MIRANT ISSUES TRACKING MATRIX

Attachment I

Updated 02-05-2007

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. **Although the specific day is not yet determined, the Virginia Supreme Court has set hearing on the zoning case appeal for sometime during the week of February 26, 2007.**
	Revocation of Special Use Permit No. 2297 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. **Although the specific day is not yet determined, the Virginia Supreme Court has set hearing on the zoning case appeal for sometime during the week of February 26, 2007.**

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Area	Actions to be Undertaken	City Role and Responsibility	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. **Although the specific day is not yet determined, the Virginia Supreme Court has set hearing on the zoning case appeal for sometime during the week of February 26, 2007.**
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. Hearing in federal district court on the motions is set for April 20, 2007.**

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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. Hearing in federal district court on the motions is set for April 20, 2007.**

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	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. Hearing in federal district court on the motions is set for April 20, 2007.**

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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. Hearing in federal district court on the motions is set for April 20, 2007.**

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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. Hearing in federal district court on the motions is set for April 20, 2007.**

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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 VADEQ 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 VADEQ 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. **This has not been installed. Plant is planning install it in March- April 2007.**

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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 VADEQ 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 VADEQ 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 VADEQ 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 VADEQ 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 VADEQ 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 VADEQ 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 VADEQ 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 VADEQ 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 VADEQ clarifying City's requests on certain items that were not clearly specified in VADEQ's comments to Mirant. Mirant submitted revised protocols to VADEQ on March 28, 2005. City received a copy of the protocol on April 1, 2005, and submitted comments to VADEQ on April 18, 2005. City submitted additional comments on the revised protocol to VADEQ on May 2, 2005. VADEQ 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 VADEQ. 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 VADEQ at EPA offices in Philadelphia, PA to discuss Mirant's modeled violations. The City impressed upon EPA and VADEQ 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 VADEQ are currently negotiating a settlement agreement with Mirant. The City provided comments expressing our concerns to EPA and VADEQ 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 VADEQ regulations by not immediately shutting down operations upon discovery of NAAQS violations and receipt of notice from VADEQ. 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 VADEQ an analysis of NSR/PSD applicability due to installation of the TRONA system and to cooperate with VADEQ 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 VADEQ.**

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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 VADEQ orders to reduce pollution. On September 21, 2005, Mirant commenced limited operation of Unit No. 1 based on a revised modeling analysis submitted to VADEQ on September 20, 2005. VADEQ 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 VADEQ to permit TRONA testing on Unit 1. Oct 24, 2005: City sent letter to VADEQ 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: VADEQ requested Mirant to submit formal protocols for testing TRONA. Nov 8, 2005: VADEQ 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 VADEQ and EPA regarding the validity of PM-10 test results and the claims of improved ESP performance, and has requested VADEQ 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, VADEQ 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 VADEQ 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 DEQ. 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. Test results are due to VADEQ end of February 2007.**
6. Independent Facility Audit funded by	A memorandum of understanding between	T&ES will work with Mirant to finalize MOU	Mirant has agreed to the concept of a regular plant audit.

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Area	Actions to be Undertaken	City Role and Responsibility	Status
Mirant	City and Mirant will be prepared regarding regular, periodic performance audits of Potomac River plant by an independent firm, to be funded by Mirant.	on scope, frequency, and other issues related to the 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, VADEQ 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 VADEQ staff to propose alternatives that are more stringent. 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).

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Virginia Regulations	**CAIR (Clean Air Interstate Rule)** **CAMR (Clean Air Mercury Rule)**		**In 2007, many legislations under consideration that City is following closely: SB925 /HB2878 regarding method to determine opacity, HB3081 regarding notification of increased operations, HB3113 regarding consolidadtion of various boards, HJ698 regarding Trona Public Health study.** **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 VADEQ with regard to this regulation.** **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. The City plans to comment on these.**
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

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			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 Bankruptcy Court	City will consider entering appearance in Mirant bankruptcy proceeding.	City Attorney's Office and its consultants will evaluate this issue.	On December 5, 2005, the U.S. Bankruptcy Court in Ft. Worth 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

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			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.
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, VADEQ and U.S. Dept. of Justice at VADEQ's Woodbridge offices. The City was informed that VADEQ 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 VADEQ 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

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			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 over VADEQ regulations by require NAAQS compliance, NSR analysis, and toxics modeling, and to require VADEQ 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,

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			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. 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

Area	Actions to be Undertaken	City Role and Responsibility	Status
			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 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 VADEQ 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, VADEQ 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**

Area	Actions to be Undertaken	City Role and Responsibility	Status
			analysis. **PEPCO completed the 69 kV lines and currently expects the two new 230 kV lines to be operational 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.** **As required by this order extension, PEPCO is to notify the City's attorney of any planned or unplanned outages of the existing 230 kV lines as soon as possible.**

Updated: 02-05-2007

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

Attachment J

City of Alexandria, Virginia
301 King Street, Suite 2300
Alexandria, Virginia 22314

William D. Euille
Mayor

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January 30, 2007

The Honorable Timothy M. Kaine
Governor of the Commonwealth of Virginia
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

Dear Governor ~~Kaine~~: Tim

I am writing to thank you for agreeing to work with the City to ensure that its concerns are met in amendments to the legislation proposed to merge the State Air Pollution Control Board, the State Water Control Board, and the Waste Management Board; and to transfer many of these boards' permitting and other responsibilities to the Department of Environmental Quality (HB 3113 and SB 1403).

As you know, the City has taken a number of actions in recent years to protect the health of its citizens from any detrimental impacts resulting from emissions from the Mirant Potomac River Generating Station in north Old Town. In recent months, the State Air Pollution Control Board has agreed to take responsibility for the issuance of the permit for this facility. The City viewed this action as a positive step that would result in a careful consideration of all the factors that should be considered in the development of this permit. The Board also promised to undertake a "transparent" process for dealing with this permit–a promise that gave encouragement to the many Alexandria residents who believe that some of the previous enforcement and regulatory actions with respect to this facility have been handled in a manner which did not fully protect their right to participate effectively in a regulatory process which materially affects their lives. The City believes that it is important that the State Air Pollution Control Board be given sufficient time to complete all actions on this permit. It is for this reason that I and the rest of Alexandria City Council became concerned about the legislation to eliminate the Board and divest it of permit authority.

I have asked the City's Legislative Director, Bernard Caton, to work with your administration on an appropriate amendment to these bills. However, as you are aware, many environmental advocacy and other groups have raised a number of other, significant concerns about the impacts of this legislation, and a number of them have proposed that the bills be carried over to allow sufficient time to reach an accord with DEQ. If the bills are carried over, that action should address our concerns. In the alternative, we would request an amendment to delay the effective

date of the legislation for one year, to July 1, 2008, to allow the Air Pollution Control Board sufficient time to complete the ongoing Mirant permit process, but we are open to other suggestions. I understand that Mr. Caton will be meeting with Preston Bryant, your Secretary of Natural Resources, and I look forward to a resolution of our concerns.

Thank you again for your assistance.

Sincerely,

William D. Euille
Mayor

cc: The Honorable Members of City Council
The Honorable Patricia Ticer
The Honorable Richard Saslaw
The Honorable Adam Ebbin
The Honorable David Englin
The Honorable Brian Moran
James K. Hartmann, City Manager
Bernard Caton, Legislative Director
Ignacio Pessoa, City Attorney
Richard Baier, Transportation and Environmental Services Director

Attachment K

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Centers for Disease Control and Prevention

Initial Evaluation Summary

Health Consultation – Evaluation of Air Dispersion Modeling of the Mirant Potomac River Generating Station Emissions in Alexandria, Virginia.

Background

The Alexandria Health Department asked the Agency for Toxic Substances and Disease Registry (ATSDR) to

- evaluate air dispersion modeling data of Mirant Potomac River Generating Station (PRGS) emissions, and
- provide recommendations for additional studies.

This is a summary of the initial evaluation phase of the health consultation.

What did ATSDR do?

ATSDR evaluated air dispersion modeling data of Mirant PRGS emissions provided by

- The Environmental Protection Agency
- The City of Alexandria
- Mirant PRGS

In addition, ATSDR has modeled average 1-hour emissions.

What do the modeling results suggest?

Past emissions from Mirant PRGS could have been a health hazard. Confirmation that exposures occurred as estimated by the model may not be possible.

Current emissions from Mirant PRGS might cause sensitive populations to experience a reaction to sulfur dioxide during short-term (5-15 minutes) exposures. We do not know if this is true around Mirant PRGS because we do not know if

- The estimated concentrations are accurate,
- If the location of the estimated concentration is accurate, or
- How frequently the exposure of concern occurs or for how long.

What does the initial evaluation address?

This initial evaluation addresses only *short-term exposure levels to sulfur dioxide estimated from air dispersion modeling.* Modeling by itself is not used to conclude that a hazard exists. ATSDR has a responsibility to inform the requestor when exposures of concern are indicated, but additional efforts are needed to confirm modeling estimates.

ATSDR is aware that emissions from power plants contain other contaminants and can address these exposures as more data is obtained. Sulfur dioxide was identified as a significant contaminant of concern. The scientific information is sufficient to indicate a concern for sensitive populations. Exposure may occur to these populations in residential areas around Mirant PRGS.

How concerned should residents be?

If the modeling is representative of actual exposures, people who have asthma should be aware of the potential for adverse effects and protect themselves, particularly when exercising. Asthmatic children may also be more vulnerable than adults.

ATSDR does not yet know how often, when, and the locations where people may be exposed at levels of concern. For example, do levels of concern occur several times a day or only once per week? Does it occur during the middle of the day or late at night? Does it occur over the Potomac River or at Marina Towers?

What does ATSDR recommend?

ATSDR recommends

- Considering health education as a prudent public health activity to enable sensitive populations to make informed decisions to protect themselves from potentially adverse short-term exposures to sulfur dioxide.

- Obtaining data to fill the data gaps. ATSDR is attempting to identify additional information that will enable ATSDR to more accurately assess the health impact of Mirant PRGS emissions.

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