. The NOx consent decree requires this system to be installed by December 2004. Mirant has completed installation. Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	Under the NOx consent decree, as a SEP, Mirant is to install a coal railcar unloading dust suppression system.	T&ES and City consultants will to track progress on the installation of this system. (This will also be one of the tracking items for the facility audit.)	Mirant to submit plans for this system to VDEQ within 90 days after the entry of the NOx consent decree. The NOx consent decree requires this project to be completed by June 2006. Mirant expects completion during Spring of 2006. Completed on 11/28/2005. (Advanced from Spring 2006) Parties claiming financial interests in Mirant's Morgantown and Dickerson plants in MD have sought to intervene and oppose the consent decree. Dust suppression system is operational.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	Under the NOx consent decree, as a SEP, Mirant is required to conduct a settled dust study.	T&ES and City consultants will track progress on this study and evaluate its findings and results. (This will be one of the tracking items for the facility audit.)	Mirant to submit plans for this study to VDEQ within 60 days after the entry of the NOx consent decree. The study is to begin no later than November 2004 and be completed within 6 months. Mirant conducted preliminary sampling in 2004. Mirant submitted the study protocol to VDEQ in May 2005 and commenced data collection in June 2005. Analysis and final report due 02/2006. Data collection was interrupted when plant went off-line in August 2005. Samples taken from June 2005 until that date have been collected but have not been forwarded for analysis until recently. Analysis and final report expected within 3 months. Status: To date City has not received a final report on this study.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
5. Downwash Study Consent Order	The Downwash Study consent order between VADEQ and Mirant requires Mirant to prepare protocols that define, and to undertake, a refined modeling analysis to assess the effects of "downwash" from the Potomac River plant on ambient concentrations of SO_2, NO_2, CO, PM10, and Mercury in Alexandria.	T&ES will ensure that the community is able to review the protocols that Mirant has prepared for this study. T&ES and City consultants will review and comment on adequacy of the protocols. Based on this review, City may determine to undertake its own "downwash" modeling study.	Mirant submitted a modeling protocol in October 2004. The protocol was discussed with members of Mirant Community Monitoring Group on December 2, 2004. After input from community and City consultants, the final comments were forwarded to VDEQ on December 30, 2004. VADEQ provided comments on the protocol to Mirant on February 10, 2005 and asked Mirant to submit an amended protocol by March 30, 2005. On March 2, 2005, City staff submitted a letter to VDEQ clarifying City's requests on certain items that were not clearly specified in VADEQ's comments to Mirant. Mirant submitted revised protocols to VDEQ on March 28, 2005. City received a copy of the protocol on April 1, 2005, and submitted comments to VDEQ on April 18, 2005. City submitted additional comments on the revised protocol to VDEQ on May 2, 2005. VDEQ approved the protocol (with additional comments) on June 17, 2005. Mirant's modeling showed violations of NAAQS for all major criteria pollutants, i.e., NO_x, SO_2, CO and particulate matter (PM-10 and PM-2.5).

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	VADEQ will undertake its own modeling analysis to assess the effects of "downwash" from the plant on ambient concentrations of other toxic pollutants in Alexandria.	This is not specifically in the Downwash Study consent order, but, VADEQ staff has assured City of their plans to conduct this analysis independently. T&ES and City consultants will work with VADEQ on this analysis. Based on review of VADEQ's analysis, City may determine to undertake its own modeling analysis and study.	All analysis to be performed will be coordinated with VDEQ. City provided Mirant an itemized list of data needs in case the City undertakes its own modeling analysis. Mirant's data response was received on April 1, 2005. City sent a follow-up to the original request on April 29, 2005. Mirant provided additional data on June 3, 2005. The modeling conducted by City's consultant showed violations of NAAQS for all major criteria pollutants including PM2.5 and ambient guidelines for some hazardous air pollutants (HF and HCl). On March 7, 2006, the City met with EPA Region III and VDEQ at EPA offices in Philadelphia, PA to discuss Mirant's modeled violations. The City impressed upon EPA and VDEQ the need to evaluate PM-2.5 emissions via modeling. EPA informed the City of a letter EPA sent to Mirant citing them for non-compliance with SO_2, NOx and PM-10 NAAQS in December 2005. EPA and VDEQ are currently negotiating a settlement agreement with Mirant. The City provided comments expressing our concerns to EPA and VDEQ after the meeting, and invited EPA to attend the MCMG meeting on April 3, 2006.

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			On June 1, 2006, EPA issued an Administrative Compliance Order by Consent to Mirant finding that Mirant violated VDEQ regulations by not immediately shutting down operations upon discovery of NAAQS violations and receipt of notice from VDEQ. The ACOC allows Mirant to (1) operate the boilers in various combinations using predictive modeling, i.e., modeling based on meteorological conditions predicted for the following day, and to follow-up with actual meteorology, (2) install TRONA injection system on a set schedule, (3) refine the AERMOD default model by using equivalent building dimensions determined in a Wind Tunnel Study, and (4) perform a Model Evaluation Study by comparing modeled impacts with monitored concentrations to identify the best-performing model. The ACOC also requires Mirant to submit to EPA and VDEQ an analysis of NSR/PSD applicability due to installation of the TRONA system and to cooperate with VDEQ in developing permit limits within 12 months of ACOC issue date. Mirant has installed the TRONA system on all five boilers and has been operating under the June 1, 2006 ACOC by performing day-ahead predictive modeling. In follow-up modeling using actual meteorology, Mirant has reported modeled violations of NAAQS. Mirant has also commenced SO2 monitoring on Marina Towers as a part of the Model Evaluation Study. Mirant has also completed the Wind Tunnel Study to refine building dimensions for use in AERMOD. On January 5, 2007, the City extensively reviewed and commented on the Wind Tunnel Study. Comments were submitted to the EPA and VDEQ.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
	Under the Downwash Study consent order, Mirant is to propose and implement a corrective action plan to address any exceedances of the applicable ambient air standards.	Staff and City consultants will monitor, evaluate and provide comments to DEQ when the action plan is proposed.	The Downwash Study consent order requires Mirant to submit the corrective action plan within 90 days of submitting the results of its modeling study. Mirant's and City's modeling showed violations of NAAQS for all major criteria pollutants. On August 24, 2005, Mirant temporarily shut down all five boilers at the plant in response to VDEQ orders to reduce pollution. On September 21, 2005, Mirant commenced limited operation of Unit No. 1 based on a revised modeling analysis submitted to VDEQ on September 20, 2005. VDEQ expressed serious reservations about the revised modeling and underlying assumptions in a letter to Mirant dated September 20, 2005. In an internal review of the revised modeling, City has also identified serious concerns regarding the assumptions and scenarios included in the analysis. Oct 14, 2005: Mirant requested VDEQ to permit TRONA testing on Unit 1. Oct 24, 2005: City sent letter to VDEQ expressing concerns regarding various issues including concerns with TRONA testing, baseline assumption, and highlighted lime testing that plant conducted without VADEQ approval. Oct 27, 2005: VDEQ requested Mirant to submit formal protocols for testing TRONA. Nov 8, 2005: VDEQ approved Mirant's TRONA testing protocol.

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			Nov 12 to Dec 23, 2005: Mirant performed the testing of TRONA and low-sulfur coal. Jan 17, 2006: Mirant submitted to DOE the TRONA test results marked as Confidential Business Information, along with a brief non-confidential summary of the tests. In the non-confidential summary, Mirant claims to have achieved 80% SO_2 reduction, improved ESP performance, and reduced PM-10 emissions through the use of TRONA. The City has expressed serious reservations to VDEQ and EPA regarding the validity of PM-10 test results and the claims of improved ESP performance, and has requested VDEQ and EPA to require additional PM-10 and PM-2.5 testing of ESP inlet and outlet for both baseline and TRONA scenarios. On August 18, 2006, VDEQ requested Mirant to perform additional stack tests of PM-2.5 emissions. In addition to stack emissions, Mirant will be required to test PM-2.5 before and after the hot-side ESPs, as well as before and after the cold-side ESPs. The City has submitted comments to VDEQ on this request, and has asked to be allowed to review the test protocol and observe the stack tests. Mirant submitted test protocol to the VDEQ. The City commented on it and DEQ approved it in October 2006. Mirant carried out stack testing in December 2006 including PM2.5 and ESP collection efficiency determination with and without trona. **The results from this stack testing are questionable and the City has raised this issue to both VDEQ and Mirant although it has not been addressed sufficiently. In the meantime, Mirant's data comparing**

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Area	Actions to be Undertaken	City Role and Responsibility	Status
			three months of operation before and after the use of trona clearly showed an increase in opacity ranging from 3 to 110% with the use of trona.
6. Independent Facility Audit funded by Mirant	A memorandum of understanding between City and Mirant will be prepared regarding regular, periodic performance audits of Potomac River plant by an independent firm, to be funded by Mirant.	T&ES will work with Mirant to finalize MOU on scope, frequency, and other issues related to the audit.	Mirant has agreed to the concept of a regular plant audit. City provided Mirant with a list of items to include in the audit. Mirant's response was received on April 1, 2005. City sent a follow-up to the original request on April 29, 2005. As of 2005, Mirant was in discussions with a consultant to conduct these audits. The staff is following up with Mirant to get it started as soon as possible. The funding for these audits is to come from Mirant. Mirant has decided not to continue with the audit.
7. Virginia Legislation	City will support passage of the Virginia Clean Smoke Stacks bill during 2005 session of General Assembly.	Bernard Caton, T&ES and City Attorney's will provide input in the legislative process. Staff will continue to track the developments on any new regulations that potentially impacts the operation of the plan	HB 2546 (Van Landingham) was defeated in the House Committee on Agriculture, Chesapeake and Natural Resources.HB 2742 (Jack Reid) was also defeated in the House Committee on Agriculture, Chesapeake and Natural Resources. On Dec 8, 2005, VDEQ in State Air Pollution Board Meeting sought authorization to develop and propose amendments to regulations for control of NOx, SOx (Clean Air Interstate Rule) and Mercury (Clean Air Mercury Rule). The plans and associated regulations to implement Clean Air Interstate Rules and Clean Air Mercury Rules are due September 11, 2006 and November 17, 2006. The State Air Pollution Board put a hold and asked VDEQ staff to propose alternatives that are more stringent.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
Virginia Regulations			Identical bills, HB2878 (Englin) and SB925 (Ticer), were introduced in the 2007 legislature. The bills gave VDEQ the authority to pursue violations of opacity requirements based on (i) visual observations (ii) data from certified continuous opacity monitors, or (iii) other methods approved by the U.S. Environmental Protection Agency. While HB2878 was left in committee, SB925 unanimously reported out of both the House and Senate and was approved by the Governor in March. SB925 will become effective 7/1/07. **At SAPCB meeting on October 10, 2007, the Board voted unanimously to approve VDEQ proposal for processing as a final regulation under the exempted procedure.** HJ698, patroned by Englin, Amundson, Callahan, Ebbin, Hall, Hargrove, Moran and Spruill, would have required the Department of Health study the public health effects of using trona to mitigate emissions in power plants. The bill failed to report out of the Committee on Rules. HB3081 patroned by Englin, Ebbin and Moran would have required any power generation facility ordered by the U.S. Department of Energy to increase power generation to notify those persons who requested such notification if the increased operation was predicted to cause exceedances of air quality standards and if such notification was not provided, the owner of the facility would have been assessed a civil penalty of up to $1,000. The bill was referred to the Committee on Commerce and Labor where it was re-referred to the Committee on Agriculture, Chesapeake and Natural Resources and left unreported.

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			Now identical bills, HB3113 (Landes) and SB1403 (Puckett) sought to dissolve three citizen boards-- the Water Control Board,, the Air Pollution Control Board and the Waste Management Board -- and create one consolidated board that did not have the authority to issue or deny permits. The City fought hard to get a reenactment clause, which requires the 2008 General Assembly to re-enact the legislation before it can become effective, added to the bill. In other words, the proponents of the legislation must start all over. The bills, with the added reenactment clause, passed both the House and Senate and were approved by the Governor. The Chairs of the Natural Resources Committee have asked VDEQ to convene a stakeholders group to discuss the legislation and report on recommended changes. The City will be a part of stakeholders group.
	CAIR (Clean Air Interstate Rule)		In 2006, HB1055, Virginia Clean Smoke Stacks Bill passed. It allows smaller units that generate less than 200 lbs of mercury to participate in the Mercury trading program (Mirant facility in Alexandria generates approx 77 lbs, will be exempt from its requirements). Virginia SIP for the federal CAIR has been finalized. These adopted regulations as applied to non-attainment areas limit trading among units owned by the same company. Mirant has filed a "notice to appeal" to the VDEQ with regard to this regulation. Mirant did not file a brief to follow its Notice of Appeal. Instead, Mirant filed with the VDEQ a request for reconsideration of the CAIR regulations, specifically the no-trade provision for non-attainment areas. Comments are due to DEQ by 5 p.m., June 18, 2007. **The City submitted comments on this subject and urged the Board to uphold**

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			the no-trading provision for non-attainment areas. At the SAPCB meeting on October 10, the Board made an unanimous decision to uphold the no-trading provision for non-attainment areas.
	CAMR (Clean Air Mercury Rule)		Virginia has decided to implement the federal CAMR rules for allocating mercury emissions allowance to power plants. It also develops two state-specific regulations governing the trading method that are going to go through a 30-day public comment period sometime in February 2007.
8. Litigation Options	City will consider, when appropriate, pursuing litigation against the Potomac River plant under various statutory and common law theories.	City Attorney's Office and its consultants will evaluate the litigation options.	On October 7, 2005, the City filed a lawsuit seeking the closure of the Potomac River Plant as a public and private nuisance. Under Virginia law, a nuisance is an activity or land use which endangers life or health, gives offense to the senses, violates the laws of decency, or obstructs the reasonable and comfortable use of property, including the discharge of dangerous or unhealthy substances which have escaped, spilled been released or allowed to accumulate in or on any place. This suit was filed in Alexandria Circuit Court. Trial presently scheduled on October 2-4, 2006; hearing scheduled for April 24, 2006 re: Mirant's demurrer and Alexandria's motions to compel production of documents and access to site. The City decided to hold off nuisance suit against Mirant on December 13, 2006. "Non-Suit" court filing will allow time to monitor State and Federal actions.
9. Representation in	City will consider	City Attorney's Office	On December 5, 2005, the U.S. Bankruptcy Court in Ft. Worth

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Bankruptcy Court	entering appearance in Mirant bankruptcy proceeding.	and its consultants will evaluate this issue.	Texas confirmed Mirant's Chapter 11 plan of reorganization. The Court order confirming the plan expressly recognizes and preserves the City's rights to maintain all pending and prospective enforcement actions against the Potomac River Plant. Substantively concluded, no prejudice to City's enforcement actions.
10. New Federal Air Quality Regulatory Actions	Three federal air quality actions are underway: (1) PM2.5 designations (2) Implementation of new 8 hour standard for ozone (3) NOx and SO_2 reductions from sources in eastern U.S. (4) New limits on mercury emissions from power plants.	T&ES, City Attorney and City consultants will track these new federal regulations and their impacts on the City.	PM2.5 designations occurred in December 2004. EPA to propose implementation rule in February 2005 and finalize the rules in Early 2006. Staff continues to track Clean Power Act, Clear Skies Act, Clean Air Interstate Rule, Utility mercury reduction rule. The region's deadline to achieve compliance with 8-hr Ozone and the PM2.5 standard in 2010. EPA issued the Clean Air Interstate Rule on March 10, 2005. This is a cap-and-trade rule which EPA expects to result in NOx and SO_2 reductions of 61% and 73%, respectively, compared to 2003 levels. EPA issued the Clean Air Mercury Rule on March 15, 2005 with an effective date of July 18, 2005. This is a cap-and-trade rule which EPA expects to result in 70% reduction in mercury emissions. This is a controversial rule and is expected to be challenged in court. STAPPA/ALAPCO has raised serious objections to this rule.

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11. Purchase of Clean Power	City will consider options for purchase of clean or green power.	General Services and Purchasing will evaluate options.	General Services and Purchasing are working on this issue.
12. Status of Consent Decree	Monitor status, and consider intervention in EPA enforcement action.	City Attorney's Office and its consultants are monitoring and evaluating this issue.	On December 2, 2005, the U.S. District Court in Alexandria denied the City's motion for leave to amend the complaint under the Clean Air Act. The City's position is that any proposed Consent Decree would be invalid without addressing the National Ambient Air Quality Standards (NAAQS) violations identified in the City's and Mirant's downwash studies. The Court reasoned that considering an amendment to the complaint would be premature until the federal and state government agencies present a revised decree to the City and the court for comment and consideration. The Court will revisit this issue in the event that the revised decree fails to address the NAAQS violations. On March 27, 2006, the City met with EPA, VDEQ and U.S. Dept. of Justice at VDEQ's Woodbridge offices. The City was informed that VDEQ is on a fast track to issue a State Operating Permit to Mirant that will address the modeled NAAQS violations, and that this permit will likely be issued before the consent decree is issued. The City has since learned that VDEQ is pursuing the issuance of a construction permit to Mirant to allow the stack-merger project, and perform an analysis of NSR/PSD applicability, prior to issuing the State Operating Permit. The City will continue to monitor this development. On Sep 25, 2006, the City presented arguments to the State Air Pollution Control Board to exercise its enforcement authority

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Area	Actions to be Undertaken	City Role and Responsibility	Status
			over VDEQ regulations by require NAAQS compliance, NSR analysis, and toxics modeling, and to require VDEQ to involve the City in all proceedings.
13. Stack Height Increase	Monitor status, and consider objecting to any stack height increase if it precludes emissions reductions.	T&ES and City Attorney will track this issue and evaluate implications that the stack height increases may have on reducing ambient impacts and therefore preclude emission reductions. The stack height increase, if approved, will require a SUP from the City.	Mirant has applied to the Federal Aviation Administration (FAA) to receive approval for a 50-foot increase in the stack height for each of the five boilers. FAA's role will be to evaluate aviation safety given the close proximity of the plant to the Washington National airport. At the MCMG meeting on May 3, 2005, the MCMG members asked Mirant to provide copies of any communication with the FAA. On October 5, 2005, the City learned that the FAA issued a "Determination of Presumed Hazard To Air Navigation," which concluded that Mirant's proposed 50 foot increase in stack heights would "exceed obstruction standards and/or would have an adverse physical or electromagnetic interference effect upon navigable air space or air navigation facilities," i.e., Washington National Airport (DCA). The Determination notes that "Any height above current structure height would have a substantial impact on . . . operations out of DCA." Mirant has initiated a formal process with the FAA to reverse this determination, and the City has retained an air navigation safety expert to assist the City in opposing Mirant's efforts. Under environmental regulations, new plants are allowed to construct stack heights that follow Good Engineering Practice (GEP) guidelines for avoiding building downwash. However, stack height increases at existing plants are only approved on a case-by-case basis upon consideration of other factors beyond the need to avoid building downwash.

MIRANT ISSUES TRACKING MATRIX

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			In Feb 2005, FAA issued a ruling on Mirant's application approving the 50-foot stack height increase, as long as the stacks are marked and lighted. Petition for review of the FAA's Determination of No Hazard filed March 28, 2006- Improper to account for Mirant's "operational" needs, and ignored helicopter safety. FAA has subsequently considered above petition and approved Mirant's request for the 50-foot stack height increase in June 2006. The increase in stack height will require a Special Use Permit from the City Council.
14. FERC/DOE Proceedings	**Intervention to object to restarting power plant.**	**City Attorney's Office and its consultants are monitoring and evaluating this issue.**	On August 25, 2005, an emergency petition was filed by the DC Public Service Commission with the Federal Energy Regulatory Commission (FERC) and Department of Energy (DOE), seeking the restoration of service from the Potomac River Plant. The City, as well as VDEQ, intervened in opposition to the petition. Some 15 other entities, including state regulatory agencies, environmental groups and energy industry participants also intervened on both sides of the issue. On November 17, 2005, FERC removed the petition from its docket, but the matter remains pending before the DOE. DOE has indicated that a decision is forthcoming, but the department has announced no decision date. On Dec 20, 2005, DOE ordered Mirant to operate the plant (up to full capacity, as determined by PJM) if either one or both 230 kV lines servicing the Central D.C. area experience planned or unplanned outage. Under normal situations, DOE

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			ordered Mirant to operate as many units as "feasible" to provide electricity reliability without exceeding NAAQS. DOE asked Mirant to submit a compliance plan within 10 days of this order. On Dec 22, 2005, the City sent a letter to DOE presenting its concerns with the above order and sought public participation in the development of the compliance plan. On Dec 30, 2005, Mirant submitted a compliance plan to DOE outlining two operating options: "A" and "B." On Jan 4, 2006, DOE ordered Mirant to implement Option "A" based on Mirant's modeling showing compliance with NAAQS. The City's modeling of Option "A" shows exceedances of the NAAQS. The City has informed EPA and VDEQ of its findings regarding Option "A" which requires operation of at least three boilers at the plant. Supplemental comments filed on March 23, 2006 to DOE by Alexandria, VDEQ and DC Public Service Commission; no schedule yet for DOE response – no justification for emergency and inadequate testing/actions. FERC ordered DCPSC to expedite PEPCO service lines; new lines approved by DCPSC March 6; Summer 2006 completion of 69 kV lines, summer 2007 for 230 kV lines. In November 2006, DOE issued a SEA (Special Environmental Analysis) report justifying its decision in issuing the above order. The City sent extensive comments to the DOE objecting several points presented in this analysis. PEPCO completed the 69 kV lines and the two new 230 kV

MIRANT ISSUES TRACKING MATRIX

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			lines before the end of June 2007. On January 31, 2007, DOE further extended this order until July 1, 2007. However, any request for further extension beyond this date will have to be justified and submitted to DOE. The EPA ACO expired on June 1, 2007. The DOE Order expired on July 1, 2007. Both EPA and DOE have stated that they will not extend their orders.
15. State Air Pollution Control Board permitting options	**Achieve a comprehensive SOP for Mirant PRGS that protects public health and complies with all NAAQS**	**Actively participate and comment on permitting options being considered by SAPCB/VDEQ**	City made presentations to the SAPCB on March 26 and April 10, 2007 to comment on VDEQ's permitting approach regarding Mirant's stack merge project, the baseline years, and predictive modeling used for establishing emissions limits. The City commented on the VDEQ Draft Consent Order and the City's draft Order as per request by SAPCB. **The City submitted comments on the three permitting options and made a presentation to the SAPCB on May 22, 2007.** **SAPCB held a public hearing on PRGS permitting options on May 22, 2007. The Board also held a meeting on May 23, 2007 to decide on the permitting options. They decided on an interim state operating permit that took effect on June 1, 2007 and regulated SO2 emissions to an annual limit of 3,813 tons. This would allow VDEQ time to develop**

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Area	Actions to be Undertaken	City Role and Responsibility	Status
			a comprehensive permit regulating all pollutants. **Mirant subsequently filed two petitions challenging the Board's decision and the issuance of this SOP. Both cases are currently in the court.** **The comprehensive SOP has been published for public comments since October 19, 2007. The City plans to submit comments before the deadline of November 19, 2007.**
16. Stack Merger Project			**In June 2007, the City was informed that VDEQ had determined that the stack merger project did not require a permit and a decision would soon be made to allow Mirant to start the construction. The City strongly opposed to this assessment by the VDEQ and requested that the matter be considered and decided by the SAPCB.** **In August 2007, Mirant announced that they would proceed with the stack merger project without first securing a permit. The City strongly opposed to this unlawful move by Mirant. At the September 13, 2007 meting, the SAPCB voted to require Mirant to secure a pre-construction permit. Mirant decided to stop construction activities on September 14, 2007.**

Updated: **11-07-2007**

Bold formatting has been used in "Status" column to indicate the most recent updates.