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May 21, 2007

Ms. Monica Harvey
Virginia Department of Environmental Quality
629 East Main Street
P.O. Box 1105,
Richmond, VA 23218

RE: Comments on Questions and Permitting Options Posed by Virginia Department of Environmental Quality for the Mirant Potomac River Generating Station

Dear Ms Harvey,

These comments are submitted by the Center for Energy and Economic Development, a non-profit organization headquartered in Alexandria Virginia that represents the state's electric utility, rail and coal industry interests and by Mr. Tom Hewson who is a 25-year resident of Alexandria Virginia, a former Vice Chairman of the Alexandria Environmental Policy Commission and past environmental professional member of the Alexandria Mirant Committee Monitoring Group. For the past 25 years, Mr. Hewson has been a principal at Energy Ventures Analysis Inc in Arlington Virginia where he directs the firm's environmental consulting practice. These comments cover all the requested areas for public comments.

Continued Use of Intermittent Control Measures as Part of an Approved Operating Permit and Consent Decree

EPA and the states have historically allowed intermittent controls as part of their several program environmental control requirements. For example, the EPA Ozone SIP Call and smog control programs have historically allowed intermittent seasonal NOx control measures as part of an affected source's strategy to meet an ozone season emission cap limitation. Similarly, environmental regulators have given affected sources the flexibility to meet other annual emission tonnage cap limitations such as the EPA Acid Rain program and future Clean Air Interstate Rule as long as sufficient controls are in place to assure that the public health is protected. Linking permissible plant operating levels to ambient air levels has been done before. In Missouri, a lead smelter in Boss monitors surrounding ambient lead level monitors and has a permit that allows the smelter to operate as long as ambient levels remain below pre-designated limits. This same approach was correctly adopted by the draft Consent Decree and Board Permit Options #2 and #3.

We believe this practice for allowing intermittent controls can and should continue for so long as sufficient safeguards are in place to protect the public health and safety. We strongly support the April Draft Consent Decree between VDEQ and Mirant that provides these necessary protections and should be approved. It should provide the basis for a complete Title V Operating Air Permit for the Potomac River Station.

333 JOHN CARLYLE STREET • SUITE 530 • ALEXANDRIA, VA 22304
TELEPHONE: 703 684 6292 • FAX: 703 684 6297 • INTERNET: www.ceednet.org

Approve Consent Decree's Stack Merge Proposal that Offers Significant Local Public Health Benefits

We strongly support the draft Consent Decree's approval of the Mirant Potomac River Station's stack merge proposal that would increase the stack height by 50 feet while also reducing the number of exhaust stacks from five to two. The VDEQ has correctly concluded that the stack merge proposal is an allowable dispersion technique in which the final stack height and will remain well within good engineering practice heights as defined by EPA regulations and confirmed in the August 2005 ENSR report.

The Federal Aviation Administration has completed its comprehensive analysis and ruled that the exhaust stacks can be raised by 50-feet without posing an air safety risk to the air traffic at Ronald Regan National Airport. In addition, as EPA and Virginia DEQ air emissions modeling has definitively demonstrated, this stack merge/raising proposal would provide direct local ambient air quality benefits by increasing pollutant dispersion that will significantly reduce the risk to local residents from emission downwashes that may occur under certain poor weather conditions today. With this strong evidence, it is surprising that the City of Alexandria has elected to doggedly pursue only a plant shutdown strategy instead of trying to work cooperatively with Mirant to develop solutions to address the local ambient air quality concerns caused by downwash. While it is unfortunate that the city and PEPCO had originally allowed developers to build a high rise residential building so close to an operating powerplant, it is time that all parties take advantage of this opportunity provided by the FAA that provides ambient air quality benefits without creating an air traffic safety risk. The state should approve the proposed stack merge proposal as outlined in conditions #12-21 of the proposed April 9, 2007 Draft Consent Decree. It is a win-win situation for all parties.

April 2007 Draft Consent Decree Offers Significant Advantages Over the Three Proposed Permit Options for SO2 Limitations

The VDEQ and Air Pollution Control Board have proposed three different permit options for public comment. The three proposals focus on only one pollutant—sulfur dioxide—and exclude addressing any other air pollutant such as NOx, VOC, CO, etc…. As a result, the permit options fall short of the minimum requirements that are needed in a Title V permit.

Nowhere in the draft permit alternative documents was any explanation provided on how these alternative SO2 limitations were derived. Without this understanding, it is difficult to properly analyze and comment on the three alternative permit options. If these limits were arbitrarily derived, the Board has not done its job and would be unable to demonstrate that it has complied with Federal and state law. Legal challenges would be inevitable.

Unfortunately, the Air Pollution Control Board's alternative proposals completely disregard the extensive air quality modeling approved by EPA and Virginia DEQ in developing the Draft VDEQ-Mirant Consent Decree emission limitations. The April 2007 Consent Decree's 0.50#SO2/MMBtu 30 day average emission rate limitation in combination with a 8,359 TPY annual emission tonnage cap was found to be sufficient to

meet the NAAQS in this extensive governmental air modeling. Given these results, the much stricter emission cap limitations contained in the three permit options (Option #1-3,813 TPY, Option #2-3- 3,500 TPY) and stricter rate limitations appear to be arbitrarily derived without any air modeling, unnecessary, overly punitive and burdensome. To arbitrarily assign much stricter limitations than required under the Clean Air Act and state law, the three alternative proposals may exceed the Board's authority.

The appearance of being arbitrary is further enhanced by the apparent mathematical errors in the alternative rate limitations. Some alternative emission limits also do not make any sense when comparing the average emission rate requirement with the maximum boiler and/or facility limitation. For example, alternative permit scenario #2 requires a maximum boiler emission limit of 338 pph SO2 in combination with allowing a 30-day average limit of 0.50#SO2/MMBtu for the initial 3-month period. However, this maximum boiler maximum limit is far much stricter than the rate limit. The 338 pph boiler emission cap translates into an effective 0.31#SO2/MMBtu rate limit if any boiler is operating at its full rated capacity. Is it the state's intent to force Mirant to operate at only a 62 percent capacity factor at any time during the critical high summer peak load months? This error continues for the next interim period in which the 270 pph emission cap per boiler would be equivalent to an effective 0.24#SO2/MMBtu rate limit. Again, this boiler hourly emission cap limit is also far below the period's stated 30-day average rate of 0.40#SO2/MMBtu. Finally, while the plant has demonstrated that it can reach an annual 0.50#SO2/MMBtu emission rate through trona injection, it has not demonstrated the much lower limitations outlined in the alternative are even consistently achievable on an hourly or monthly basis. No cost-effectiveness analysis was provided to support setting these lower rate limitations below the Consent Decree limitations.

Importance of Continued Allowance Trading

Under the existing Clean Air Interstate Rule ("CAIR"), the Potomac River power plant will be required to meet an additional SO2 emission tonnage cap beyond the limits contained in their operating permit. The station's CAIR emission allocation was set at an equivalent level of 6,025 TPY in 2010 and will be reduced to 3,615 TPY in 2015. The EPA CAIR program allows the affected sources to continue their participation in a national allowance-trading program to optimize compliance costs while meeting national air quality goals. For the power industry this flexibility allows sources to provide electricity at the lowest possible cost to their consumer ratepayers. EPA's modeling suggests that permitting trading will not cause "hot-spots" or localized problems. At the minimum, we expect that Virginia should continue to allow affected sources (including Mirant) to optimize compliance costs through emissions trading. Mirant should be allowed to operate continue under the Potomac River station's operating permit as long as the station's maximum 8,359 TPY emission cap set by the Consent Decree is met through a combination of station control measures (e.g. trona injection) and continued use of low sulfur coals.

We strongly support the Potomac River Power Plant Operating Air Permit be patterned on the April 9, 2007 Consent Decree.

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Should you have any questions, please give us a call.

Sincerely,

Thomas A Hewson Jr.
Principal
Energy Ventures Analysis Inc
1901 N Moore St- Suite 1200
Arlington VA 22209
703-276-8900

John Paul
Vice President
Center for Energy and Economic Development