



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800 Fax (703) 583-3821

[www.deq.virginia.gov](http://www.deq.virginia.gov)

David K. Paylor  
Director

L. Preston Bryant, Jr.  
Secretary of Natural Resources

**STATE AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION  
AMENDMENT TO  
ORDER BY CONSENT  
ISSUED TO  
MIRANT POTOMAC RIVER, LLC  
FOR THE  
POTOMAC RIVER GENERATING STATION  
Registration No. 70228**

**SECTION A: Purpose**

This is an Amendment to a Consent Order issued under the authority of Va. Code §§ 10.1-1307(D), 10.1-1309, and 10.1-1316(C), between the State Air Pollution Control Board ("SAPCB") and Mirant Potomac River, LLC for the purpose of resolving certain violations of the Air Pollution Control Law and Regulations for the Control and Abatement of Air Pollution.

**SECTION B: Basis for Amendment**

1. Mirant owns and operates the Plant which is located in Alexandria, Virginia. The Plant is the subject of a State Operating Permit dated July 31, 2008 to operate an electricity generating facility with a maximum capacity of approximately 482 megawatts.
2. Mirant installed air pollution control equipment at the Plant in the form of coal pile perimeter fencing with associated windscreens. The fencing's purpose is to reduce particulate matter emissions as fugitive dust from coal piles by controlling wind erosion and dust dispersion.
3. On July 2, 2008, Mirant entered into a Consent Order with the Board. One of the violations addressed through the Order was Mirant's failure to operate and maintain pollution control equipment pursuant to 9 VAC 5-4-20.E. The basis for this violation was DEQ Plant inspections and also a review of Mirant data which

showed that the coal pile perimeter fencing was in a state of disrepair for a certain period of time.

4. On November 21, 2008, DEQ conducted an unannounced inspection of the Plant. During the inspection, DEQ staff observed that an approximately 100 foot section of the windscreen was not properly fastened to the perimeter fencing.
5. On December 10, 2008, DEQ conducted an unannounced inspection of the Plant and again observed the same 100 foot section of the windscreen not properly fastened to the perimeter fencing.
6. DEQ issued a Notice of Violation to Mirant on December 18, 2008 citing the following violation:
  - a. Failure to maintain and operate the Plant and associated air pollution control equipment, at all times, including periods of malfunction, in a manner consistent with air pollution control practices for minimizing air emissions, as stated in 9 VAC 5-40-20 E.
7. Mirant submitted a response to the NOV on January 7, 2009 which advised that Mirant had begun installing a new fence in order to eliminate the problem.
8. Due to the foregoing, DEQ finds Mirant in violation of 9 VAC 5-40-20 (E) for failing to maintain air pollution control equipment.

### **SECTION C: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§ 10.1-1307(D), 10.1-1309, and 10.1-1316(C), orders Mirant Potomac River, LLC, and Mirant Potomac River, LLC agrees to perform the actions described in Appendix A of this Order which supersedes and cancels Appendix A of 2008 Order. Both the Board and Mirant Potomac River, LLC understand and agree that this Amendment does not alter, modify, or amend any other provision of the Order and that unmodified provisions of the Order remain in effect by their own terms.

In addition, the Board orders Mirant Potomac River, LLC, and Mirant Potomac River, LLC voluntarily agrees to pay a civil charge of \$26,000.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia," delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Either on a transmittal letter or as a notation on the check, Mirant shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for Mirant.

And it is so ORDERED this 16<sup>th</sup> day of March, 2009.

Thomas A. Faha  
Thomas A Faha, Regional Director  
Department of Environmental Quality

Mirant voluntarily agrees to the issuance of this Order.

By: Robert Driscoll  
Title: PRESIDENT  
Date: March 9, 2009

~~Commonwealth of Virginia~~ State of Georgia  
~~City/County of~~ Oakdale

The foregoing document was signed and acknowledged before me this 9<sup>th</sup> day of  
March, 2009, by Robert Driscoll, who is  
(name)

President of Mirant, on behalf of the Corporation.  
(title)

Dorothy A. Pearce  
Notary Public

My commission expires: 9/26/11.

## **APPENDIX A**

Mirant shall:

1. Submit to DEQ within 15 days of the execution of this Order an installation schedule for the new fencing. Upon receipt by DEQ, the schedule shall become an enforceable part of the Order. In the alternative, if the fencing has already been installed, submit to DEQ within 15 days of the execution of this Order notification that the installation is complete.
2. Submit to DEQ within 15 days of the execution of this Order manufacturer specifications for the new fencing, including anticipated life expectancy of the fencing and manufacturer suggested maintenance.
3. Improve inspection procedures of the perimeter fencing to ensure compliance, including twice daily inspections of the fencing.
4. Maintain onsite a reasonable supply of replacement materials for the fencing and appropriate installation equipment in order to conduct timely repairs to the fencing.