EXHIBIT NO. 1

29
6-22-04

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 17, 2004

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER PS

SUBJECT: ISSUES RELATED TO THE MIRANT POTOMAC RIVER GENERATING STATION

Attached is a copy of the docket memorandum on this subject that Council considered at its May 12, 2004, legislative meeting (Attachment 1). Also attached are various letters on the subject that have recently been sent to Council (Attachment 2).

Rather than delivering another docket memorandum on this subject, I have asked staff to prepare a presentation for the June 22 legislative meeting that will, in a clear and comprehensive fashion, address -- and, thereby, enable the Council to have a meaningful discussion on -- the following:

(1) the numerous questions and issues that have arisen regarding the Mirant Potomac River plant;

(2) the options available to the City to bring about the closure of the Potomac River plant, along with the pros and cons, and realistic availability, of each option; and

(3) the options available to the City, apart from plant closure, to improve the quality of the emissions (including coal dust and other fugitive emissions) from the Potomac River plant, along with the pros and cons, and realistic availability, of each option.

I would recommend that, following the staff presentation and its own discussion, Council turn to the recommendations set out in the attached docket memorandum (Attachment 1), determine the manner in which it wishes to amend them, and then proceed to adopt the recommendations, as amended.

Attachments:

1. Docket memorandum, May 12, 2004, legislative meeting
2. Recent correspondence sent to City Council

17
5-12-04

City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 10, 2004

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER

SUBJECT: MIRANT POTOMAC RIVER POWER PLANT

ISSUE: As a follow up to the City Council Work Session on March 31, 2004, consideration of issues related to Mirant Potomac River Power Plant ("Plant").

RECOMMENDATION: That City Council:

(1) Adopt the following as City policy and long-term goal with respect to the Mirant Potomac River Power Plant: that the Plant and its coal-fired, power-generation operations are not compatible with the Council's long-term vision for Alexandria, from both an environmental and land use perspective, and, accordingly, the City's policy and long-term goal is that all Plant operations cease and all Plant facilities be removed from Alexandria.

(2) Adopt the following as City policy and short-term goal with respect to the Mirant Potomac River Power Plant: that the Plant will operate in as safe and clean a manner as is both feasible and attainable, including in the context of its stack emissions, fugitive dust emissions, coal deliveries and coal-handling operations, and that the Plant will comply with all applicable federal and state air quality and other regulations without the trading or purchasing of pollution credits that do not directly produce significant air quality benefits to Alexandria.

(3) Approve the following City policy with respect to the permit expected to be issued for the Mirant Potomac River Power Plant in the near future by the Virginia Department of Environmental Quality (DEQ) and with respect to any consent agreement entered by DEQ and Mirant based on emissions violations at the Plant during the summer of 2003: that any required upgrades or changes to the pollution control equipment at the Plant, and any required new control equipment, will be consistent with the following conditions:

a. that the upgraded, changed or new equipment will reduce significantly the emissions of pollutants from the Plant;

b. that the upgraded, changed or new equipment will not, directly or indirectly, have any substantial negative consequences on air quality in Alexandria or on the quality of life in the City and, in particular, in areas near the Plant; and

c. that the investments in the upgraded, changes or new equipment are not of such a magnitude that they may cause the life of the Plant to be substantially extended, in conflict with City's long term goal in paragraph (1) above;

(4) Approve the following City position with respect to the permit expected to be issued for the Mirant Potomac River Power Plant in the near future by DEQ and with respect to any consent agreement entered by DEQ and Mirant based on emissions violations at the Plant during the summer of 2003:

a. support installation of SOFA (an emissions control technology, "Separate Over Fired Air," designed to reduce NOx (nitrogen oxide) emissions) on Units 3, 4, and 5, in combination with phase out of Units 1 and 2; alternatively, support installation of SOFA on all units;

b. oppose any permit provisions that allow emissions trading or purchase of emissions credits for meeting emissions limits at the Plant that do not directly produce significant air quality benefits to Alexandria;

c. oppose control technologies that require the introduction and use of ammonia at the Plant;

d. support and seek additional controls at fly-ash handling facilities at the Plant to address fugitive dust issues;

e. support and seek improvements to coal and coal dust handling facilities at the Plant;

f. request DEQ to undertake a comprehensive modeling exercise or air monitoring program to determine the impact of the Plant's emissions on ambient air quality in habitable spaces near the Plant, on the ground, in high rise buildings and in the community;

g. support and seek funding of supplemental environmental projects as part of any penalties Mirant will pay as a result of the Plant's 2003 (and other) violations;

h. continue to engage state and federal regulators concerning enforcement issues related to Mirant; and

i. obtain increased DEQ monitoring and inspections at the Plant to ensure compliance with permit conditions.

DISCUSSION: At the City Council work session on March 31, we discussed three of the more troublesome emissions from the Mirant Plant: oxides of nitrogen (NOx), which contribute to the summer ozone problems in the Washington, D.C., region; large particulate matter (PM 10), which contribute to the dust and grime experienced in the nearby neighborhoods; and smaller particulates less than 2.5 microns in diameter (PM2.5), which are increasingly associated in the literature with human health issues. With respect to the PM2.5 emissions, Dr. Robert Levy participated in the work session via phone from Boston, and reviewed the report he had prepared for the City.

Following the work session, staff have undertaken a number of actions relating to the Mirant Plant. These are summarized below.

State Operating Permit. DEQ is currently in the process of issuing a new operating permit to Mirant for its Potomac River Plant. The permit will place limitations on the Plant for NOx. A hearing on the permit was held at the Lee Center on April 12. The City submitted written comments to DEQ on this proposed operating permit for the Mirant Plant, a copy of which is attached (Attachment 1).

All of the Metropolitan Washington Area is in severe non compliance with the Ozone Standards in summer months. The City, being part of the region, should support the provisions of Severe Area State Implementation Plan (SIP) for Northern Virginia and the metropolitan Washington area. The proposed state operating permit is the enforcement mechanism to limit the NOx emissions from the Mirant Plant and to achieve significant NOx reductions during the ozone season. The City supports the NOx emissions limit in the proposed permit.

In order for the Plant to achieve the proposed NOx limits, pollution controls will have to be implemented. Pollution controls measures range in their efficiency, and types of process, and capital investment. Because of the concerns of their impacts on the immediate neighborhood, and the City at large, control measures that required the use of ammonia (including potential ammonia slips, transport and storage of the ammonia) are not supported by the staff. Instead, we recommend supporting control measures that will lower NOx emissions without the introduction of ammonia and without other significant negative impacts. Thus, the staff comment to DEQ was that the City would support the installation of SOFA (Separate Over Fired Air) on boiler Units 3, 4, and 5 at the Plant, in combination with a specifically defined and scheduled phase out of Units 1 and 2. This would result in a significant reduction of NOx emissions consistent with the non-attainment SIP. Alternatively, staff stated support for the installation of SOFA on all five units. The draft permit under review on April 12 did not permit Mirant to use emissions trading or the purchase of emissions credits to meet the permit's NOx requirements.

DEQ is still considering the new Mirant operating permit. We are not certain when a new permit will be issued. However, as noted below, we are soon to meet with DEQ and will discuss the City's interests in the permit and its position regarding the Plant at that time.

Downwash. In response to the Community's concerns about the impacts to the immediate neighborhood from potential downwash from Plant stack emissions, staff has requested that DEQ, before taking final action on the permit or pursuant to a condition expressly set out in the permit, undertake or require Mirant to undertake a comprehensive modeling exercise or air monitoring program to determine the impact of the facility's emissions on ambient air quality in habitable spaces on the ground, in nearby high rise buildings and in the community in the immediate vicinity of the plant. Although Mirant is required to comply with host of state and federal regulations, it was never required to do a comprehensive modeling study to evaluate impacts on nearby ambient air quality. By tying the NOx issue with the comprehensive modeling need, staff hopes that DEQ will conduct or require Mirant to conduct or fund such an analysis.

Fugitive and Coal Dust. In response to concerns of neighborhood citizens regarding the impacts of the fugitive dust on their health and welfare, both in our comments and in discussions apart from the proposed permit, staff has requested that DEQ require Mirant, as a condition of the permit or any consent order regarding the Plant, to implement "best available control technologies" for particulate control at the Plant's coal handling and storage, and its coal and fly-ash unloading, facilities. An example of such technology would be the installation of a negative air pressure air handling system with filtration in buildings with operations that result in fugitive dust. These measures will help with neighborhood concerns without being in conflict with the City's long term goal.

Notice of Violation. Last year, DEQ issued a Notice of Violations (NOV) to Mirant arising from its NOx emissions during the summer of 2003. DEQ is currently in negotiations with Mirant concerning this NOV and how Mirant will comply with the NOx emissions limitations in a new permit. Staff has asked DEQ to consult with the City before any final decisions on a consent order are made. DEQ has agreed, and a meeting is being scheduled. Staff has urged DEQ that any penalties resulting from the NOV and negotiated as part of a consent order be used to fund additional local mitigation measures in Alexandria that reduce pollution locally. Staff has also requested that such penalties include (and not, in any sense, be limited to) all economic savings that Mirant has accrued as a result of its non-compliance (past and current) with applicable NOx and other emissions limits. Such penalty funding could be used to provide additional controls on coal and fly-ash handling facilities at the plant and to reduce harmful emissions from other sources in Alexandria.

Small Particulate Matter. In response to community's concerns related to health impacts and PM 2.5, Dr. Jonathan Levy of Harvard School of Public Health was commissioned by the City to evaluate the PM 2.5 issues and its impact on air quality and health of the City residents. Dr. Levy presented his findings to the City Council at the March 31 work session. The report has since been finalized, and a copy is attached (Attachment 2). A meeting with the Environmental Policy Commission, which of course is open to the public, is being planned where Dr. Levy will present his report and findings to the commission and public. As discussed at the work session with Council, the report provides important facts about the level and contributions of Mirant to PM2.5 levels in the City and on the health impacts of these contributions in Alexandria.

At the City's request DEQ has conducted limited special monitoring for PM2.5 and total PM for approximately three months at the Health Department at 517 North Saint Asaph Street, in the immediate neighborhood of the plant, less than 7 city blocks away from Mirant. The data collected found P.M. 2.5 concentrations in the City to be similar to those found throughout Northern Virginia. These results are consistent with the modeling and findings of Dr. Levy's Study of the City.

FISCAL IMPACT: The City is responsible for the normal administrative costs associated with these efforts.

ATTACHMENTS:

1. City of Alexandria Comments letter to DEQ on Draft State Operating Permit
2. Report: *Analysis of Particulate Matter Impacts for the City of Alexandria, Virginia*, Dr. Jonathan Levy

STAFF:

Richard Baier, P.E., Director, T&ES
Dr. Charles Konigsberg, M.D, Director, Alexandria Health Department
William J. Skrabak, Division Chief, Environmental Quality, T&ES

City of Alexandria, Virginia
Department of
Transportation and Environmental Services
P. O. Box 178 - City Hall
Alexandria, Virginia 22313

April 12, 2004

Director
Office of Regulatory Development
Department of Environmental Quality
629 East Main Street
P.O. Box 10009
Richmond, VA 23240

Re: City of Alexandria Comments on the Draft State Operating Permit and impending negotiations to resolve Notice of Violations for Mirant, Potomac River Generating Station located at 1400 N. Royal Street Alexandria, Virginia

Dear Sir:

This letter is in response to the Public Hearing Notice and request for comments concerning the proposed state operating permit for the Mirant, Potomac River Generating Station located at 1400 North Royal Street in the City of Alexandria. The following comments are on behalf of the City of Alexandria.

The City of Alexandria is a member of the Metropolitan Washington Air Quality Committee and supported the adoption of the Severe Area State Implementation Plan (SIP) for Northern Virginia and the metropolitan Washington area. This revision to the SIP, because of U.S. EPA rule called the "NOx SIP Call", requires that the emissions of oxides of nitrogen (NOx) from the Mirant Potomac River plant in Alexandria be limited to an average rate of 0.15 pounds per million Btu of heat input resulting in a NOx cap of 1,019 tons during the ozone season from May through September. The proposed state operating permit is the enforcement mechanism to limit the NOx emissions from Mirant Potomac River plant and achieve significant NOx reductions during the ozone season. The City strongly supports the NOx emission limit in the proposed permit.

However, the City has a number of concerns regarding this plant and its emissions, and requests that these concerns be addressed in the ways outlined below.

The City is concerned about how the NOx emission reductions required by the new permit will be achieved at the Potomac River Generating Plant. The current draft permit does not permit trading or the purchase of credits from reductions at other facilities. The City strongly supports this provision and opposes any use of trading or credit purchases to achieve compliance. The

City would support the installation of SOFA (Separate Over Fired Air) on Units 3, 4, and 5, in combination with a specifically defined and scheduled phase out of Units 1 and 2. This would result in a significant reduction of NOx emissions. Alternatively, the City would support installation of SOFA on all units, 1 through 5, as long as the NOx emissions limit is met through reduced energy production at this facility and not through trading or credit purchases.

The City of Alexandria is a densely populated urban area and is opposed to the installation at the Potomac River Generating Plant of any pollution control methods, such as SCR (Selective Catalytic Reduction) and SNCR (Selective Noncatalytic Reductions), that would require the use of ammonia in the process, potentially causing ammonia slip from stacks and potentially worsening primary particulate problems in the City. The City is also opposed to these control methods because of the significant safety issues raised by the transport, handling and storage of large quantities of ammonia that would be required at the facility. As a result, the City requests that it be consulted before any final decisions on control technologies that will be installed by Mirant are decided.

The City and the Alexandria community also are concerned about the impacts of this facility's NOx and other emissions on ambient air quality in Alexandria and the health of community residents. A particular concern is the potential impact on air quality and health of the short stacks of Mirant's Alexandria facility on nearby high rise buildings, and the potential for down wash in the community. The City requests that VDEQ, either before taking final action on this permit or pursuant to a condition expressly set out in any issued permit, undertake or require Mirant to undertake, a comprehensive modeling exercise or air monitoring program to determine the impact of the facility's emissions, including but not limited to NOx, on ambient air quality in habitable spaces on the ground, in nearby high rise buildings and in the community in the immediate vicinity of the plant.

The City also is concerned about fugitive dust emissions as the result of the operations at Mirant Potomac River plant. The City has consistently received complaints concerning fugitive dust emissions leaving the Mirant facility from the coal pile, and as a result of coal unloading and fly-ash loading operations, and landing in the immediate neighborhood. The City believes that current state regulations regarding fugitive dust emissions are not adequate for an urban community such as Alexandria where a large scale coal-fired power plant is located practically in the heart of a residential neighborhood. VDEQ's own analysis shows that particulates, including coal dust, are leaving the Mirant site, and make up to 50% of the dirt and dust found in the nearby neighborhood. The City requests that Mirant be required, as a condition of this permit or any consent order issued to or regarding this facility, to implement best available control technologies for particulate control at this facility for coal handling and storage and for coal and fly-ash unloading operations. An example of such technology would be the installation of a negative air pressure air handling system with filtration in buildings with operations that result in fugitive dust. This would go a long way in reducing fugitive emissions. This also would help allay the concerns of the neighborhood citizens regarding the impacts of the fugitive dust on their health and welfare.

Another major concern is Mirant's failure to comply with the existing state operating permit, issued in 2000, which limits the NOx emissions from the Mirant Potomac River plant during the

ozone season. VDEQ issued a Notice Of Violation (NOV) to Mirant on September 10, 2003, for failing to meet these emissions limits in the 2003 ozone season. It is the City's understanding that VDEQ is currently in negotiations with Mirant concerning the NOV and how Mirant will comply with the NOx emissions limitations in a new permit. The results of these negotiations will have long-term impacts in Alexandria and on our residents. Therefore, the City requests that it be consulted before any final decisions on a consent order are made.

The City urges that any penalties resulting from the NOV and negotiated as part of a consent order be used to fund additional local mitigation measures in Alexandria that reduce pollution locally. The City also urges that such penalties include (and not, in any sense, be limited to) all economic savings that Mirant has accrued as a result of its non-compliance (past and current) with applicable NOx and other emissions limits, and that Mirant will accrue in future years as a result of its ability to continue operations at the Potomac River plant without installation of best available control technology. Such penalty funds could be used to provide additional controls on coal and flyash handling facilities at the plant and to reduce harmful emissions from other sources in Alexandria.

The City appreciates the opportunity to submit these comments. If there are any questions concerning these comments, please contact William Skrabak, Chief, Division of Environmental Quality, at 703-838-4334.

Sincerely,

Richard J. Baier, Director
Transportation and Environmental Services

cc: The Honorable Mayor and Members of the City Council
Philip Sunderland, City Manager
William Skrabak, Chief, Division of Environmental Quality
Robert Burnley, Director, VDEQ
Jeffery A. Steers, Regional Director, NRO, VDEQ

EXECUTIVE SUMMARY: Analysis of Particulate Matter Impacts for the City of Alexandria, Virginia

Jonathan Levy, Assistant Professor of Environmental Health and Risk Assessment, Harvard School of Public Health

This report provides a detailed look at the influence of five power plants on air pollution and health in Alexandria, based on a previously published regional analysis. The focus is on fine particulate matter ($PM_{2.5}$), since studies have shown that respiratory and cardiovascular health are affected by $PM_{2.5}$ at current outdoor levels in Alexandria.

We modeled sulfur dioxide (SO_2), nitrogen dioxide (NO_2), and directly-emitted (primary) $PM_{2.5}$ emissions from Benning, Chalk Point, Dickerson, Possum Point, and Potomac River. We considered both current emissions and what the plants would emit if Best Available Control Technology were used.

The Potomac River plant contributes about 0.2-0.6 $\mu g/m^3$ of $PM_{2.5}$ in Alexandria (where outdoor levels are about 13-15 $\mu g/m^3$). The variation within Alexandria is mostly from primary $PM_{2.5}$, since the secondary particulate matter (formed from SO_2 and NO_2 emissions) is more uniform across the city. The maximum impact of the Potomac River plant occurs in Washington, about 4 km from the plant.

When we consider all five power plants together, they contribute about 0.6-1.1 $\mu g/m^3$ of $PM_{2.5}$ in Alexandria. The five power plants contribute about 2.3 deaths, 0.7 cardiovascular hospital admissions, and 1.2 pediatric asthma emergency room visits per year within Alexandria. This is about 1% of the total regional impacts, given that only 0.2% of the regional population is found in Alexandria. If Best Available Control Technology were used, it would eliminate 1.7 deaths, 0.5 cardiovascular hospital admissions, and 0.9 pediatric asthma emergency room visits per year in Alexandria (31% of which are related to Potomac River).

Interpretation of these findings is complex. Although much of the $PM_{2.5}$ in Alexandria would remain if these emission controls were implemented, the Potomac River plant is likely the single largest contributor to $PM_{2.5}$ in Alexandria. It is also clear that emission control decisions must consider regional impacts if total public health benefits are a concern, but must also evaluate local impacts to ensure that populations are not disproportionately impacted. Our findings cannot provide a definitive policy recommendation, in part because we did not consider control costs and did not conduct detailed near-source modeling necessary to fully understand spatial patterns. However, this report provides some information about the relative importance of local and regional power plants for air pollution in Alexandria, which can be used to inform future policy decisions.

Analysis of Particulate Matter Impacts for the City of Alexandria, Virginia

Jonathan Levy, Assistant Professor of Environmental Health and Risk Assessment, Harvard School of Public Health

Background

In 2002, I published an analysis with colleagues at Harvard School of Public Health that evaluated the public health benefits associated with hypothetical emission reductions at five power plants in the Washington, DC area (Levy *et al.*, 2002a). This publication documented the impacts that emission controls at these five power plants would have on fine particulate matter ($PM_{2.5}$) levels in the region, and estimated the associated health benefits (including reduced premature deaths, hospital admissions for cardiovascular disease, and emergency room visits for pediatric asthma).

Since that work was completed, there has been interest in a more comprehensive understanding of the implications of the study for the City of Alexandria, Virginia. Alexandria is home to the Potomac River power plant, one of the five plants studied in our analysis, and there are obvious questions about the magnitude of benefits in Alexandria associated with emission controls at Potomac River. There are also broader questions about how these benefits compare with the benefits from controlling other pollution sources, including the other four power plants we studied and other sources of $PM_{2.5}$.

In this report, I attempt to provide more detailed information aimed at helping citizens and decision makers in Alexandria to appropriately interpret the results of our study and make the best public policy decisions possible. I first provide some general background about $PM_{2.5}$ in and around Alexandria and about the five power plants we studied. I then estimate the contribution of the Potomac River power plant to concentrations in Alexandria and across the region, and I compare this with the contributions from the other four power plants studied. I calculate the health impacts of each power plant within the City of Alexandria, and estimate the benefits of applying emission control technology. I conclude with a general discussion of the implications of these findings.

It is important to state upfront that the evidence in this report does not by itself imply that any specific policy decisions should be made, in part because I only consider a subset of the pertinent questions. For example, the costs or feasibility of controls are not addressed, nor are the full array of impacts from the plants. This report does not provide specific policy recommendations, but rather aims to provide quantitative, science-based evidence that can be used to inform decisions.

What is $PM_{2.5}$, and why are we concerned about it in Alexandria?

Before discussing the findings of our study, it is worth providing some basic background about the air pollutant of interest – fine particulate matter ($PM_{2.5}$). Although other air pollutants influence public health, our study (and the findings reported below) only addresses the impacts of $PM_{2.5}$.

The formal definition of particulate matter is any solid or liquid substance suspended in the air. It therefore includes a large number of different constituents, of different sizes and different chemical composition. Particulate matter is often described by its size, considering all different constituents together. $PM_{2.5}$ refers to the fraction of particles that are less than 2.5 μm in diameter (there are one million μm in a meter). This is a definition of interest because particles this size are best able to travel to the lower portions of the lung, and would be most likely to contribute to health effects.

Particulate matter can exist in one of two basic forms. It can either be directly emitted from a source, or it can be created through chemical reactions in the atmosphere. Directly emitted particulate matter, like fly ash or carbon particles from diesel vehicles, is known as primary particulate matter. Particulate matter formed through chemical reactions, like sulfate and nitrate particles formed due to sulfur dioxide (SO_2) and nitrogen oxide (NOx) emissions, is known as secondary particulate matter. I will use these terms throughout the report.

Fine particulate matter ($PM_{2.5}$) is of interest in this context for two major reasons. First, there has been extensive health evidence linking $PM_{2.5}$ with a variety of adverse health impacts, including respiratory symptoms, hospitalizations for respiratory or cardiovascular disease, and premature mortality. The evidence supporting this relationship is too extensive to discuss in detail here, but some of the major studies are referenced in our article (Levy *et al.*, 2002a), and many others are documented in the US EPA Criteria Document (US Environmental Protection Agency, 2003a).

For the purpose of this report, an obvious question is whether $PM_{2.5}$ in Alexandria would be expected to contribute to public health impacts. To answer this question, we need to know two things: what is the composition and concentration of $PM_{2.5}$ in Alexandria, and does the health evidence show that this level of $PM_{2.5}$ has health implications?

Regarding the first question, I am not aware of detailed assessments of the $PM_{2.5}$ composition in Alexandria itself, but analyses based in the Washington, DC region are informative about general concentration patterns. Speciated $PM_{2.5}$

data are available at http://www.epa.gov/air/oaqps/pm25/analysis.html for a site in Washington, DC and for a site in Richmond, VA. Figure 1 depicts the composition of $PM_{2.5}$ at these two sites on an annual average basis.

Figure 1: Composition of $PM_{2.5}$ in Richmond, VA and Washington, DC.

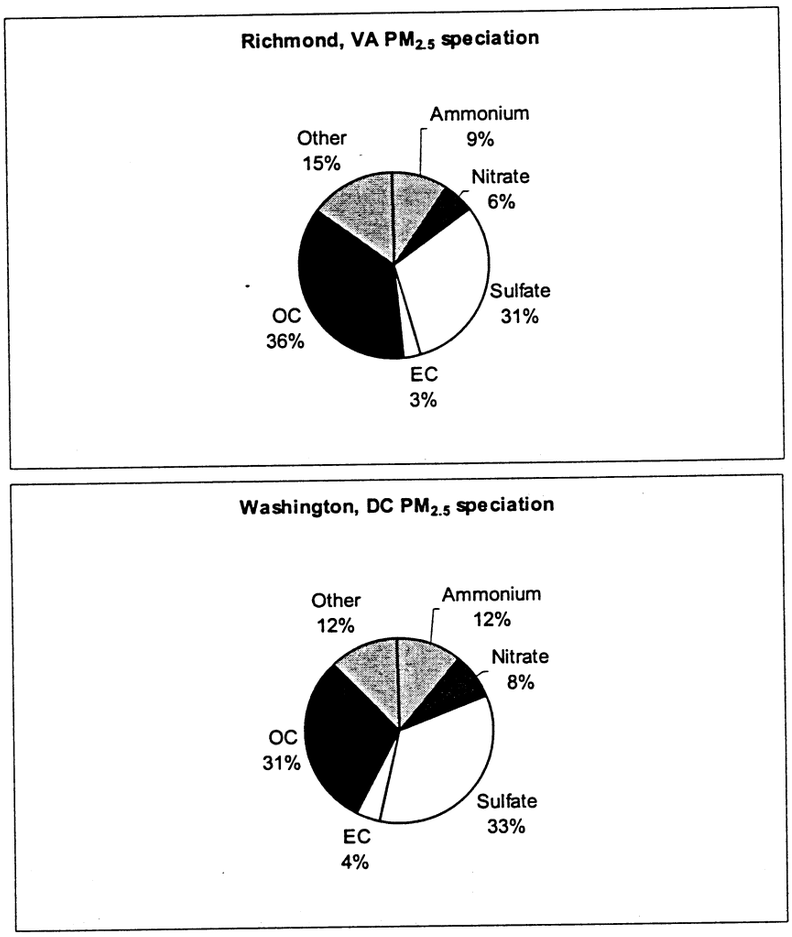


Figure 1 illustrates that in the Washington, DC area, slightly more than one-third of fine particulate matter is related to elemental carbon (EC) or organic carbon (OC), which are generally more strongly associated with motor vehicles than with power plants. About half of $PM_{2.5}$ is associated with ammonium, sulfate, or nitrate, which are generally secondarily formed particles often related to power plants. Ammonium sulfate, which dominates the secondarily formed particles, is almost entirely related to power plant emissions. The above figures also demonstrate that the particle composition only varies slightly between settings in close proximity to one another, indicating that these figures likely reasonably capture particle speciation in Alexandria.

Now, what is known about the magnitude of $PM_{2.5}$ concentrations in Alexandria? For this, I turn to information from the Virginia Department of Environmental Quality (http://www.deq.state.va.us/airmon/pm25home.html). For monitors in the Northern Region of Virginia (including measurements in Arlington, Fairfax, and Loudon Counties), annual average $PM_{2.5}$ concentrations consistently ranged between 13 and 15 $\mu g/m^3$ from 1999 to 2003. In addition, data from Virginia DEQ consistently demonstrates higher concentrations during the third quarter (July-September) than during other quarters. This pattern is typical in settings where ammonium sulfate comprises a significant portion of $PM_{2.5}$, because sulfate particles form more readily at higher temperatures and more electricity is used during the summer (for air conditioning) than during other seasons. Thus, it is reasonable to assume that annual average $PM_{2.5}$ concentrations in Alexandria are approximately 13-15 $\mu g/m^3$, with a pronounced summertime peak.

Turning to the second question above, is there evidence that $PM_{2.5}$ concentrations of approximately 13-15 $\mu g/m^3$ on an annual average basis could contribute to human health impacts? A critical fact to realize is that, although the National Ambient Air Quality Standard for $PM_{2.5}$ (which is currently 15 $\mu g/m^3$) is above these levels, the National Ambient Air Quality Standard (NAAQS) is not meant to be a zero-risk level.

Quoting from the US EPA, "The Act does not require the Administrator to establish a primary NAAQS at a zero-risk level, but rather at a level that reduces risk sufficiently so as to protect public health with an adequate margin of safety" (US Environmental Protection Agency, 1997). Although many people commonly interpret a NAAQS as a threshold below which no health effects are found, this is not necessarily a correct interpretation. One must look to the health evidence to determine whether current $PM_{2.5}$ levels in Alexandria might cause health problems.

Two of the major studies examining mortality risks from long-term exposure to

$PM_{2.5}$ are the Harvard Six Cities Study (Dockery *et al.*, 1993) and the American Cancer Society Study (Pope *et al.*, 1995; Pope *et al.*, 2002). In both of these studies, there did not appear to be a threshold for $PM_{2.5}$ effects at the pollution levels measured in the studies. In other words, the risk of dying continued to decrease as the pollution level decreased, down to the lowest levels measured in the studies. Annual average $PM_{2.5}$ concentrations in the Harvard Six Cities Study ranged between about 11 and 30 $\mu g/m^3$, while the concentrations in the American Cancer Society study ranged between about 9 and 34 $\mu g/m^3$ during the initial study (Pope *et al.*, 1995) and between about 6 and 21 $\mu g/m^3$ during a later follow-up period (Pope *et al.*, 2002).

Although there is clearly more uncertainty about effects at lower levels, given fewer historical observations, the first draft of the Particulate Matter Staff Paper (US Environmental Protection Agency, 2003b) made the following observations:

- "Studies reporting statistically significant associations in areas where the long-term mean 24-hour $PM_{2.5}$ concentrations ranged from approximately 14 $\mu g/m^3$ down to 8.5 $\mu g/m^3$ provide evidence of $PM_{2.5}$-related total and cardiovascular mortality and emergency department visits related to asthma and cardiovascular illness at levels below the current annual standard" (p. 6-18)
- "Studies conducted in Phoenix (Mar *et al.*, 2000), Santa Clara County, CA (Fairley, 1999) and in eight Canadian cities (Burnett *et al.*, 2000) reported significant relationships between $PM_{2.5}$ and mortality where mean $PM_{2.5}$ concentrations ranged between 13 and 14 $\mu g/m^3$" (p. 6-18)
- "...staff believes that it would be appropriate to consider a range of $PM_{2.5}$ levels for an annual standard that extends down from 15 $\mu g/m^3$ to as low as 12 $\mu g/m^3$" (p. 6-19)

Thus, although uncertainty remains, it is reasonable to conclude that $PM_{2.5}$-related health effects could be anticipated in Alexandria at current ambient concentrations.

Where are the five power plants in question, and what are their current emissions?

For our analysis, we evaluated five power plants that were within 50 miles of Washington, DC, and that were grandfathered under the Clean Air Act. This implies that these plants are not required to meet the same emission standards as newer power plants, although there are other regulations they must follow. Basic information about the five power plants is presented in Table 1 (adapted from Table 1 in (Levy *et al.*, 2002a)).

Table 1. Characteristics of power plants evaluated in this study.

	Benning	Chalk Point	Dickerson	Possum Point	Potomac River
Location	Washington, DC	Aquàsco, MD	Dickerson, MD	Dumfries, VA	Alexandria, VA
Initial year of commercial operation	1968	1964	1959	1948	1949
Nameplate capacity (megawatts)	580	2046	588	1373	514
Heat input (million BTU, 1999)	3,304,107	85,352,274	33,592,811	28,930,805	32,100,184
Emissions (tons, 1999)					
SO_2	1,432	57,630	30,637	19,497	17,627
NOx	447	25,222	10,709	5,116	6,893
$PM_{2.5}$	12	304	14	156	106
Emissions (lb/million BTU)					
SO_2	0.87	1.35	1.82	1.35	1.10
NOx	0.27	0.59	0.64	0.35	0.43
$PM_{2.5}$	0.007	0.007	0.0008	0.011	0.007

A few observations can be made about these data. First, emission rates vary somewhat from year to year, so the contributions of the five power plants would

vary from year to year as well. More explicitly, if there were increases or decreases in emissions since 1999, there would be a corresponding change in concentrations and health impacts. In addition, the target emission rates (defined as the application of Best Available Control Technology) were assumed to be 0.3 lb/million BTU for SO_2, 0.15 lb/million BTU for NOx, and 0.01 lb/million BTU for PM_{10}. Looking at the last three rows of the table, meeting this level would be a substantial reduction of both SO_2 and NOx. For $PM_{2.5}$, the degree of reduction varies, depending on the current size distribution of primary particulate matter emissions at the five plants.

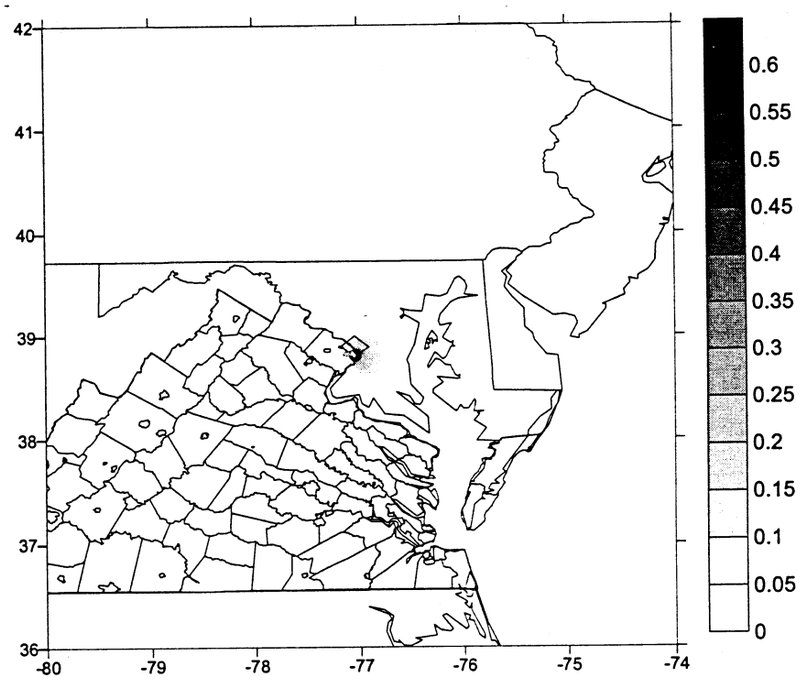
What are the concentration impacts from the Potomac River power plant, in Alexandria and across the region?

When we consider the impacts from the Potomac River power plant, it is helpful to look at this question from a few perspectives. We can consider primary and secondary $PM_{2.5}$ separately, as well as considering the total $PM_{2.5}$ impacts, to get a sense of differences in spatial patterns. While we are most concerned about the total, some emission control plans may only address one of the pollutants, so it is helpful to see how the concentration patterns differ. We can also look at concentrations from a regional perspective, or with a "close up" view of Alexandria. When we take the "close up" view of Alexandria, we can include nearby cities (like Washington) to help interpret the findings. By looking at the question in all of these ways, we can gain insight about the magnitude and distribution of impacts from Potomac River.

Before doing this, it is important to understand how the following maps were made and what they mean. The concentrations were estimated for each census tract in Alexandria and nearby areas. Census tracts are subsets of counties that contain about 1,000 to 8,000 people on average. So, our model cannot provide information on finer-scale concentration impacts. The regional maps are "contour plots", which show the general concentration trends, smoothing out some of the small-scale differences. The Alexandria plots (which also include Washington) show the exact concentration increments in each census tract, so they are less "smooth". Sometimes, the concentrations in the Alexandria plots seem to follow unintuitive patterns, but this is in part because they are based on the geographic centroid of the census tract and are not estimated across the entire tract. In addition, the figures represent annual average concentrations, so the plume may travel in one direction some of the time and another direction some of the time, which would appear in the figure as higher concentrations in multiple directions. Finally, it is important to keep in mind that the figures below depict the concentrations only associated with the modeled power plant(s), not from all sources.

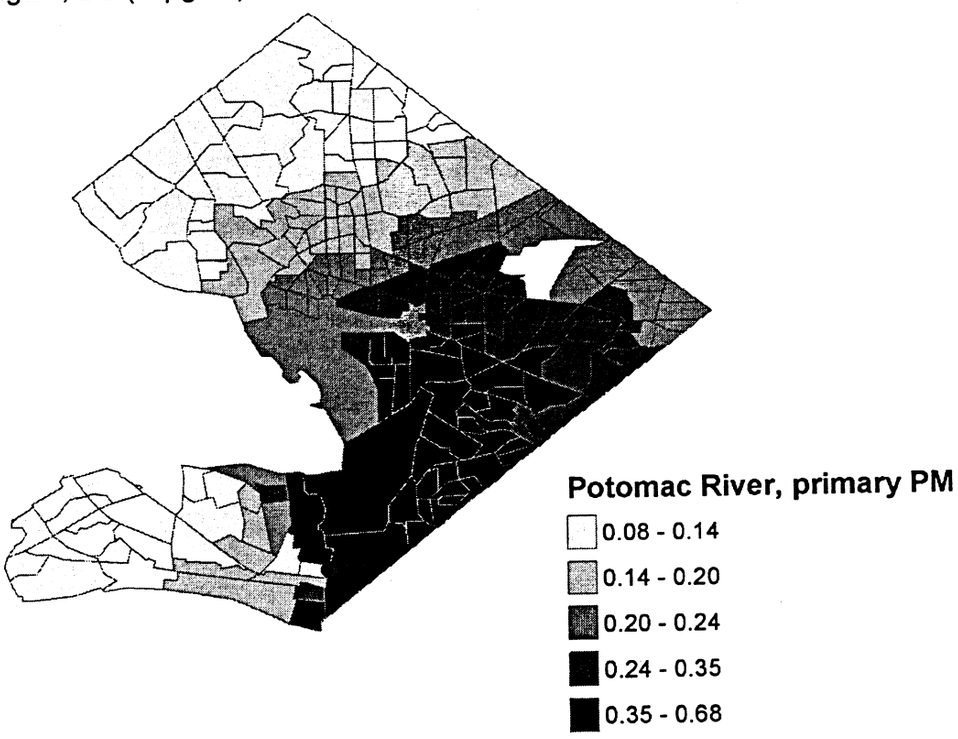
First, we look at primary $PM_{2.5}$ from the regional perspective. In the following figure, and in all subsequent regional figures, the blue dot represents the Potomac River power plant, the shaded yellow area indicates the City of Alexandria, and the red contours represent the concentration patterns. Figure 2 on the following page shows the annual average primary $PM_{2.5}$ concentration increments associated with the Potomac River power plant.

Figure 2: Annual average primary $PM_{2.5}$ concentration increments associated with the Potomac River power plant across the model region (in $\mu g/m^3$).



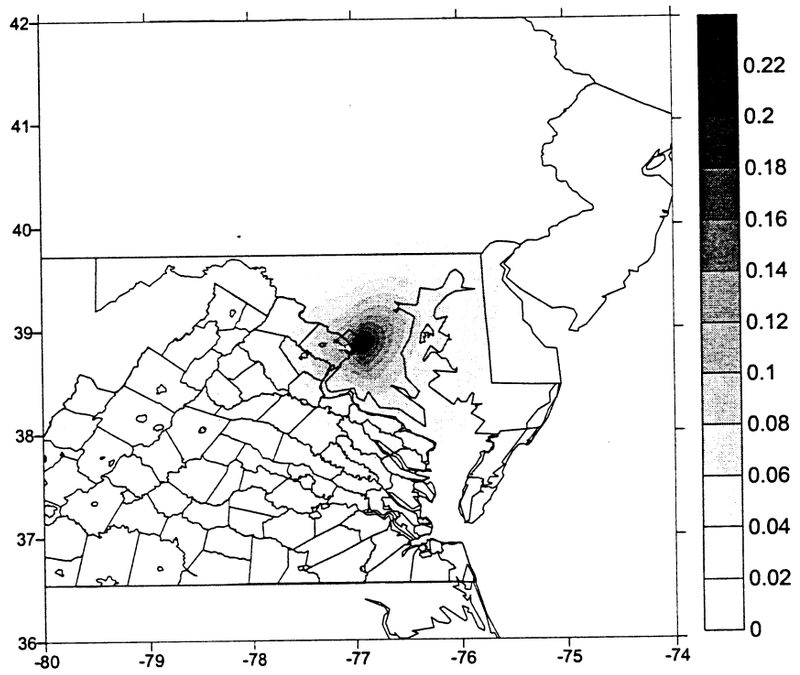
A few observations can be made. First, the concentrations peak close to the source and decrease rapidly with distance. The highest primary $PM_{2.5}$ concentration increment is approximately 0.7 $\mu g/m^3$, located within Washington, DC, approximately 4 km from the Potomac River power plant. This is because it takes some time for the plume to reach the ground. As shown in Figure 3, there is a significant primary $PM_{2.5}$ gradient across Alexandria, with the concentration increment from Potomac River ranging from 0.08-0.45 $\mu g/m^3$. Higher levels occur in closer proximity to the plant, although the census tract housing the Potomac River plant has relatively lower concentrations.

Figure 3: Annual average primary $PM_{2.5}$ concentration increments associated with the Potomac River power plant across the City of Alexandria and Washington, DC (in $\mu g/m^3$).



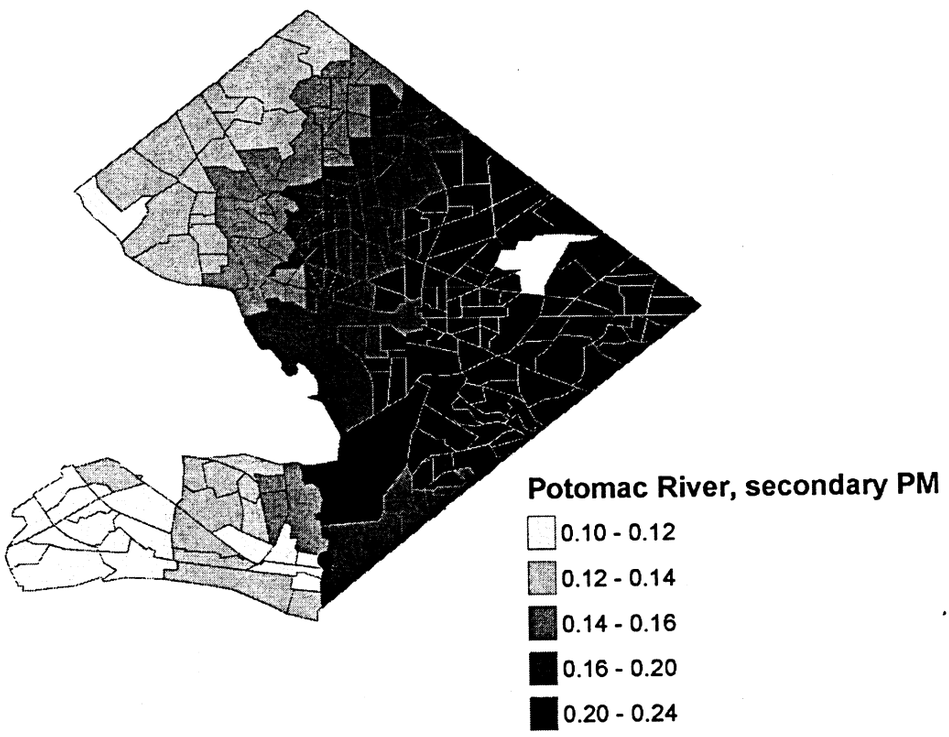
For secondary PM, we would anticipate a lesser concentration gradient, since it takes time to form secondary sulfate and nitrate particles. Figure 4 shows the annual average secondary $PM_{2.5}$ concentrations associated with the Potomac River power plant.

Figure 4: Annual average secondary $PM_{2.5}$ concentration increments associated with the Potomac River power plant across the model region (in $\mu g/m^3$).



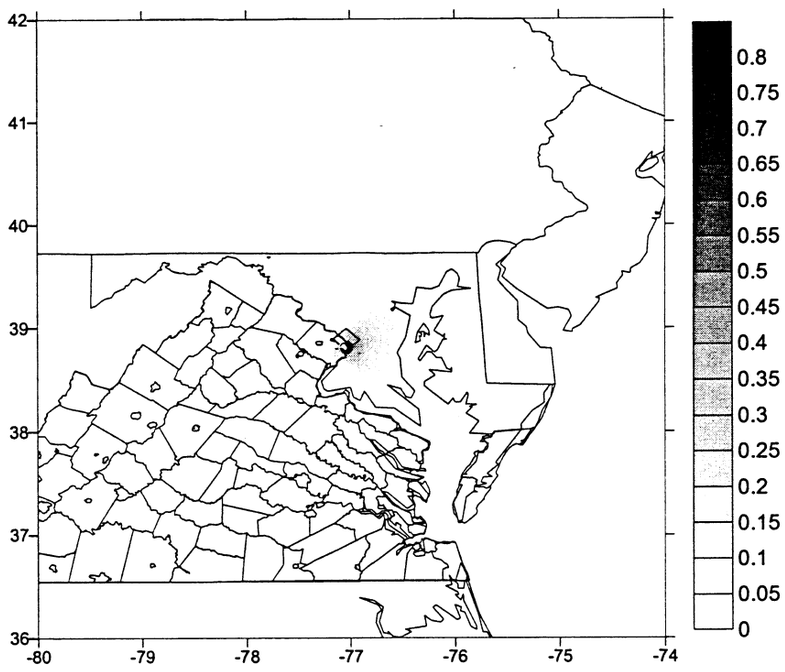
As expected, the concentration impacts are more diffuse, with a more gradual decrease in concentrations as a function of distance. The maximum secondary $PM_{2.5}$ concentration increment is approximately 0.24 $\mu g/m^3$, occurring at a different spot within Washington, DC than the maximum primary $PM_{2.5}$ concentration increment, approximately 12 km from the Potomac River power plant. In general, the peak impact occurs at longer range than for primary $PM_{2.5}$. Within Alexandria, the secondary $PM_{2.5}$ concentration increment ranges from 0.10-0.15 $\mu g/m^3$, a lesser gradient than seen for primary $PM_{2.5}$ (Figure 5).

Figure 5: Annual average secondary $PM_{2.5}$ concentration increments associated with the Potomac River power plant across the City of Alexandria and Washington, DC (in $\mu g/m^3$).



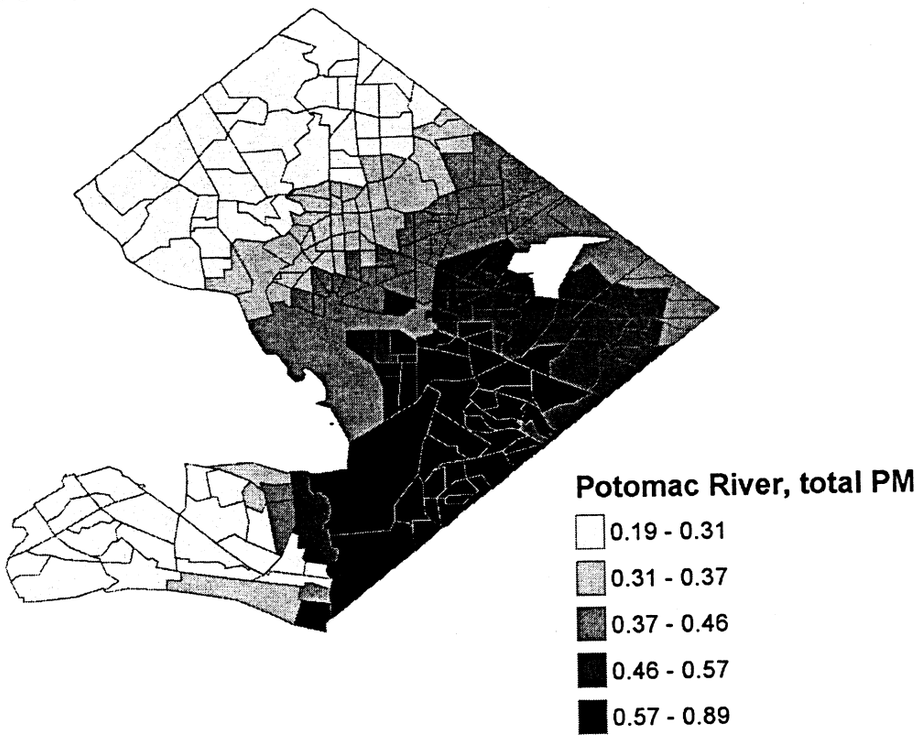
Finally, we can add up primary and secondary PM to yield total $PM_{2.5}$. Figure 6 shows the annual average total $PM_{2.5}$ concentration increments associated with the Potomac River power plant.

Figure 6: Annual average total $PM_{2.5}$ concentration increments associated with the Potomac River power plant across the model region (in $\mu g/m^3$).



As expected, the concentration pattern is somewhere in between the patterns for primary and secondary $PM_{2.5}$. The highest total $PM_{2.5}$ concentration increment is approximately 0.9 $\mu g/m^3$, at the same site in Washington, DC where the primary $PM_{2.5}$ increment was highest. This is not unexpected, since the maximum primary $PM_{2.5}$ increment is somewhat higher than the maximum secondary $PM_{2.5}$ increment. Within Alexandria, the total $PM_{2.5}$ concentration increment from the Potomac River power plants ranges between 0.19 and 0.58 $\mu g/m^3$ (Figure 7).

Figure 7: Annual average total $PM_{2.5}$ concentration increments associated with the Potomac River power plant across the City of Alexandria and Washington, DC (in $\mu g/m^3$).



Now, how can these values be interpreted? As mentioned above, the annual average $PM_{2.5}$ concentration in Alexandria in 1999 (our case study modeling year) was about 14 $\mu g/m^3$. This implies that, depending on the location in Alexandria, the Potomac River power plant contributes anywhere from 1-4% of the total ambient $PM_{2.5}$. The obvious question is whether this constitutes a significant fraction or not. Although it implies that eliminating the Potomac River power plant would only decrease $PM_{2.5}$ concentrations by a relatively small percentage, the same argument is likely true for any single source taken in isolation. The more important questions are therefore what benefits could be obtained by alternative emission control plans, how those benefits compare across pollution sources, and whether the public health benefits of these emission controls justify the costs. In the next section, I address the question of whether controlling other power plants in the region would lead to greater or lesser concentration reductions within Alexandria than controlling Potomac River.

What are the impacts of the other four power plants on $PM_{2.5}$ concentrations in Alexandria, and how does this compare with the impact from Potomac River?

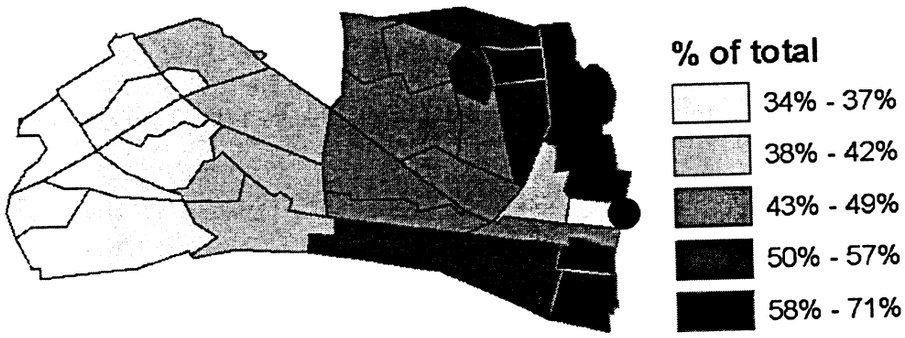
For this section, I only consider the impacts of the five power plants on $PM_{2.5}$ concentrations within the City of Alexandria, to answer the specific question of whether controlling higher-emitting power plants further away from Alexandria would provide greater or lesser benefits than controlling the Potomac River power plant. So, only "close in" figures are presented. As previously, I consider primary and secondary $PM_{2.5}$ separately before considering total $PM_{2.5}$.

When considering primary $PM_{2.5}$, because of the steep concentration gradient, one would expect that power plants further away from Alexandria would have a relatively small influence on concentrations within Alexandria, but that nearby upwind power plants would have a measurable influence. Indeed, this turns out to be the case. As shown in Table 2, the Potomac River plant is generally the greatest contributor to power plant primary $PM_{2.5}$ among the five power plants modeled, but Possum Point, Dickerson, and Chalk Point make some contributions. Figure 8 illustrates that the percentage of the total primary $PM_{2.5}$ impact from the five power plants that is contributed by Potomac River is as high as 70% near the facility, decreasing to 30-40% further away, with a similar spatial pattern as for primary $PM_{2.5}$ concentrations from Potomac River.

Table 2. Annual average $PM_{2.5}$ concentration increments within the City of Alexandria associated with five modeled power plants (in $\mu g/m^3$).

Power plant	Primary $PM_{2.5}$ increment	Secondary $PM_{2.5}$ increment	Total $PM_{2.5}$ increment
Benning	0.001-0.002	0.003-0.004	0.005-0.006
Chalk Point	0.020-0.024	0.10-0.11	0.12-0.14
Dickerson	0.041-0.046	0.072-0.076	0.11-0.12
Possum Point	0.087-0.11	0.11-0.12	0.19-0.24
Potomac River	0.081-0.45	0.10-0.15	0.19-0.58
Total	**0.24-0.63**	**0.39-0.47**	**0.63-1.1**

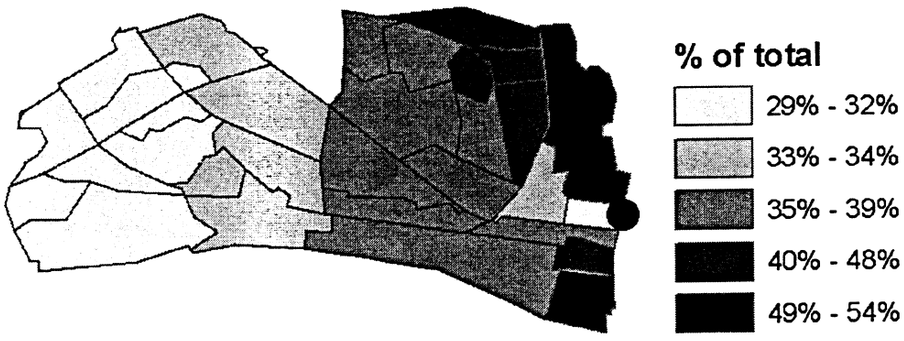
Figure 8: Percentage of the annual average primary $PM_{2.5}$ concentration increment in the City of Alexandria from the five power plants that is associated with the Potomac River power plant.



For secondary $PM_{2.5}$, since the concentration gradient is not as steep, the relative contribution of the Potomac River power plant is somewhat lower and is more uniform across the City of Alexandria. The percentage contribution of Potomac River ranges from 25-33%, although in nearly all cases, it is the single largest contributor among the five power plants.

For total $PM_{2.5}$, the Potomac River power plant contributes between 29% and 54% of the $PM_{2.5}$ concentration increment from the five modeled power plants, with higher contributions found closer to the plant (Figure 9). For five of the 34 census tracts, Possum Point makes a greater contribution to $PM_{2.5}$ levels than does Potomac River, but Potomac River is the largest contributor in the other 29 census tracts.

Figure 9: Percentage of the annual average total $PM_{2.5}$ concentration increment in the City of Alexandria from the five power plants that is associated with the Potomac River power plant.



In terms of the overall interpretation of these values, it is important to remember that the percentages represent the amount of the contribution from the five power plants that Potomac River provides, not the amount of total $PM_{2.5}$ exposure. The aggregate contribution of these five power plants to $PM_{2.5}$ levels in Alexandria ranges from about 0.63-1.1 $\mu g/m^3$ on an annual average basis. When compared with ambient $PM_{2.5}$ levels, this is about 4-8% of monitored concentrations.

What are the estimated health impacts in Alexandria associated with the five power plants?

As indicated in our published study (Levy *et al.*, 2002a), we estimated health impacts two different ways in our analysis. The first approach was to use the standard methodology employed in most studies, linking health evidence with concentrations directly. The second approach was to try to take account of factors that might influence susceptibility to air pollution – for example, diabetics have been shown to have greater risk of cardiovascular effects from air pollution exposure (Zanobetti and Schwartz, 2001). For this report, I focus on the first approach for simplicity's sake and to facilitate comparison with other studies.

In our study, we concluded that current emissions from the five power plants combined contribute to 270 deaths per year across the region, along with 80 cardiovascular hospital admissions (CHA) among the elderly and 190 pediatric asthma emergency room visits (ERV) per year. The number of deaths is higher than the less severe health outcomes because the morbidity outcomes are for a subset of diseases and ages, and because they are only based on short-term pollution exposures.

The question is: Of this total, what fraction occurs within Alexandria? Although particulate matter exposures from the five power plants are high in Alexandria when compared with the rest of the model region, the population of Alexandria represents about 0.2% of the population in the region. So, we would expect that only a small fraction of the total health impacts would occur in Alexandria.

Table 3 depicts the annual health impacts within Alexandria associated with each of the five power plants, using 1990 census data for comparability with our published study and with our model outputs. Of note, the population of Alexandria has increased from 111,183 to 128,283 from 1990 to 2000, a 15.4% increase, so the health impacts would be proportionately greater for the current and projected future population of Alexandria. However, the general conclusions are unchanged.

Table 3: Estimated annual public health impacts in the City of Alexandria associated with emissions from five power plants.

	Deaths/year	CHA/year	Asthma ERV/year
Benning	0.02	0.005	0.009
Chalk Point	0.4	0.1	0.2
Dickerson	0.4	0.1	0.2
Possum Point	0.7	0.2	0.4
Potomac River	0.9	0.3	0.4
Total	**2.3**	**0.7**	**1.2**
% of total from Potomac River	**37%**	**37%**	**36%**
% of total in region	**0.9%**	**0.9%**	**0.6%**

Some observations are necessary to place these estimates in context. First, the five power plants are estimated to contribute slightly over 2 deaths/year to the City of Alexandria. The baseline number of deaths in Alexandria each year in the 30+ age group (the assumed at-risk population for air pollution-related deaths) is approximately 800. So, our model is indicating that these five power plants contribute to about one out of 400 deaths, or 0.25%. It should also be noted that the number of annual deaths and morbidity outcomes contains some fractional values, which can best be interpreted when thinking about the long run – 2.3 deaths/year means that over a 10 year period, 23 deaths would be expected.

In addition, of the risk within Alexandria from the five power plants, about 37% can be attributed to the Potomac River power plant. This is a function of how much $PM_{2.5}$ is contributed by each power plant (Figure 9), weighted by the number of people in each census tract. Finally, these health impacts within Alexandria are slightly less than 1% of the total health impacts across the region, as estimated in our original publication and reported above. This is greater than the population contribution of Alexandria to the region, because the $PM_{2.5}$ contribution is relatively higher in Alexandria than in many parts of the region.

What are the estimated health benefits in Alexandria if emission controls were used at the five power plants?

Given this baseline level of mortality and morbidity, we can estimate the potential health benefits if the five power plants were to adopt Best Available Control Technology. As described above, this would involve substantial emission reductions that vary in magnitude across the pollutants and the plants, making the distribution of benefits slightly different than the distribution of current health impacts.

In our original study (Levy *et al.*, 2002a), we estimated that applying Best Available Control Technology to the five power plants would reduce health impacts across the region by 210 deaths, 59 cardiovascular hospital admissions among the elderly, and 140 pediatric asthma emergency room visits per year (from a baseline of 270, 80, and 190, respectively). As above, I address the question here of the fraction of the total benefits found within Alexandria. The results of this analysis are summarized in Table 4.

Table 4: Estimated annual public health benefits in the City of Alexandria if five power plants used Best Available Control Technology.

	Deaths/year	CHA/year	Asthma ERV/year
Benning	0.007	0.002	0.004
Chalk Point	0.3	0.09	0.2
Dickerson	0.3	0.09	0.2
Possum Point	0.5	0.2	0.3
Potomac River	0.5	0.2	0.3
Total	**1.7**	**0.5**	**0.9**
% of total from Potomac River	**31%**	**31%**	**31%**
% of total in region	**0.8%**	**0.8%**	**0.6%**

The benefits from emission controls are distributed similarly as the baseline impacts, with some minor differences. The contribution of Potomac River to benefits is slightly less than its contribution to baseline impacts (31% of the total from the five power plants, versus 37%). This is because the potential emission reductions are slightly greater for many of the other power plants. For example, Chalk Point, Dickerson, and Possum Point all have a greater baseline emission rate of SO_2 in lbs/million BTU than Potomac River, implying that a greater fraction of their current impacts will be reduced by meeting Best Available

Control Technology emission rates. However, controls at Potomac River would provide among the greatest benefits to public health in Alexandria, with essentially identical benefits available through controlling Possum Point.

What do these findings mean (and not mean)?

The above figures and tables provide detailed information about the impacts of selected power plants in the Washington, DC area on air quality and public health in and around Alexandria. However, the crucial question is obviously what this means and does not mean for public policy.

When looking at current emissions, we can conclude that the Potomac River power plant is the largest single contributor to ambient $PM_{2.5}$ in most parts of Alexandria among the five power plants modeled, but that the other four plants combined contribute 46-71% of the total from these five plants. When we look at the benefits of emission controls, the Potomac River power plant has a relatively lower contribution (31% of the total health benefits), but is still one of the two power plants contributing the most benefits (with Possum Point providing nearly identical benefits).

If we try to place the magnitude of the impacts from these five power plants in context, we see that current emissions contribute approximately 0.6-1.1 $\mu g/m^3$ of $PM_{2.5}$ on an annual average basis (4-8% of ambient concentrations), with emission controls reducing concentrations by 0.5-0.7 $\mu g/m^3$ (3-5% of ambient concentrations). From one perspective, this may appear like a relatively small percentage, since 95-97% of $PM_{2.5}$ would remain after these emission controls were implemented. However, it is important to compare this percentage with the concentration reductions that could be obtained through other emission control strategies. Because there are numerous power plants, millions of motor vehicles, other pollution sources, and some underlying background $PM_{2.5}$, one might anticipate that any small set of sources will contribute a similarly small fraction of ambient concentrations.

For example, using the results from a source-receptor matrix applied by US EPA in past regulatory impact analyses (US Environmental Protection Agency, 1999), if all light-duty and heavy-duty cars and trucks in the state of Virginia were eliminated (including both gasoline and diesel vehicles), annual average $PM_{2.5}$ concentrations in Alexandria would decrease by approximately 1.5 $\mu g/m^3$. Since eliminating all vehicles from Virginia is obviously not a remotely plausible control strategy, the benefits for vehicle control strategies at the state level would be a small fraction of this total.

Applying the same source-receptor matrix to power plants, a 75% emission reduction from the five power plants we evaluated would reduce $PM_{2.5}$ concentrations in Alexandria by 0.3 $\mu g/m^3$, while the same emission reduction at 502 other major power plants in the United States would reduce $PM_{2.5}$

concentrations in Alexandria by an additional 1 $\mu g/m^3$. Thus, the amount of concentration reduction available through controlling these five power plants is reasonably high in comparison with other plausible emission control strategies. Note that the absolute magnitude of benefits is slightly different with this source-receptor matrix than with our model, both because of differences in assumed emissions and model assumptions. Although the absolute numbers in this sample calculation may not be precisely correct, the relative values and general conclusions are well supported.

It is also important to keep in mind that, while the numbers above were presented without any characterization of uncertainty, there are clearly multiple factors that are uncertain and could influence the magnitude of the estimates. The emissions values that we used represent reported emissions in 1999, but current or future emissions may differ. Our atmospheric dispersion model (CALPUFF) has been approved by US EPA for modeling of long-range pollution transport, and we have found that the CALPUFF model yields similar health risk estimates as other models (Levy *et al.*, 2003). However, any dispersion model contains some inherent uncertainties.

In addition, since CALPUFF has been designed for long-range pollution transport, it is not ideal for understanding extremely small-scale pollution patterns. We chose CALPUFF because we were interested in estimating the total health benefits of pollution control, which is largely a phenomenon of long-range pollution transport. While the patterns at the census tract level appear reasonable, the findings from our modeling effort cannot be used to determine (for example) the precise impacts on individuals very close to the power plant. Addressing this question would require additional modeling using a different model, and perhaps with a focus on short-term rather than long-term concentrations.

Looking at the health estimates, the magnitude of the mortality and morbidity effects are based on observational epidemiological studies that are somewhat uncertain, because it is difficult to estimate a precise relationship between air pollution and health given other risk factors. The question about whether a threshold for health effects exists is obviously an important and controversial one, with major implications for the interpretation of our findings.

That being said, the assumptions made in our analysis are reasonable. Whenever possible, we chose values in the middle of the range of reported values, so that we are just as likely to have overestimated or underestimated health effects (Levy and Spengler, 2002; Levy *et al.*, 2002b). More generally, health risk assessments will always contain some underlying uncertainty. More studies can always be done, and better models are constantly being built. The

mere existence of uncertainty is not a sufficient reason to delay regulatory decisions, especially when the level of knowledge is already high and the stakes are substantial.

On that point, it is important to realize that a model of this sort is the only possible way to determine the relative contributions of Potomac River (or other power plants) to air pollution and health in Alexandria. Assuming that Potomac River contributes 1-4% of ambient $PM_{2.5}$ in Alexandria, it would be impossible to use ambient monitors to estimate this contribution. Similarly, if the five power plants combined contribute 2 deaths per year in Alexandria, there would be no way to directly observe this influence, independent from other causes of death (especially since death certificates will not say "air pollution" on them). Thus, if we want to understand the influence of a subset of sources on the population of a city, we must apply a model like the one we developed.

Given these caveats, what conclusions can be drawn from this investigation? First, while the Potomac River power plant is not the dominant contributor to either deaths or $PM_{2.5}$ concentrations in Alexandria, it is likely the single source that contributes most to $PM_{2.5}$ levels in Alexandria. Reducing emissions from the five modeled power plants would lower $PM_{2.5}$ concentrations in Alexandria and the surrounding region, although some $PM_{2.5}$-related health risks could still remain. It is also quite clear that decisions about emission controls at power plants need to take account of the regional health impacts, since local health impacts contribute a relatively small fraction of the total. At the same time, there are clear concentration gradients across and within cities, and it is important to understand how individuals would benefit from various emission control plans.

As mentioned at the beginning of the report, it is not possible to make specific policy recommendations based solely on our analyses. However, this report should provide a more detailed understanding of how local, regional, and national sources contribute to air pollution health risks in Alexandria, which can be used to inform future policy decisions.

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2004 JUN -4 A 10: 12
CITY MANAGER'S OFFICE
ALEXANDRIA, VA

May 31, 2004

TO: Hon. Mayor and Members of Council
CC: City Manager Phil Sunderland

FROM: Councilman Andrew Macdonald AHM

RE: Alexandria Clean Air Policy: Mirant's *Potomac River Power Plant*

The City Manager recommends that Mirant's *Potomac River Power Plant* be allowed to operate in Alexandria for another ten years. In exchange, Mirant must reduce nitrogen emissions and halt pollution trading at the plant. I don't think we should permit this 55 year-old coal-fired utility plant to pollute our air and water for another ten weeks, let alone another ten years. If the necessary technological improvements cannot be made, because of cost factors or space limitations, then the plant should close. It's that simple.

In addition to carbon dioxide (CO2), coal-burning plants like the *Potomac River Power Plant* currently emit or dispose of a variety of toxic chemicals, including:

1) Mercury (Hg)
2) Arsenic (As)
3) Lead (Pb), cadmium (Cd), and other toxic heavy metals
4) Carbon Monoxide (CO)
5) Volatile Organic Hydrocarbons (VOC's)
6) Oxides of nitrogen (NOX)
7) Oxides of Sulfur (SOX)
8) Airborne particulate matter (PM), from 10 microns to as small as 2.5 microns
9) Coal dust and fly ash

I recommend that we target all these chemicals for removal or control. Mirant must install state-of –the-art clean air technologies to capture or neutralize these chemicals before they are released into the air and water, and take steps to reduce fugitive dust levels in the air around the facility.

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I do agree with the City Manager:

1) That all pollution trading should stop
2) That a detailed "downwash" study be conducted to determine the immediate health impact of any toxic plume from the plant's four smokestacks on the residents of Alexandria.

But I also recommend:

1) That Mirant conduct a detailed "in-stack" chemical analysis of the combustion gases in the plant's four smokestacks.
2) That the City expand its network of PM 2.5 micron monitors and collect additional particulate speciation data.

Policy Recommendation:

Mirant should install Best Available Control Technologies (BACT) at its Potomac River Power Plant, or convert it to natural gas. The plant should cease operations immediately if the health risks associated with this plant cannot be eliminated or significantly reduced. In the event that Mirant doesn't, or cannot, comply with these recommendations, instruct the City Manager to provide Council with a range of legal options that it might use to implement these policy goals.

CC: Mr. Poul Hertel
Ms. Elizabeth Chimento
Mt. Vernon Chapter of the Sierra Club
Congressman Jim Moran



CITY MANAGER'S OFFICE
ALEXANDRIA, VA
2004 JUN -8 A 10:57

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004

Dear Mayor Euille and Members of the City Council:

Please find enclosed our position on the Mirant power plant.

Sincerely,

Elizabeth Chimento
1200 North Pitt Street
Alexandria VA.
22314

Poul Hertel'
1217 Michigan Court
Alexandria VA
22314

Roger Waud, President
NOTICe
501 Slaters Lane
Alexandria VA, 22314

Lillian J. White, Co-President
League of Women Voters of
119 West Mason Avenue
Alexandria VA, 22301

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004

Dear Mayor Euille and Members of the City Council:

We request the City Council adopt a position stating that the power plant has two years to install "Maximum Achievable Control Technology," shut down, or convert to natural gas.

The Council discussions do not provide a proposal that addresses Particulate Matter ($PM_{2.5}$). The City is focusing on NOx instead, which is a regional, not a local issue. The Mirant Power Plant "is likely the single largest contributor to $PM_{2.5}$ in Alexandria" with higher concentrations occurring closer to the plant, according to Dr. Levy. Furthermore, Levy states:

- Particulate Matter is recognized to have serious health effects.
- Science cannot find a lower threshold under which there are no health effects.
- EPA staff, acknowledging the deleterious health effects, recommends that acceptable limits for $PM_{2.5}$be lowered from 15$\mu g/m^3$ to as low as 12$\mu g/m^3$, which would cause the City of Alexandria to exceed the National Ambient Air Quality Standard.

Sullivan Environmental Consultants conclude that downwash is "screened to occur" at Marina Towers as often as 1200 hours per year (equivalent to 50 days).

- Downwash results when an undiluted emission stream (plume) is directly impacted by nearby high-rise buildings.
- Downwash causes the plume to hit the ground more quickly, which can prevent the normal dilution of pollutants, thereby increasing the exposure level and associated health effects.
- Since no other surroundings sites have been evaluated, a more complete study is needed.

The Mirant power plant also emits 29 Tons per year of fly ash (primary particulate matter) directly into the neighborhood because the ash house silos fail to capture them.

The issue of proximity and health impacts to contiguous populations is paramount, and needs to be central in Council deliberations. In conclusion, we ask that the City Council, strongly focus on ensuring a healthy environment by demanding that the plant either install Maximum Achievable Control Technology, convert to natural gas or shut down in a two year time frame.

Thank you for your consideration in this matter.

Sincerely,

Elizabeth Chimento
1200 North Pitt Street
Alexandria VA.
22314

Poul Hertel
1217 Michigan Court
Alexandria VA
22314

Roger Waud, President
NOTICe
501 Slaters Lane
Alexandria VA, 22314

Lillian J. White, Co-President
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Elizabeth Chimento
1200 North Pitt Street
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22314
tel. (703 548-7939)

Poul Hertel
1217 Michigan Court
Alexandria Va.
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tel. (703 684-5375)

06/1/2004

The purpose of this letter is to inform you of a continuing and dangerous problem in Old Town Alexandria, Virginia, related to the Mirant Potomac River Generating Station and to request your assistance. This is a summary of the history and background of our attempts to address and correct the problem:

Summary

The Potomac River Generating Plant is a 50-year-old coal fired power plant, located in the middle of a densely populated urban area in the North Old Town section of Alexandria. The plant has very short smoke stacks[1] (chimneys), which increases our concern that adequate plume dispersion actually occurs.

About three years ago, we and many other residents in the north end of Old Town Alexandria noticed an increasing amount of gray residue on our cars, windowsills and inside our houses. Because we live only 1 and 2 blocks respectively from the plant and because of the obvious increase in coal plant operations, we became worried.

[1] Due to proximity to Ronald Reagan National Airport.

History

Working with the plant: On three occasions, we visited the plant, establishing a collaborative relationship, to determine the source of the residue. The plant later stated it would only control areas within the plant's property lines, nothing outside its gates.

Research: To find the source and content of the dust, we launched an empirical search, conferring with scientists, participating in an international coal conference, surveying pertinent scientific journals and requesting test samples be taken and analyzed by independent laboratories (Pennsylvania State University and the Virginia Department of Environmental Quality). These efforts culminated in the comprehensive report, "Mirant Power Plant Emissions and Health Effects," presented to the City of Alexandria in August 2003 (see **http://homepage.mac.com/witte/report/**).

Infractions and Violations:

The Virginia State DEQ issued a Notice of Violation to the plant for exceeding its NOX limit by over 100%.

The EPA also issued a Notice of Violation (1/22/04) for the NOX exceedence, making it a Federal violation as well.

The EPA cited the plant again in April 2002, for violating New Source Review (NSR).

These two simultaneous infractions, issued by the EPA, designated this plant as a High Priority Violator. However, the EPA did not officially give the plant the NOV for the "New Source Review" violation, claiming that it was using that violation as a negotiating tool to settle the NOX violation.

Further, the EPA categorized all Mirant plants as High Priority Global Violators since every Mirant plant in its fleet violated NSR.

Currently, these infractions are being negotiated in Richmond, Virginia with the Virginia State DEQ, the Environmental Protection Agency and the U.S. Department of Justice.

The Real Issues Are Being Ignored:

The Virginia DEQ is now in the process of negotiating with the plant a new permit in which the NOX emission level will remain the same (1019 Tons), although no trading will be permitted with this permit. However, the permit does not address the following:

Downwash Study: At the personal expense of a few neighbors, we obtained a Preliminary Downwash Study conducted by Sullivan Environmental Consultants, a respected firm in the profession. The Sullivan study concluded that downwash is occurring at a high-rise condominium building just north of the plant 14% of the time. Indications are that this undiluted pollution plume is hitting the upper floors of the building and is probably exceeding National Ambient Air Quality Standards (NAAQS). Since this study was preliminary and did not include other buildings near the plant, we have asked the City and the DEQ to obtain complete downwash testing.

Particulate Matter and Proximity: The main cause of adverse health effects is small 2.5 micron particles. Primary 2.5 particulates, unlike the gas-formed secondary particles, accumulate closer to the plant, affecting nearby populations. However, this issue of proximity and health impacts to contiguous populations is dismissed.

Small particulates, measuring less than one seventh the diameter of a human hair strand, threaten health because they are breathed directly into the lungs, embedding themselves within and cannot be aspirated by sneezing or coughing. Inside the lungs, the 2.5 particles then inflame the surrounding tissue, resulting in irreversible heart and lung damage (see Health Effects section of the Chimento/Hertel Report page 9). Furthermore, recent scientific articles, clearly and unequivocally, demonstrate that coal-fired power plant emissions of particulate matter, specifically the small 2.5 micron particles, are especially dangerous to public health, resulting in asthma attacks, emergency room hospital visits and cardiopulmonary irregularities which lead to premature deaths (see Levy and Pope Studies in report).

The laboratory tests conducted by Pennsylvania State University and the Virginia Department of Environmental Quality indicated that the gray residue found in the neighborhood consisted largely of post-combusted by-products (fly ash) and non-combusted coal dust, originating from the neighborhood Mirant Power Plant.

Jonathan Levy's[2] research established that primary 2.5 particle concentrations "peaked closer to the plant and decreased more rapidly with distance than for sulfates or nitrates". Therefore, proximity to the plant directly corresponded with higher levels of exposure to primary 2.5 particle pollution (see Chimento/Hertel Report pages 2-4).

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[2] Jonathan Levy, Sc.D, Harvard School of Public Health's leading scientist in power plant/health issues, has conducted case studies on pollution and coal-fired power plants in Massachusetts, Illinois and, most recently, Washington, DC. In May 2002, he briefed the U.S. Senate Environment and Public Works Committee on "Health Impacts of Power Plants: Case Studies in Massachusetts, Illinois, and Washington D.C." (Sources, p. 6, "Health Impacts of Air Pollution from Washington DC Area Power Plants," Summary prepared by Jonathan Levy specifically for Clean Air Task Force, May 2002).

Fly Ash -- 29 Tons Escape Per Year From Ash House Silo: The inorganic residue that remains after pulverized coal is burned is known as 'coal combustion byproducts' (CCB). Fly Ash is the finely divided CCB collected by electrostatic precipitators after the combustion process. Subsequently, hammers hit the electrostatic precipitators to release the particulates. As the particulates fall, they are sifted into the ash house silo, which are essentially huge vacuum cleaners that use fabric filters (bags) to trap the particles. According to the Mirant plant's consultant study, 29 tons per year of particulates are not captured by the bags and escape directly into the atmosphere. With the addition of a second ash house silo, this number could be reduced by 50% (see Chimento/Hertel report page 14).

Plant Does Not Serve Alexandria: The plant does not provide electricity to Alexandria; we only get the adverse health effects.

The Plant Needs to be Cleaned Up: The Mirant Potomac River Station operates with outdated technology in a dense urban environment. Its short smoke stacks are causing downwash on at least one residential building situated in close proximity (300 feet).

New Source Review Violations: Once a plant has violated NSR, the law requires it to comply with current modern emission standards.

Dear Bill Euille,

The memo from the staff, For May 12 meeting, has reconfigured some key graphs from Dr. Levy's draft analysis "Analysis of Particulate Matter Impacts for the City of Alexandria, Virginia" presented to the Council. This change marginalizes and masks the effects of particulate matter from the Alexandria plant on this City, which are still considerable around the plant (see pages 9 and 10 of draft figures 3,4 and 5).

Memo of Staff Recommendations

(1) In memo

Comment:
There is no exit strategy in the City stated long-term goal to shut down the plant, i.e., we have no idea if the plant will ever leave. With no determined closure date, the short-term goals become senseless.

(2) In memo
Says, "that the plant will operate in as a safe and clean manner as is both feasible and attainable"

Comment:
Does not set any standards nor any appointed agent to determine these standards and regulate compliance.

(3) In memo:

Comment:
There is nothing proposed that cleans up the plant and protects citizens' health until an imaginary shut down date occurs.

(4) In memo:

Comment:
Nox is a regional, not a local issue. There is nothing in the proposal that addresses the local issue pertaining to Particulate Matter and Fugitive Fly ash from the Ash House silo[1].

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[1] Fugitive fly ash handling is not addressed in the memo, only the unloading is:
The inorganic residue, that remains after pulverized coal is burned, is known as 'coal combustion byproducts' (CCB). Fly Ash is the finely divided CCB collected by electrostatic precipitators after the combustion process. Subsequently, hammers hit the electrostatic precipitators to release the particulates. As the particulates fall, they are sifted into the ash house silo, which are essentially huge vacuum cleaners that use fabric filters (bags) to trap the particles. **According to the Mirant plant's consultant study, 29 tons per year of particulates are not captured by the bags and escape directly into the atmosphere. With the addition of a second ash house silo, this number could be reduced by 50%,** see Chimento / Hertel report page 14.

f. Memo recommends DEQ to undertake studies.

Comment:
This is the Downwash issue (see Sullivan Environmental Consultants' Preliminary Study).

Reviewing the DEQ history (see August 12, 2003 memo attached), we question the DEQ's ability to maintain scientific objectivity. As stated in the DEQ memo, a choice was made to close the case even though their own staff stated emphatically "we stand by our original findings" that over 50 % of the residue came from the coal plant. We recommend that an uninvolved entity do the modeling and/or monitoring.

Discussion in memo, page 3

Fugitive and Coal Dust

The memo talks about installing "best available control technologies" for some ground issues. This is not an appropriate term in this context. BACT normally refers to pollution controls on stacks (see footnote 1 for ash house silo problem).

Small Particulate Matter
Particulate matter is the fundamental issue with this plant, yet this memo minimizes and marginalizes the effects of the Alexandria plant on its residents and surrounding areas. It does not address the positive quantifiable health effects that could be obtained by looking at particulate matter emissions from the stacks.

According to Dr. Levy[2];
"Since we adopt a health perspective in this analysis and most epidemiological evidence points toward particulate matter as a stronger causal agent for mortality and morbidity than gaseous SO_2 or Nox, we focus exclusively on primary and secondary particulate matter concentrations in this report and do not address the primary gaseous pollutants or ozone."

Furthermore, Dr. Levy concludes "that individuals who live closer to a power plant are more impacted by that plant than individuals living further away, but local populations contribute a relatively small fraction of aggregate risk."[3]

Finally, Science is unable to establish a lower threshold at which no health effects of $PM_{2.5}$ are found.

Elizabeth Chimento and Poul Hertel

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[2] Levy et al, Atmospheric Environment 36 (2002) page 1067
[3] Dr. Levy web site, Statement of Jonathan Levy, Harvard School Public Health (US Senate Public Hearing May 2002)

SIERRA CLUB
JUNDED 1892

MOUNT VERNON GROUP

ALEXANDRIA, ARLINGTON COUNTY, FAIRFAX COUNTY, FALLS CHURCH, AND PRINCE WILLIAM COUNTY
VIRGINIA

JUN - 8 2...
T&ES ADMINISTRATION DIVISION

May 24, 2004

Dear Mayor and Members of the City Council:

Please find enclosed Sierra Club Mount Vernon Group's comments to the memorandum dated May 10, 2004, from City Manager Philip Sunderland to the Honorable Mayor and members of the City Council, regarding the Mirant Potomac River Power Plant.

Item (1) recommends that the Mirant Power Plant operations cease and Plant facilities be removed. This is a commendable position, but we request that the City take the additional step of establishing a time frame for this action. We do not support continued operations at the plant beyond CY2005. Separately, we would like to know if the City is prepared to consider additional, perhaps legal action on behalf of City residents should the Mirant Plant remain open beyond a stated time frame.

With respect to the conditions that should be considered while the plant remains in operation, we request that you consider the following:

- The problem of fine particulate matter (PM2.5) **emitted from the stacks** must be addressed through measurable steps by the plant operators. The 2002 Levy study indicates that 59 premature deaths, 66 hospitalizations, and 4,600 asthma attacks per year are caused by particulate emissions from the Mirant power plant. In addition, the Washington metropolitan area, including Alexandria is close to exceeding the National Ambient Air Quality Standard (NAAQS) for PM2.5. As stated in the recent Levy Study, the amount of concentration reduction in particulate matter through the control of power plants is reasonably high, when compared to other plausible emission control strategies.

- We recommend that the Virginia Department of Environmental Quality (DEQ) or another qualified independent party, not Mirant, should undertake a downwash modeling study to determine the impact of emissions from the plant on the local neighborhood, including nearby high rise buildings. This study should include not only NO_x but fine particulate matter (PM2.5).

Separately, we support the City Manager's recommendation that the DEQ permitting process should not allow Mirant to trade or purchase pollution credits. We have previously submitted comments to DEQ that its operating permit should hold Mirant accountable for the damage it is doing to the air we breathe by requiring them to use today's technology to protect our health and safety.

T&ES
JUN
ENVIRONMENTAL

Thank you for your attention to this vital matter.

Sincerely,

Patricia Soriano
Group Chair

Ana Prados
Group Conservation Chair
prados@earthling.net

ONE EARTH, ONE CHANCE

46

EXHIBIT NO. 2

29
6-22-04

MEMORANDUM

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: IGNACIO B. PESSOA IBP
CITY ATTORNEY

DATE: JUNE 18, 2004

SUBJECT: ENFORCEMENT ACTIONS – MIRANT POTOMAC RIVER GENERATING STATION

ISSUE: Consideration of enforcement actions against the Mirant Potomac River Generating Station.

RECOMMENDATION: That the City initiate the following enforcement and other actions against the Mirant Potomac River Generating Station:

1. Revoking Special Use Permit No. 2296, granted in 1989, which approved the construction and use of 18,000 square feet of new administrative offices, laboratories, conference, training and other space at the Mirant Potomac River Generating Station.

2. Revoking Special use Permit No. 2297, granted in 1989, which approved the Transportation Management Plan required for the lawful operation of the Generating Station.

3. Revoking the noncomplying use status of the Generating Station, which was granted as part of the 1992 rezoning.

4. Instituting a Clean Air Act lawsuit seeking imposition of the statutory civil penalties for the Generating Station's NOx permit violations, and an injunction against further violations.

5. Objecting, in the pending Mirant Bankruptcy proceeding, to any reorganization plan that includes the continued operation of the Generating Station.

DISCUSSION: On May 12, 2004 City Council requested that I provide additional information regarding the options available to the City to respond to the alleged Mirant NOx permit violations at the Potomac River Generating Station, as well as to the continuing emission of fugitive dust, particulate matter, toxic metals and acid gases from this power plant. See Attachment 1. Because of the significant impact of federal and state environmental regulations on the City's own zoning and other regulatory authority, I retained outside counsel with environmental law expertise to review the relevant legal issues. Neil Proto, John Britton and Steve Johnson, of Schnader, Harrison, Segal and Lewis, LLP, have outlined several courses of action for the City's consideration. See Attachment 2.

In summary, the five actions listed above are ripe for initiation should the Council determine that enforcement action is appropriate at this time. Other identified options will require additional investigation and research, as discussed below.

1 and 2. Special use permits are revocable for "failure to comply with any law," Zoning Ordinance § 11-506(A), and this would include legislative acts, such as state and federal environmental laws, which protect, as does the Zoning Ordinance, against public health risks to residents and others proximate to a regulated use. Thus, revocation of these special use permits would be justified based upon substantiated NOx permit violations, as well as other environmental violations, such as the plant's June 10, 2004, discharge into the waters of the Potomac, which resulted in a 500 square foot oil slick. Revocation would prohibit, as a violation of the Zoning Ordinance, the continued use of the designated administrative and related office space, as well as the operation of the entire plant without a valid Transportation Management Plan. Given the nature of the plant's public utility function, and the limited scope of these special use permits, it would be unrealistic to expect that revocation could lead to the immediate closure of the plant. Upon revocation the plant would be categorized as an illegal use, and no City permits for construction or upgrades could be approved. However, the operator could seek to cure the illegal status of the use by seeking from City Council new special use permits, subject to appropriate and reasonable new conditions. Under current practice, any such new SUPs would apply to and regulate the entire plant, including the five power generating units. Revocation of a special use permit requires notice to the affected operator, and a hearing before the Planning Commission and City Council. Council may initiate the revocation process by directing staff to docket the SUPs for public hearing in September.

3. Noncomplying use status is a benefit or privilege conferred by Council in 1992, upon the adoption of the new Zoning Ordinance, and, *inter alia*, allows uses such as the plant, which now require, but have never obtained, special use permit approval, to continue in existence indefinitely, and to be repaired, modernized and reconstructed. However, since 1992, several types of noncomplying uses have had their noncomplying status revoked, where Council has determined that the prolonged operation of such uses would have an adverse impact on the community. Revocation results in the categorization of such uses as nonconforming uses, and thus requires termination of the use within 7 years, or within such longer period as an individual operator demonstrates to Council would be reasonable given the operator's legitimate investment in the affected business. In the interim, financial investment to prolong the useful life of the business is severely restricted. Where, as here, the zone in which the existing use is located permits the use by special use permit, the operator has the additional avenue of seeking to obtain such a permit, with such newly imposed conditions as Council deems appropriate, and thus to remove the onus of nonconforming status. The information presently available as to the adverse impacts from the Mirant plant supports revocation at this time of the preferential noncomplying use status afforded power plants in 1992. The Zoning Ordinance provisions applicable to nonconforming uses establish a mechanism for determining at a future time the appropriate abatement period for this particular plant, based upon additional information as to the owner's investment in the plant, and the extent of any health risks caused by the plant's continued operation. Revocation of noncomplying use status requires an amendment to the Zoning Ordinance text. In order to move forward with such a change, Council should adopt the attached

resolution to initiate the process for amending the Zoning Ordinance. See Attachment 3.

4. Under the Clean Air Act, Mirant's alleged violation of the Potomac River Generating Station's NOx permit is punishable by a civil penalty of up to $25,000 for each day of violation. As discussed in the Schnader Memorandum, page 6, the City can, after giving notice to Mirant, EPA and VDEQ (and provided that Mirant and VDEQ have not settled the state's pending administrative enforcement action), file suit seeking the imposition of such penalties, and to enjoin further Clean Air Act violations. Any penalties assessed by the court would be paid to the federal government, and the pending Mirant Bankruptcy would not stay the assessment or collection of any such judgment. The Clean Air Act provides for an award of litigation costs, including attorney's fees and expert witness fees, to a successful plaintiff. If requested by Council on June 22, we can proceed to give the required notice in order to initiate this process.

5. Mirant has pending in the U.S. Bankruptcy Court in Texas a Chapter 11 proceeding, which seeks the court's approval of a reorganization plan for the corporation. The City has the right to object to approval of any plan which includes the continued operation of the Potomac River Generating Station, although the basis for such an objection should be grounded in the likely adverse economic impact on the debtor corporation and its ability to satisfy its creditors, which might be attributed to the continued operation of the plant. If requested by Council on June 22, we can proceed to prepare and file the appropriate objections.

Finally, the Schnader Memorandum identifies several additional actions which the City could undertake, in particular the adoption of an ordinance defining certain operational characteristics of the plant as a public nuisance, or bringing suit to seek a judicial declaration of public nuisance, and directing the prompt abatement thereof. The information necessary to form a decision as to the expediency of such actions is currently lacking. If Council wishes to pursue further consideration of such actions, the City would need to design and conduct qualitative and quantitative modeling of, and monitoring for, the various hazardous substances known to be emitted by coal fired power plants, followed by an assessment of the risks posed to persons shown to have been exposed to such plant emissions at the established concentrations. Depending on the information developed, abatement might take the form of plant closure, or of retrofitting additional, feasible pollution control measures. Outside counsel and I would be pleased to assist City staff in designing the requisite studies.

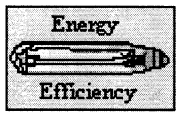
I will, of course, be available to answer any questions on June 22, 2004, either during the public meeting or in closed executive session.

Attachment 1 BREDL Information Sheet, Potomac River Generating Station
Attachment 2 Schnader Memorandum
Attachment 3 Resolution



BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

Coal-fired Power Plants





Mirant (Southern Energy) - Potomac River

Mirant - Potomac River Generating Station
1400 N. Royal St.
Alexandria, VA 22314
Alexandria City

Uncontrolled for NOx and SO2 emissions.

Units -Year of operation (Power)
Unit 1 - 1949 (88 Mw)
Unit 2 - 1950 (88 Mw)
Unit 3 - 1954 (102 Mw)
Unit 4 - 1956 (102 Mw)
Unit 5 - 1957 (102 Mw)

- source: DOE

Average NOx Rate (lb/mmBtu)

- source: EPA data

Year	Unit 1	Unit 2	Unit 3	Unit 4	Unit 5
2002	0.38	0.42	0.42	0.42	0.40
2001	0.41	0.42	0.41	0.42	0.41
2000	0.43	0.42	0.41	0.44	0.42
1999	0.42	0.37	0.44	0.43	0.43
1998	0.42	0.39	0.43	0.40	0.44
1997	0.42	0.39	0.44	0.42	0.45
1996	0.67	1.51	0.60	0.53	0.70
1995	0.56	0.54	0.67	0.47	0.68

Nitrous Oxide, Sulfur Dioxide, and Carbon Dioxide emissions
tons per year - source: EPA data

ATTACHMENT 1-1

4

Year	NOx	SO2	CO2
2002	6,010	16,142	2,893,282
2001	5,918	15,162	2,811,631
2000	5,694	13,948	2,679,520
1999	6,893	17,627	3,293,466
1998	5,921	15,026	2,787,156
1997	5,002	11,816	2,352,788
1996	5,597	10,589	2,001,906
1995	18,353	12,541	1,567,924

pounds released in 2001 - source: EPA TRI

Chemical	Air	Land	Water	Total On-Site Releases
Barium compounds	833		205	1,038
Chromium compounds	249		16	265
Copper compounds	187		2,256	2,443
Hydrochloric acid	2,463,326			2,463,326
Hydrogen fluoride	90,212			90,212
Lead compounds	183		13	196
Manganese compounds	298		172	470
Mercury compounds	68		0	68
Nickel compounds	238		16	254
Polycyclic aromatic compounds	0			0
Sulfuric acid	91,500			91,500
Vanadium compounds	335		31	366
Zinc compounds	551		85	636
TOTAL	**2,647,979**		**2,794**	**2,650,774**

grams released in 2001 - source: EPA TRI

Chemical	Air	Land	Water	Total On-Site Releases
Dioxin & Dioxin-like compounds	0.1807000			0.1807000

5

1-2

pounds released in 2000 - source: EPA TRI

Chemical	Air	Land	Water	Total On-Site Releases
Barium compounds	1,000		250	1,250
Hydrochloric acid	2,400,000			2,400,000
Hydrogen fluoride	110,000			110,000
Mercury compounds	150		0	150
Polycyclic aromatic compounds	0			0
Sulfuric acid	130,000			130,000
Vanadium compounds	255		250	505
TOTAL	**2,641,405**		**500**	**2,641,905**

grams released in 2000 - source: EPA TRI

Chemical	Air	Land	Water	Total On-Site Releases
Dioxin & Dioxin-like compounds	0.7300000			0.7300000

For information, including health impacts, on chemicals listed, please check out these resources:

U.S. Library of Medicine: TOXNET - http://toxnet.nlm.nih.gov/

Agency For Toxic Substances And Disease Registry: Toxicological Profiles - http://www.atsdr.cdc.gov/toxprofiles/

Back to Virginia map

updated Sept. 2003

Schnader
ATTORNEYS AT LAW

2001 PENNSYLVANIA AVENUE, NW SUITE 300
WASHINGTON, DC 20006-1825
202.419.4200 FAX 202.419.3454 schnader.com

MEMORANDUM

June 18, 2004

MIRANT POTOMAC RIVER POWER PLANT
RECOMMENDED LEGAL ACTIONS WORTHY OF FURTHER REVIEW

Submitted by

SCHNADER HARRISON SEGAL & LEWIS LLP
WASHINGTON, D.C.

Neil Thomas Proto
John B. Britton
Steven R. Johnson

INTRODUCTION

We understand that the City of Alexandria's long-term goal is to support the cessation of the Mirant Corporation's ("Mirant") Potomac River Power Plant ("Mirant Plant") and develop the site for a use that is compatible with the City's Master Plan and the adjacent and nearby residential communities.

The Mayor and Council previously identified four categories of action to achieve the City's goal: (i) the purchase, or acquisition through eminent domain, of the Mirant Plant site; (ii) state legislation; (iii) zoning and land use regulatory changes; and (iv) litigation. This Memorandum identifies reasonable legal actions within these categories. In the event the Mayor and Council determine to pursue one or more of these actions, additional research is necessary to identify more fully the legal implications and viability of each action.

Three considerations warrant clarification at the outset:

1. **The Need to Declare a Substantiated Position.** The City has no formally declared position, reflected in law, with respect to its goal for the Mirant Plant. Put differently, it has not yet established the reasoned basis for pursuing its goal. The City should authorize a full analysis of (i) the health, traffic and pedestrian safety, noise and aesthetic effects of the plant and its operations, (ii) the economic value of the property, and, for the reasons alluded to below, (iii) the possible "public purpose" or "public uses" for which the site could be used. It also should be mindful of the value (and perhaps necessity) of understanding, with precision, Mirant's electric

Attachment 2-1

generating duty under federal and state law and how such duty can be met if the Mirant Plant ceased operating.

2. **Mirant is affected with a "Public Interest."** Mirant generates electricity for public use; its duty is tempered with a "public interest." In fulfilling that duty, it is subject to the substantial regulatory authority of the Federal Energy Regulatory Commission ("FERC").

3. **Mirant is in Bankruptcy.** On July 14, 2003, Mirant filed voluntary petitions in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division for relief under Chapter 11 of the United States Bankruptcy Code. At a recent public hearing on its proposed new operating permit, a Mirant spokesperson stated that additional emission controls could force the plant to be closed permanently. Statement of Deborah Jennings (Mirant), Mirant Operating Permit Challenged, The Connection, April 14, 2004. Mirant continues its operation of the plant as a debtor-in-possession pursuant to the Code. Its financial position and ability to operate (as a utility, corporate citizen and neighbor) may be at its weakest since acquiring the plant.

Typically, the bankruptcy process imposes an automatic stay that operates to prevent the commencement of a judicial, administrative or other action against the debtor. 11 U.S.C. § 362(a)(1). The stay also operates to prevent any act to obtain possession of or exercise control over the property of the estate in bankruptcy. 11 U.S.C. § 362(a)(3). The statute exempts, however, actions by a governmental unit in the exercise of its traditional police or regulatory power. 11 U.S.C. 362(b)(4); See In re PMI-DVW Real Estate Holdings, L.L.P., 240 B.R. 24, 30 (Bankr. D. Ariz. 1999). Changes in the zoning laws are among those traditional actions that are exempt. In re Beker Indus. Corp., 57 B.R. 611, 631 (Bankr. S.D.N.Y. 1986) ("Zoning and land use planning are exemplary of police and regulatory powers."); In re Lacoquille Inv. Co., 44 B.R. 731, 732-33 (Bankr. S.D. Fla. 1984) (enactment of ordinance prohibiting residential use of property was excepted from stay even though it affected debtor's intended use of the property as a condominium). Thus, without acquiescing in or conforming to any process in the Bankruptcy Court, the City may exercise its traditional police and regulatory jurisdiction over matters related to Mirant, including as a public nuisance and through other common law actions.[1]

With these three considerations in mind, we recommend, preliminarily, the following legal actions for further review.

[1] In State v. Mirant New York, Inc., 300 B.R. 174, 179 (S.D.N.Y. 2003), plaintiff sued for violations of the Clean Air Act and, under the common law, an action for public nuisance. Without specific discussion of the nuisance claim, the court held that the State commenced its action to protect the health and safety of its citizens and, therefore, was exempt from the bankruptcy stay. See also In re Porter, 42 B.R. 61 (Bankr. S.D. Tex. 1984) (court found that public nuisance claim fell under the Section 362(b)(4) exception).

LEGAL ACTIONS

1. **PURCHASE (or the Exercise of Eminent Domain)**. The simplest strategy for obtaining the closure of the Mirant Plant is for the City to purchase it from Mirant in an arms-length transaction and then sell it to a different user or shut it down. Section 13.01 of the City Charter grants the City the power to purchase lands, buildings and other structures. The City must obtain an independent valuation of the property. In this same context, Mirant is apparently attempting to have the assessed value of its power plants (including in Alexandria) decreased to more accurately reflect the steep decline in the energy market. Comment by Steven Arabia (Mirant), Bankrupt Utility Strains Budgets, Washington Post, May 9, 2004, at C-1.

Because "purchase" does not fall within the traditional police and regulatory jurisdiction of the City, the purchase of Mirant property would require Bankruptcy Court approval. It also will implicate Mirant's duty to provide electricity. [2]

Alternatively, the City could acquire the Mirant Plant through the exercise of the power of eminent domain. Sec. 13.02 of the Charter grants the City the power to "acquire by condemnation proceedings lands, buildings, structures and personal property or any interest, right, easement or estate therein of any person or corporation, whenever in the opinion of the council a public necessity exists therefore, which shall be expressed in the resolution or ordinance directing such acquisition." Sec 2.03(n) also grants the City the power to specifically "acquire, by purchase, condemnation, lease or otherwise . . . electric plants." An exercise of authority under Sec. 2.03(n) requires the City to use the plant for the public welfare. Light v. City of Danville, 190 S.E. 276, 278 (Va. 1937). Under any circumstance, the City would first have to make a good faith effort to purchase the property. Va. Code Ann. § 25.1-204.

Prior to directing any condemnation proceeding, the Council would be required to adopt a resolution or ordinance identifying and approving the public use and purpose to which the property will be put and the necessity for its acquisition. Va. Code Ann. § 15.2-1903. These public uses could include, among others, establishing a riverfront park, a greenway, a flood protection system or improvements in the City's transportation network, as well as private uses serving a public purpose.

[2] The City must be mindful that Mirant has an obligation to provide electricity and otherwise comply with its "public interest" duty under the FERC regulatory scheme. See 16 U.S.C. § 824b(a).

2. LEGISLATION. There are restrictions imposed on Council action by the State Air Pollution Control Law ("Control Law"), Va. Code Ann. §§ 10.1-1300 *et seq.* The Control Law preempts local ordinances related to air pollution. Va. Code Ann. § 10.1-1321.B.[3]

In adopting an ordinance or amending an existing ordinance relating to air pollution, a municipality first must obtain approval from the Air Pollution Control Board ("Board"). Id. The Board will not approve any proposed ordinance or modification that attempts to regulate any emission source that is required to register with the Board or to obtain a Department of Environmental Quality ("DEQ") permit. Id. Thus, there is no legislative recourse for the City in its own ordinances to control or limit emissions from the Mirant plant.

The City may avoid this legislative preemption with an ordinance that, sensitive to Constitutional equal protection issues, identifies the Mirant Plant emissions and activities as a public nuisance. Such an ordinance would have to be unambiguous and set out in a precise manner the adverse impact to the public's health and welfare. The ordinance also would serve as a rationale on which to base future City actions such as rezoning or a common law nuisance action.

3. ZONING & REGULATORY LAND USE CHANGES. The land on which the Mirant Plant is located is zoned UT: Utilities and Transportation (enacted as part of the City's comprehensive rezoning in June 1992). The Mirant Plant currently operates as a noncomplying use pursuant to Zoning Ordinance § 12-300 and under a limited special use permit covering certain administrative offices. The Mirant Plant and accessory uses, including the railroad and railroad tracks, comprise all the uses in this particular UT zone. There are a number of UT zones throughout the city. Property surrounding the Mirant Plant is zoned predominantly for residential uses.

The following legal actions are available and worthy of further exploration:

- **Revocation of Special Use Permit**. Pursuant to Zoning Ordinance § 11-506, the Council may, after notice and a public hearing, "revoke or suspend any special use permit approved by it upon proof that the holder of the permit failed to comply with any law, including, without limitation, the conditions subject to which the special use permit was granted." (Emphasis added.) To the extent a part of the site is subject to special use permission, this provision would permit the City to revoke the special use permit on the basis that Mirant has "failed to comply" with, for example, the NO_x limits in its air permit, a violation of the Air Pollution Prevention and Control Act ("Clean Air Act"), 42 U.S.C. §§ 7401 *et seq.* Depending upon the conditions and limitations included within the special use permit, there may be other grounds for revoking it.

[3] The Air Pollution Prevention and Control Act ("Clean Air Act") does not preempt State or local action provided such action does not fall below the minimum standards set out in the Act. 42 U.S.C. § 7416. The City is subject, however, to any limitation on its jurisdiction and powers, such as the Control Law, imposed by the Commonwealth of Virginia. Thus, the City should continue to work with its state delegation for legislation in the General Assembly related to the Mirant Plant. (See e.g.. House Bill No. 113 submitted by the Hon. Mary Van Landingham, January 14, 2004.)

- **Zoning Ordinance Amendment**. Pursuant to its zoning authority, the Council could amend applicable zoning ordinances to make "electric power generation" on the property a prohibited use. Alternatives for accomplishing this include: (i) removing "electric power generating plant" from the list of uses permitted by special use permit in the UT zone; (ii) amending the zone to residential or other zone categories more compatible with a residential zone's purpose; (iii) establishing an "overlay zone" on waterfront property including the Mirant property that would prohibit uses such as electric power generating plants; and (iv) amending the UT zone to restrict industrial facilities within 1000 feet of residential properties.

Each alternative raises different legal issues. A zoning ordinance amendment directed solely at Mirant would likely require the City to meet a higher evidentiary burden (once it is challenged) of demonstrating that the zoning change is reasonable. See Board of Supervisors v. Snell Constr. Corp., 202 S.E.2d 889, 893 (Va. 1974). One reasonable basis may be a change in circumstance substantially affecting the public health, safety or welfare since enactment of the prior zoning. Id. An increase in residential uses proximate to the Mirant Plant and new medical research revealing the risk of adverse health effects from, among other things NO_x and $PM_{2.5}$, may provide the changed circumstances and reasonable basis.

A more comprehensive rezoning (not directed exclusively at Mirant) would be accorded substantial deference in a judicial setting. For example, a "Waterfront Overlay District" could be established (all properties within a logical segment of the Alexandria waterfront) that imposes additional restrictions that effectively prohibit electric power generating plants. Similarly, removing "electric power generating plants" as a use permitted by special use permit from all UT zones, or amending the UT zone to prohibit industrial facilities within 1000 feet of a residential building, also would be comprehensive rezoning (potentially involving, however, hard policy questions beyond the fate of the Mirant Plant).

An amendment that eliminated "electric power plants" as a permitted use would not lead to the immediate closure of the Mirant Plant. Consistent with Va. Code Ann. § 15.2-2307 which prohibits the "impairment of any vested right" in connection with zoning actions, Zoning Ordinance § 12-202 provides that "any nonconforming use, lawfully existing at the time of the passage of a zoning ordinance, may be continued as such subject to the provisions of Zoning Ordinance § 12-200, it being the intent of the city to provide for the eventual elimination of all nonconforming uses." Consequently, following any such amendment, the Mirant Plant would continue to operate as a nonconforming use. Its operation would be subject, however, to important restrictions related to its authority to rebuild after damage, or to change, extend or enlarge the plant or its use. See Zoning Ordinance §§ 12-203-12-208. These restrictions could make long-term investments in the facility, including, for example, upgraded emission control equipment that may be required, less economically attractive or even permissible.

In addition, the Council also could amend Zoning Ordinance § 12-200 to limit the duration within which the nonconforming use may continue. The Charter authorizes the Council to require nonconforming buildings, structures and uses to "conform to the regulations and restrictions prescribed for the zone or zones in which they are situated, in any event within a reasonable period of time to be specified in the ordinance." Zoning Ordinance § 9-09(g). See also City Council of Alexandria v. Lindsey Trusts, 520 S.E.2d 181, 183 (Va. 1999) (city had the power to treat restaurants as nonconforming uses and could have "required the termination of

their operation after a reasonable period of time under the powers given it by § 9.09(g) of its charter.")

In a residential zone, a nonconforming commercial or industrial use must be terminated within 40 years. Zoning Ordinance § 12-210(a). Zoning Ordinance § 12-214 provides a general seven-year limitation on nonconforming uses that could apply to the Mirant Plant. In any event, the City could establish a specific time limitation applicable to particular uses (e.g., electric generating plants) as long as it is "reasonable." This term is not defined in the Charter, ordinances or in State law. In this context, the relevant consideration would be to what extent the limitation affected the property owner's investment-backed expectations in the property. See e.g. Penn Cent. Transp. Co. v. New York City, 438 U.S. 104, 124 (1978) (relevant to "regulatory takings" analysis is "the extent to which the regulation has interfered with distinct investment-backed expectations"). A specific economic analysis would be necessary, with these factors, among others being examined: (i) The plant has been operating in excess of 40 years; its investment-backed expectation in the use has been fully realized; and, (ii) Mirant's more recent investment in the plant could very well reveal its investment expectations are relatively modest in duration.

- **Change in Status.** The City could change, through a text amendment, the current status of the Mirant Plant from noncomplying to nonconforming. This would invoke the seven-year limitation period or allow the City to determine a more appropriate limitation period consistent with the amortization requirement. Any limitation period would be subject to a "reasonableness" test. In light of the unequivocal violations of the Mirant Plant's operating permits, the evidentiary burden to support a change in status under this mechanism may be less stringent than that associated with a rezoning directed to the Mirant Plant.

4. LITIGATION. We have examined, and recommend for further review, two possible forms of litigation (under the Clean Air Act, and various public nuisance theories) available to the City. We also identify, in preliminary terms, the possibility of the City "participating" in the pending Bankruptcy proceeding.

- **Clean Air Act Enforcement.** The Clean Air Act provides that any person, including local government entities, may commence a civil action ("citizen suit") against any other person (including Federal and State regulatory agencies) alleged to have violated (if there is evidence that the alleged violation has been repeated) an emission standard or that is in violation of any condition of a permit. 42 U.S.C. § 7604(a). The City may invoke this provision of the Clean Air Act to seek strict enforcement of Mirant's permit limits and the imposition of civil penalties for violations of any limits or other requirements. The City would file such an action in the United States District Court for the Eastern District of Virginia. The Clean Air Act also requires the City to provide a 60-day notice to Mirant, the United States Environmental Protection Agency ("EPA") and the DEQ, of its intent to sue. 42 U.S.C. § 7604(b). Such a lawsuit is susceptible to preemption, however, if either the EPA or the DEQ is "diligently prosecuting" a civil action on the same matter. Id. Short of EPA's and DEQ's intervention (which may occur), the City can pursue such an action provided it can show violations of permit limits or any other permit requirements.

- **Criminal Prosecution (Clean Air Act).** The Clean Air Act also imposes criminal penalties on any person who, knowingly violates any requirement or prohibition of a permit, 42 U.S.C. § 7413(c)(1), or negligently or knowingly releases any hazardous air pollutant (as set out

in section 112 of the Act) and places another person in imminent danger of death or serious bodily injury. 42 U.S.C. § 7413(c)(4) and (5). Such offenses are subject to prosecution—by the United States—in federal court under Title 18 of the United States Code. Offenses are punishable by both fines and imprisonment. If it proceeds with a citizen suit, the City may uncover or adduce evidence of wrongdoing by Mirant, or by an individual employee of Mirant, that warrants a formal petition to the Department of Justice (or through the United States Attorney) seeking a criminal prosecution.

- **Nuisance.** Generally, the historic police powers of the State and its political jurisdictions are not superseded by a federal statute unless it is the clear and manifest purpose of Congress to do so. Medtronic, Inc. v. Lohr, 518 U.S. 470, 485 (1996). Furthermore, there is a presumption in favor of the exercise of traditional police powers. Huron Portland Cement Co. v. City of Detroit, 362 U.S. 440, 442 (1960). The Clean Air Act does not restrict any right that the City may have under any other statute or the common law to seek enforcement of an emission standard or limitation "or to seek any other relief". 42 U.S.C. § 7604 (e). Thus, in addition to an action under the Clean Air Act, the City may pursue other litigation remedies under its traditional police power and regulatory jurisdiction against Mirant or any of its individual employees.[4]

"The common law of Virginia recognizes public nuisance as an offense." Nat.l Org. for Woman v. Operation Rescue, 726 F. Supp. 1483, 1495 (E.D. Va. 1989) (citing Tisdale v. Virginia, 77 S.E. 482 (Va. 1913)). Public nuisance, generally, is a class of wrongs arising out of the unreasonable, unwarrantable or unlawful use by a person of his own property that produces material annoyance, inconvenience, discomfort or harm. Remedies include actions for damages, suits in equity and summary abatements. Injury can include effect on the safety, health or morals of the public, or working a substantial annoyance, inconvenience or injury to the public in general. United States v. County Bd. of Arlington Cty, 487 F. Supp. 137, 143 (E.D. Va. 1979). Noise, traffic, nauseous smells and violations of zoning restrictions also may rise to the level of a nuisance. Jordan v. Virginia, 549 S.E. 2d 621, 623 (Va. Ct. App. 2001). Whether a particular use constitutes nuisance depends on whether the use is reasonable under the circumstances including consideration of: (i) locality and character of the surroundings; (ii) present use and trends of surrounding property; (iii) nature of use; (iv) utility and social value of use; (v) the enjoyment invaded or disrupted and the nature and extent of the harm; and (vi) frequency of harm and its effect on enjoyment of life, health and property.

State statute provides that any locality may maintain an action to compel a responsible party to abate, raze or remove a public nuisance. Va. Code Ann. § 15.2-900. The statute generally defines nuisance to include "dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place . . . ." Id. The City's Code also makes it unlawful for any person "to keep or permit upon improved or unimproved real estate within the city any thing or things. . . which are dangerous, unhealthy or

[4] The Supreme Court recently addressed the issue of preemption under the Clean Air Act. See Engine Mfrs. Assoc. v. South Coast Air Quality Mgmt. Dist., 124 S. Ct. 1756 (2004). In upholding federal preemption, the Court focused only on section 209 of the Clean Air Act which restricts State and local action with respect to standards and enforcement of emissions controls for new motor vehicles. Section 209 does not apply to stationery sources such as the Mirant Plant. 42 U.S.C. § 7543 (a).

offensive so as to cause or be likely to cause injury or annoyance to any resident or citizen of the city." City Code § 13-1-27.

Due to the constraints imposed by the Bankruptcy proceeding, any action for nuisance can only request injunctive relief. To obtain such relief, the City will have to meet the substantial burden in the court's "comparative injury" analysis; that is, the balancing of the equities as between the harm caused by the nuisance and the public interest in continuing the operation of the Mirant Plant. Although the operation of the Mirant Plant pursuant to statutory authority is not a *per se* defense to a suit in nuisance, it is an "important" factor in the court's analysis. Put differently, the City needs to have solidly in place, the factual basis and analysis to substantiate its claim and to meet its evidentiary burden.

The City also may support its citizens in their pursuit of private nuisance actions against Mirant. A private nuisance action could be available to those citizens located in the residentially zoned areas adjacent to and nearby the Mirant Plant, and particularly and adversely affected by its operation, including from the delivery and offloading of coal, the noise of the rail cars and the overall appearance of the site. See e.g., Townsend v. Norfolk R. & Light Co., 52 S.E. 970 (Va. 1906) (location and operation of power plant gave rise to liability). Such an action would not implicate the Air Pollution Control Law. In contrast to its legislative preemption, the Control Law does not preclude, limit or affect in any way the substantive and procedural rights of any person, including a municipality, to damages or other relief on account of injury to persons or property. Va. Code Ann. § 10.1-1320.

5. BANKRUPTCY PROCEEDINGS. As a creditor, the City has standing to present its views in the ongoing Bankruptcy process. The City is a "party in interest" with the right to object to the confirmation of any proposed reorganization plan. 11 U.S.C. § 1128. In such an objection, the City may submit its opposition to the continued operation of the Mirant Plant. The City also could petition the Bankruptcy Court to order the Bankruptcy Trustee to "abandon" the Mirant Plant as part of the bankruptcy estate thereby subjecting it to any pre-filing claims. 11 U.S.C. 554(b).

RESOLUTION NO. _____

WHEREAS, the Alexandria City Council may initiate the amendment of the Alexandria Zoning Ordinance whenever it determines that public necessity, convenience, general welfare or good zoning practice requires an amendment; and

WHEREAS, the provisions of the Zoning Ordinance which confer noncomplying use status on certain heavy industrial uses which have not obtained a special use permit as required under current law, and thus allow the operation, and adverse zoning impacts, of such uses without special use permit regulation to continue, are inadequate to protect the health, safety and welfare of the residents of Alexandria and other persons; and

WHEREAS, adequate protection of the public health, safety and general welfare through individualized special use permit review of such heavy industrial uses represents good zoning practice that is important to the public necessity and convenience and the general welfare;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria:

Section 1. That the public necessity, convenience, general welfare or good zoning practice requires consideration of a Text Amendment to revoke the noncomplying use status of certain heavy industrial uses which have not obtained a special use permit as required by current law, and categorize such uses as nonconforming uses.

Section 2. That the City Council does hereby initiate such Text Amendment, and refer the same to the Planning Commission for public hearing and consideration in the manner provided by law.

ADOPTED:

_____
WILLIAM D. EUILLE MAYOR

ATTEST:

_____
JACQUELINE M. HENDERSON, CMC, CITY CLERK

15 Attachment 3

RESOLUTION NO. 2111

WHEREAS, the Alexandria City Council may initiate the amendment of the Alexandria Zoning Ordinance whenever it determines that public necessity, convenience, general welfare or good zoning practice requires an amendment; and

WHEREAS, the provisions of the Zoning Ordinance which confer noncomplying use status on certain heavy industrial uses which have not obtained a special use permit as required under current law, and thus allow the operation, and adverse zoning impacts, of such uses without special use permit regulation to continue, are inadequate to protect the health, safety and welfare of the residents of Alexandria and other persons; and

WHEREAS, adequate protection of the public health, safety and general welfare through individualized special use permit review of such heavy industrial uses represents good zoning practice that is important to the public necessity and convenience and the general welfare;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria:

Section 1. That the public necessity, convenience, general welfare or good zoning practice requires consideration of a Text Amendment to revoke the noncomplying use status of certain heavy industrial uses which have not obtained a special use permit as required by current law, and categorize such uses as nonconforming uses.

Section 2. That the City Council does hereby initiate such Text Amendment, and refer the same to the Planning Commission for public hearing and consideration in the manner provided by law.

ADOPTED: June 22, 2004

WILLIAM D. EUILLE **MAYOR**

ATTEST:

Jacqueline M. Henderson, CMC City Clerk

EXHIBIT NO. 3

29
6-22-04

Michele Evans
06/22/2004 11:19 AM

To: Jackie Henderson/Alex@Alex
cc:
Subject: Mirant Power Plant

fyi - re tonight's docket----- Forwarded by Michele Evans/Alex on 06/22/2004 11:16 AM -----

Nancy Coats/Alex
06/22/2004 10:41 AM

To Michele Evans/Alex@Alex, Mark Jinks/Alex@Alex, Barbara Gordon/Alex@Alex
cc
Subject Fw: Mirant Power Plant

fyi
----- Forwarded by Nancy Coats/Alex on 06/22/2004 10:39 AM -----



"Lisa Chimento" <lchimento@comcast.net>
06/22/2004 08:34 AM

To <PaulCsmedberg@aol.com>, <council@joycewoodson.net>, <delpepper@aol.com>, <alexvamayor@aol.com>, <councilmangaines@aol.com>, <Rob@krupicka.com>, <macdonaldcouncil@msn.com>
cc <phil.sunderland@alexandriava.gov>
Subject Mirant Power Plant

Honorable Mayor Euille and City Council Members
City of Alexandria

City Hall
301 King Street
Alexandria, Virginia

Dear Mayor Euille and City Council Members:

I am writing to request that the City Council adopt a position that the Mirant plant should shut down, convert to natural gas, or install Maximum Achievable Control Technology on the existing facility. The Mirant organization has continued to ignore current the Clean Air Act and related regulations, at the expense of those persons living closest to the plant – the residents of the City of Alexandria. Years of a City "strategy" to avoid encouraging capital investment in the plant in the hopes that the plant will eventually leave have proven ineffective. Rather than moving its operations to more modern and efficient facilities, the Mirant corporation has increased production at the Alexandria plant and is now benefiting from current federal actions to erode the laws and regulations passed during the Nixon administration that were going to drive outdated plants like this one to close or invest in reducing pollutants.

The information presented this past year on specific health and related impacts of this plant, coupled with years of scientific research on the detrimental impacts of coal-fired power plants (especially coal-fired power plants with short stacks) to public health, show that it is time for the City to take action on behalf of its residents. So many contributors to our region's air quality problems are difficult to address, but this one source of pollution – the local coal-fired power plant that generates 70% of the primary particulate matter produced across the five power plants in this region – can and should be tackled.

Like most residents, I expect that our local government is taking steps to improve the health of this community – the quality of the air, water, and the like – and at the very least doing everything it can to ensure existing regulations are enforced. Not only does the Mirant plant operate with antiquated technologies that are no longer permitted for plants built in more recent years due to the deleterious health effects of these old technologies, but the plant does not abide by current laws and regulations. The plant is not even meeting its obligation to the City by paying its real property taxes.

Industries like this one benefit from a diffuse set of regulations and lack of investment in enforcement. While the City of Alexandria cannot meet the obligations of the Commonwealth or federal government in this regard, the City should immediately make this plant's compliance with every single law and regulation a top priority – and put the plant on notice that the City, on behalf of its residents and visitors, will carefully monitor the plan and act upon any infraction or misstep it observes.

I ask that City Council strongly focus on ensuring a healthy environment by taking the necessary steps to adopt a long-term strategy for closure of the plant or conversion to natural gas, with a specific action plan to ensure that this outcome can be realized. The City should adopt a short-term strategy for the plant to achieve Maximum Achievable Control Technology. In the meantime, I strongly encourage the City to become the watchdog for its residents with regard to plant operations and compliance with all laws and regulations.

Thank you for your attention to this important matter.

Sincerely,

Lisa Chimento

524 Fort Williams Pkwy.

Alexandria, VA 22304

703-751-0751 (h)

703-269-5556 (w)

lchimento@comcast.net

EXHIBIT NO. 4

29
6-22-04

CITY OF ALEXANDRIA
CITY COUNCIL
Tuesday, June 22, 2004

AIR QUALITY AND MIRANT POTOMAC RIVER POWER PLANT

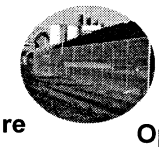
Transportation & Environmental Services

PURPOSE OF THIS PRESENTATION

- Define City Goals
- Discuss Potential Options to Achieve Goals
- Obtain Council Direction for Future City Actions

Transportation & Environmental Services

GOALS



Plant Closure

Cleanest Plant Operations Possible

Transportation & Environmental Services

Policy Reasons Underlying Goals

- HEALTH RISKS
- NUISANCE/ ASTHETICS IMPACT
- LAND USE CONSIDERATIONS



Transportation & Environmental Services

Options to Achieve Plant Closure

- ZONING
- STATE LEGISLATION
- LITIGATION
- BANKRUPTCY PARTICIPATION
- CONDEMNATION



Transportation & Environmental Services

Options to Achieve Cleanest Plant Possible

- IMPROVEMENTS TO COAL FIRED OPERATIONS
- CONVERSION TO NATURAL GAS



Transportation & Environmental Services

Improvements to Coal Fired Operations

- ZONING – NON CONFORMING USE

- NOx EMISSION REDUCTIONS
- DOWNWASH STUDY
- IMPROVEMENTS TO FLYASH HANDLING
- IMPROVEMENTS TO COAL HANDLING
- MAINTENANCE AND OPERATIONS AUDIT

- STATE LEGISLATION

Transportation & Environmental Services

Conversion to Natural Gas

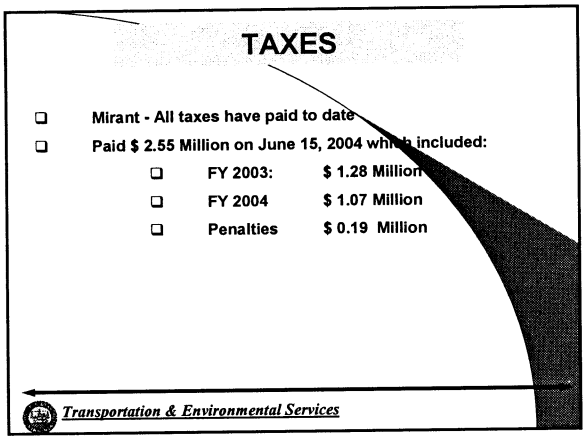
- ZONING
- STATE LEGISLATION
- LITIGATION
- BANKRUPTCY PARTICIPATION

Transportation & Environmental Services

FUTURE AIR QUALITY REGULATIONS

- PROPOSED INTERSTATE AIR QUALITY RULE FOR SO2 AND NOx CONTROLS (2010 – 2015)
- PROPOSED UTILITY MERCURY REDUCTIONS RULE (2010 and 2018)
- 8-HR OZONE STANDARD – SIP PROCESS (Attainment 2010)
- PM2.5 STANDARD – SIP PROCESS (SIP submittal due 2007)

Transportation & Environmental Services


TAXES
Mirant - All taxes have paid to date
Paid $ 2.55 Million on June 15, 2004 which included:
FY 2003: $ 1.28 Million
FY 2004 $ 1.07 Million
Penalties $ 0.19 Million
Transportation & Environmental Services

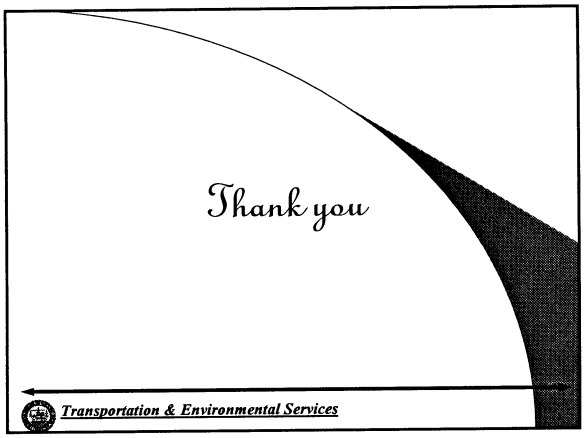
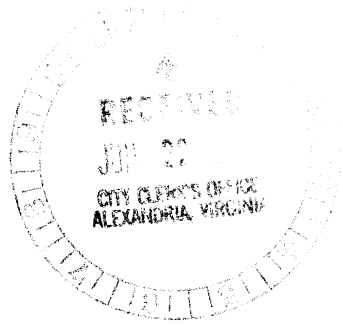

Thank you
Transportation & Environmental Services

EXHIBIT NO. 5

29
6-22-04

June 15, 2004



The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

Dear Mayor Euille and Members of City Council:

Recently a report by Sullivan Environmental Consultants concluded (March 29, 2004) that downwash from the Mirant power plant stacks is "screened to occur" at Marina Towers as often as 1200 hours per year (equivalent to 50 days).

- Downwash results when an undiluted emission stream (plume) directly impacts nearby buildings.
- Downwash causes the plume to hit the ground more quickly, which can prevent the normal dilution of pollutants, thereby increasing the exposure level and associated health effect.
- Except for Marina Towers, no other surrounding sites have been evaluated; a more complete study is needed.

The Mirant power plant also emits 29 tons per year of fly ash (primary particulate matter) directly into the neighborhood because the ash house silos fail to capture them.

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1) implement Best Available Control Technology (BACT) or, ← 1ST Choice for action
2) convert to natural gas or,
3) ~~shut down within a two-year time frame~~.

Hoping you will take ~~strong~~ action in this matter,

Very truly yours,

Thank you
Angela Apler

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria



Dear Mayor Euille and Members of the City Council: 06/1/2004

We request the City Council adopt a position stating that the plant has two years to install "Maximum Available Control Technology," shut down, or convert to natural gas.

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Thank you for your consideration in this matter.

Sincerely,

Janet G. Byers

Janet G. Byers
301 N. Pitt St. #1703
Alexandria, VA 22314-1765

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria



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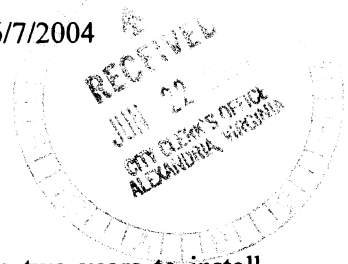
City Hall
301 King Street
City Of Alexandria

06/7/2004



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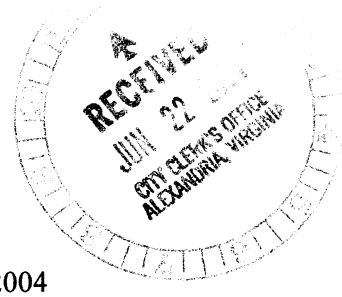
Sincerely,

Jennifer Claire Gardner

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

RECEIVED
JUN 22
CITY CLERK'S OFFICE
ALEXANDRIA, VIRGINIA



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Sincerely,

Patricia Q. Schaini

David N. Wenner

400 MADISON ST., APT. 2008
ALEX., VA. 22314

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004



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Sincerely,

Joyce Tuttle
939 N. Pitt St
Alexandria, Va 22314

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria



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Sincerely,

Elizabeth D. Woodbury
400 Madison St. #1901
Alexandria 22314



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City Hall
301 King Street
City Of Alexandria

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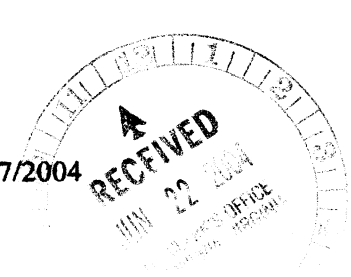
Ms. Marie Weber
400 Madison St. Apt. 806
Alexandria, VA 22314



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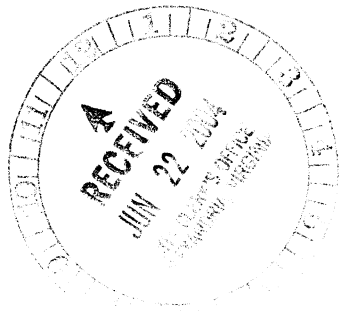
John + Beverly Gerrin

1018 N. Royal St.
Alex Va.



June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Ronald A. Matteo
501 Slaters Ln. #924
Alex, Va. 22314

29
6-22-04

June 15, 2004

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301 King Street
Alexandria VA 22314

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David M. Cohen

June 15, 2004

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Scott T. Noble

Scott T. Noble
Marina Towers
1110

This is so crucial!

June 15, 2004

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Alexandria VA 22314

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Darla Danford

DARLA DANFORD
MARINA TOWERS 903

June 15, 2004

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Jason VanHaas
Kimberly VanderHaas
Unit # 302

June 15, 2004

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Walter B. Jones
apt. 1111

June 15, 2004

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301 King Street
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Danielle Barton

Unit # 416

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

Dear Mayor Euille and Members of City Council:

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The Mirant power plant also emits 29 tons per year of fly ash (primary particulate matter) directly into the neighborhood because the ash house silos fail to capture them.

There is legal precedent for local governments on their own to take proactive steps to address the environmental hazards posed by power plants. We join the many Alexandria residents and civic organizations who are now advocating that the City be more proactive and strident in its efforts to address the serious health risks caused by these Mirant Power Plant emissions.

The issue of proximity and health impacts to contiguous populations is paramount and needs to be central in Council deliberations. In conclusion, as a citizen of Alexandria and a resident of Marina Towers, I ask that the City Council strongly focus on ensuring a healthy environment by demanding that the plant:

1) implement Best Available Control Technology (BACT) or,
2) convert to natural gas or,
3) shut down within a two-year time frame.

Hoping you will take strong action in this matter,

Very truly yours,

Louise Rice

Louise Rice
501 Slaters Lane
Unit 1104
Alexandria, VA 22314-1119

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Krysta Hardy
501 Slaters Lane, No. 501
Alex Va 22314

June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Robert E. Wiese
509 Marina Towers
Unit # 509

June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Jonathan L. Mark #218

June 15, 2004

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301 King Street
Alexandria VA 22314

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Very truly yours,

Unit 1004

Also, loud steam exhaust at 3:30AM on a Saturday that wakes you from a Sound Sleep is not acceptable!

June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

William C. Cody
Marina Towers Condominium #1122

June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Eloise Brantley
Unit # 807

29
6-22-04

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004

Dear Mayor Euille and Members of the City Council:

We request the City Council adopt a position stating that the power plant has two years to install "Maximum Achievable Control Technology," shut down, or convert to natural gas.

The Council discussions do not provide a proposal that addresses Particulate Matter ($PM_{2.5}$). The City is focusing on NOx instead, which is a regional, not a local issue. The Mirant Power Plant "is likely the single largest contributor to $PM_{2.5}$ in Alexandria" with higher concentrations occurring closer to the plant, according to Dr. Levy. Furthermore, Levy states:

- Particulate Matter is recognized to have serious health effects.
- Science cannot find a lower threshold under which there are no health effects.
- EPA staff, acknowledging the deleterious health effects, recommends that acceptable limits for $PM_{2.5}$be lowered from 15$\mu g/m^3$ to as low as 12$\mu g/m^3$, which would cause the City of Alexandria to exceed the National Ambient Air Quality Standard.

Sullivan Environmental Consultants conclude that downwash is "screened to occur" at Marina Towers as often as 1200 hours per year (equivalent to 50 days).

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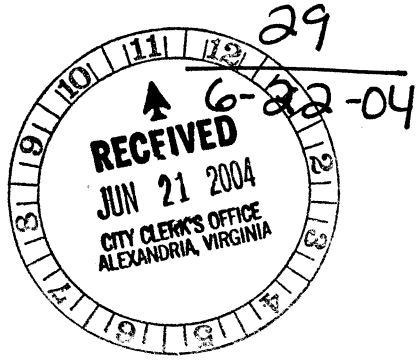
Thank you for your consideration in this matter.

Sincerely,

Edgar A Chavarrie
Jeannette Chavarrie

Lt Gen Edgar A Chavarrie, USAF (Ret.)
1000 N ROYAL ST
ALEXANDRIA, VA 22314-1530



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City Hall
301 King Street
City Of Alexandria

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The Mirant power plant emits 29 Tons per year of fly ash (primary particulate matter) directly into the neighborhood because the ash house silos fail to capture them.

We ask that the City Council focus on the above paramount sources of health and not get caught up in ground issues that have minimal health effects. The issue of proximity and health impacts to contiguous populations is paramount and needs to be central in Council deliberations.

Thank you for your consideration in this matter.

Sincerely,

Gunnar and Barbro Westerlind

G. and B. WESTERLIND
973 Powhatan St

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004



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Thank you for your consideration in this matter.

Sincerely, Mrs M. Patricia Tamarkin

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City Hall
301 King Street
City Of Alexandria

06/7/2004



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Sincerely,

Edward and Elejabeth Hef

06/7/2004



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June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Monika & Dan Gilbert

RECEIVED
JUN 21 2004
CITY CLERK'S OFFICE
ALEXANDRIA, VIRGINIA

412 North Pitt Street
Alexandria, Virginia 22314
June 16, 2004

Honorable Mayor and Members of City Council
City Hall
301 King Street
Alexandria, Virginia 22314

Dear Mayor Euille and Members of the City Council:

As a long time resident of Old Town, I was extremely disturbed to read the information regarding the power plant. In an age where "Erin Brockovich" is barely a few years old, it is important that the health of the citizens of Old Town and Alexandria be foremost on your minds.

Therefore, I request that the City Council adopt a position requiring the power plant to install "Maximum Achievable Control Technology" within the next two (2) years. The environment in which we live should be your most important concern at this time.

Sincerely,

Roger P. Kaplan

RPK/cd

Memorandum

To: The Honorable Mayor and Members of City Council

From: Residents of Marina Towers Condominium
501 Slaters Lane, Alexandria VA 22314

Date: 6/21/04

Re: Letters Concerning Mirant Power Plant

Please see attached letters for your information and consideration.

June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Jan Eriandson # 21

June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Claire S. Nobles
#115, 501 Slaters Lane

Mrs. Perviz Mancherje
501 Slaters Ln. Apt. 119
Alexandria, VA 22314-1114

June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

P.R. Mancherje

Apt: 119.

June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Ila Grace Kase
Apt 209 Marina Towers

June 15, 2004

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The issue of proximity and health impacts to contiguous populations is paramount and needs to be central in Council deliberations. In conclusion, as a citizen of Alexandria and a resident of Marina Towers, I ask that the City Council strongly focus on ensuring a healthy environment by demanding that the plant:

1) implement Best Available Control Technology (BACT) or,
2) convert to natural gas or,
3) shut down within a two-year time frame.

Hoping you will take strong action in this matter,

Very truly yours,

J Michael Craig #102

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

Dear Mayor Euille and Members of City Council:

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Hoping you will take strong action in this matter,

Very truly yours,

Elizabeth R. Bachmann
Unit 212

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Michelle D. McMahon
Unit 205

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Walter S. Lukau #213

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

Dear Mayor Euille and Members of City Council:

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Hoping you will take strong action in this matter,

Very truly yours,

Unit #319

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Unit # 306

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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2) convert to natural gas or,
3) shut down within a two-year time frame.

Hoping you will take strong action in this matter,

Very truly yours,

Carol J. Drechsel #303

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Mary F. Davis
George W. Davis #415

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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3) shut down within a two-year time frame.

Hoping you will take strong action in this matter,

Very truly yours, Marion + Golden Steele.

#403

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Meltem Akbasli
Marina Towers, Apt. 506

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Eloise Nugent Davis

owners of Unit 522

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Bernice L. Ruder

621

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Irwin H. Raney

#607

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Germaine Flanagan # 619

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Linda Danell #608
Eugene Danell #608

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Suzanne Jurcuilla
#624

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Sara S. Vermulye
Marina Towers #708
501 Slaters Lane
Alexandria, Va. 22314

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Alicia D. Eichman
Unit #806

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Marian I. Cox

Marian I. Cox, Apt. 819

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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2) convert to natural gas or,
3) shut down within a two-year time frame.

Hoping you will take strong action in this matter,

Very truly yours,

B Gaston

BARBARA GASTON
UNIT 802

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

Dear Mayor Euille and Members of City Council:

Recently a report by Sullivan Environmental Consultants concluded (March 29, 2004) that downwash from the Mirant power plant stacks is "screened to occur" at Marina Towers as often as 1200 hours per year (equivalent to 50 days).

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Very truly yours,

Kathryn Sor. Hemphill

501 Slaters Ln #814
Alexandria, VA 22314

Dollak
501 Slaters Ln Apt 804
Alexandria, VA 22314-1117

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Dietrich A. Dollak

Dorothy Dollak

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Rosalie Savini
Unit # 808

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

JoAnne Stevens
501 Slaters Ln #901
Alexandria, VA. 22314
703-567-8999

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

K. Gannath
#902 Marina Towers

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Linda Ramsey
Unit #910

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Hoping you will take strong action in this matter,

Very truly yours,

Victor D. Conner
501 SLATERS LANE 1006
ALEXANDRIA VA 22314

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Anne B. Sereno
Unit 1224

June 15, 2004

923

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Margaret A. Mitchell

Unit # 923

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Nada Seide

NADA SEIDE, OWNER APT 1106
MARINA TOWERS

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Julie Britt
Unit # 1102

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Daniel Hamer #1101

June 15, 2004

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Very truly yours,

MR/MRS ROBERT K. SIMPSON

Unit # 1209

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Wm. E. Work

1223

June 15, 2004

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Room 2300, City Hall
301 King Street
Alexandria VA 22314

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Very truly yours,

Mary Paric
Unit #1223

June 15, 2004

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Elly U Seng
#1214

June 15, 2004

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Robert G. Hull #1010

June 15, 2004

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Room 2300, City Hall
301 King Street
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Very truly yours,

Judith A. Cooper
501 Slaters Lane, #1010
Alexandria, VA 22314

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
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Dear Mayor Euille and Members of City Council:

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- Downwash results when an undiluted emission stream (plume) directly impacts nearby buildings.
- Downwash causes the plume to hit the ground more quickly, which can prevent the normal dilution of pollutants, thereby increasing the exposure level and associated health effect.
- Except for Marina Towers, no other surrounding sites have been evaluated; a more complete study is needed.

The Mirant power plant also emits 29 tons per year of fly ash (primary particulate matter) directly into the neighborhood because the ash house silos fail to capture them.

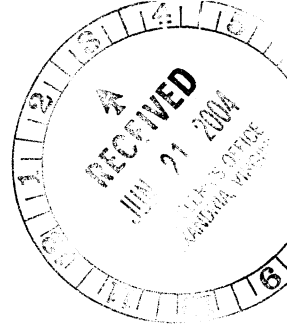
There is legal precedent for local governments on their own to take proactive steps to address the environmental hazards posed by power plants. We join the many Alexandria residents and civic organizations who are now advocating that the City be more proactive and strident in its efforts to address the serious health risks caused by these Mirant Power Plant emissions.

The issue of proximity and health impacts to contiguous populations is paramount and needs to be central in Council deliberations. In conclusion, as a citizen of Alexandria and a resident of Marina Towers, I ask that the City Council strongly focus on ensuring a healthy environment by demanding that the plant:

1) implement Best Available Control Technology (BACT) or,
2) convert to natural gas or,
3) shut down within a two-year time frame.

Hoping you will take strong action in this matter,

Very truly yours,



Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004

Dear Mayor Euille and Members of the City Council:

We request the City Council adopt a position stating that the power plant has two years to install "Maximum Achievable Control Technology," shut down, or convert to natural gas.

The Council discussions do not provide a proposal that addresses Particulate Matter ($PM_{2.5}$). The City is focusing on NOx instead, which is a regional, not a local issue. The Mirant Power Plant "is likely the single largest contributor to $PM_{2.5}$ in Alexandria" with higher concentrations occurring closer to the plant, according to Dr. Levy. Furthermore, Levy states:

- Particulate Matter is recognized to have serious health effects.
- Science cannot find a lower threshold under which there are no health effects.
- EPA staff, acknowledging the deleterious health effects, recommends that acceptable limits for $PM_{2.5}$be lowered from 15$\mu g/m^3$ to as low as 12$\mu g/m^3$, which would cause the City of Alexandria to exceed the National Ambient Air Quality Standard.

Sullivan Environmental Consultants conclude that downwash is "screened to occur" at Marina Towers as often as 1200 hours per year (equivalent to 50 days).

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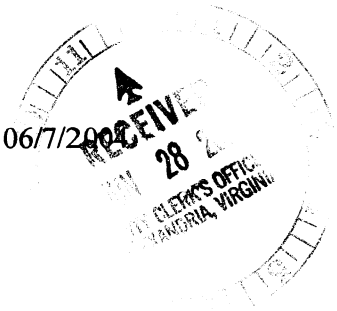
The issue of proximity and health impacts to contiguous populations is paramount, and needs to be central in Council deliberations. In conclusion, we ask that the City Council, strongly focus on ensuring a healthy environment by demanding that the plant either install Maximum Achievable Control Technology, convert to natural gas or shut down in a two year time frame.

Thank you for your consideration in this matter.

Sincerely,

William W. Walker, Jr.
1156 North Pitt Street, Alexandria
phone: (703) 535-1318



06/7/2004

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City Hall
301 King Street
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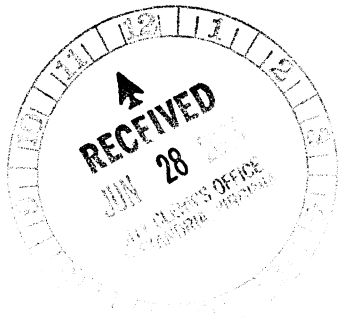
Sincerely,

Joseph R. Cipolari

Joseph R. Cipolari
400 Madison Street, Apt. 501
Alexandria, Va. 22314



Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

Dear Mayor Euille and Members of the City Council: 06/1/2004

We request the City Council adopt a position stating that the plant has two years to install "Maximum Available Control Technology," shut down, or convert to natural gas.

The Council discussions provide no proposal that addresses Particulate Matter ($PM_{2.5}$). The City is focusing on Nox, instead, which is a regional, not a local issue. The Mirant Power Plant "is likely the single largest contributor to $PM_{2.5}$ in Alexandria" with higher concentrations occurring closer to the plant, according to Dr. Levy. Furthermore:

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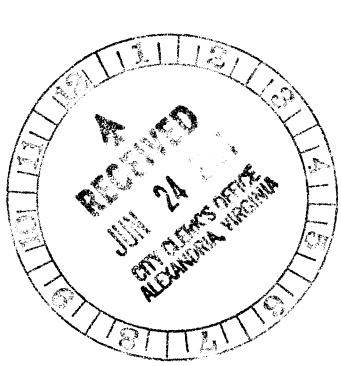
We ask that the City Council focus on the above paramount sources of health and not get caught up in ground issues that have minimal health effects. The issue of proximity and health impacts to contiguous populations is paramount and needs to be central in Council deliberations.

Thank you for your consideration in this matter.

Sincerely,

Laura Bundy



Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

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Thank you for your consideration in this matter.

Sincerely,

Markus + Katie Cleverley
818 Bashford Lane
Alexandria VA
22314

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004

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Thank you for your consideration in this matter.

Sincerely,
Dr Pierre Gagnon



Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

RECEIVED
JUN 24 2004
CITY CLERK'S OFFICE
ALEXANDRIA, VIRGINIA

Dear Mayor Euille and Members of the City Council: 06/1/2004

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We ask that the City Council focus on the above paramount sources of health and not get caught up in ground issues that have minimal health effects. The issue of proximity and health impacts to contiguous populations is paramount and needs to be central in Council deliberations.

Thank you for your consideration in this matter.

Sincerely,

Linnea Rae Olsen
1241 Portner Rd
Alexandria, VA 22314

Cynthia Ehrlich
1105 North Pitt Street, 3B
Alexandria, VA 22314-1459



21 June 2004

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City of Alexandria, Virginia

Dear Mayor Euille and Members of City Council:

I request the City Council adopt a position that the Mirant power plant install "Maximum Available Control Technology" within two years, shut down, or convert to natural gas.

The Mirant power plant emits 29 tons per year of fly ash (primary particulate matter) directly into my neighborhood. The ash house silos fail to capture this emission of particulate matter. I am very concerned about particulate matter, which is recognized to have serious health effects.

I ask that the Council focus on the health concerns of its constituents in its deliberations and draft a proposal that addresses the particulate matter emissions of the Mirant power plant.

If you have any questions, please call me at (703)314-9179 or (703)302-6806.

I am obliged for your assistance in this matter.

Sincerely,

Cynthia Ehrlich

Cynthia Ehrlich

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria



Dear Mayor Euille and Members of the City Council: 06/1/2004

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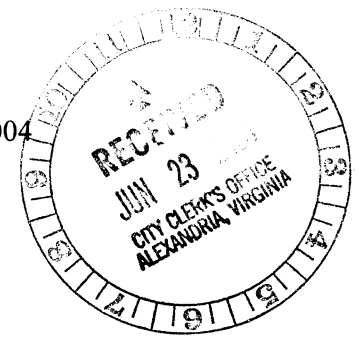
Sincerely,

1106 West Braddock Drive
Alexandria, VA 22314
703-739-6059



Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004

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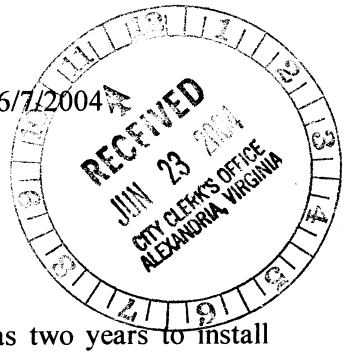
Sincerely,

Jennifer & John Forsythe



Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004A

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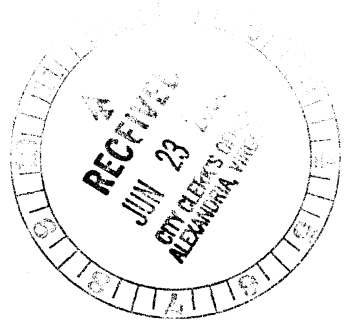
Thank you for your consideration in this matter.

Sincerely,

Laura DeWilms



Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

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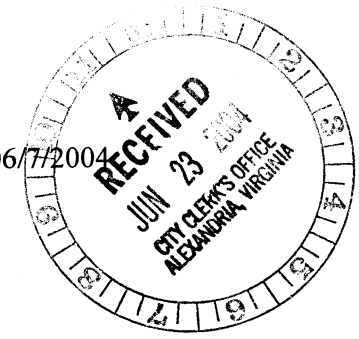
Sincerely,

Maria Henning
703-623-0809



06/7/2004

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400 Madison St 2107
Alex, VA 22314

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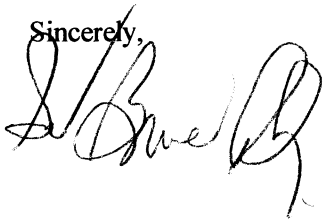

To All Alexandrians,

The City Council will consider actions it will take toward the MIRANT POWER PLANT at its meeting on JUNE 22nd, 7 PM, City Hall.

SO THIS IS THE TIME FOR US TO ACT. Please call (703) 838-4500, write or e-mail the Council with your comments (addresses below). AND PLEASE ATTEND THE MEETING!!!

E-MAIL ADDRESSES FOR CITY COUNCIL:

Paul Smedberg paulcsmedberg@aol.com

Joyce Woodson council@joycewoodson.net

Dell Pepper delpepper@aol.com

Bill Euille alexvamayor@aol.com

Ludwig Gaines councilmangaines@aol.com

Rob Krupicka Rob@krupicka.com

Andrew Macdonald Macdonaldcouncil@msn.com

LETTER: (If you don't have time to compose your own, you can copy the attached letter, sign your name and e-mail it to above Council members. OR you can simply sign the attached letter and drop it by or mail it to: Mayor Euille and City Council,City Hall, 301 King St., Alex., VA 22314.)

Thank you.

Elizabeth Chimento
Poul Hertel
Lillian White, Co-Chair, League of Women Voters
Roger Waud, President, NOTICe



06/7/2004

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

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K Moy

29
6-22-04

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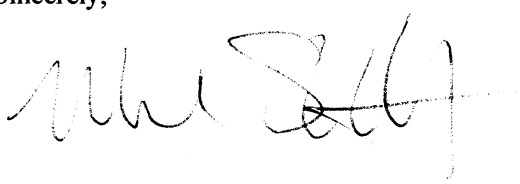

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Walter Pl

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[illegible]

816 Water Pl

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818 Wa... Pl...

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814 Wilkes St

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Thank you for your consideration in this matter.

Sincerely,

Edmund + Kathryn Diem
Runnymede Pl

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004

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F. Russell Hines

Madison Bl

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City Hall
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Sincerely,

Richard S. Fitzgerald

523 Bashford La #4

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City Hall
301 King Street
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06/7/2004

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Thank you for your consideration in this matter.

Sincerely,

Lydia Rodriguez
810 Wa[illegible] Pl.
Alexandria, VA 22314

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City Hall
301 King Street
City Of Alexandria

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Thank you for your consideration in this matter.

Sincerely,

Allen T. Smith
Jan C. Smith

Mr. and Mrs. Allen T. Smith
823 Rivergate Place
Alexandria, Virginia 22314

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City Hall
301 King Street
City Of Alexandria

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Sincerely,

Pat Wallace

Honorable Mayor and Members of the City Council 06/7/2004
City Hall
301 King Street
City Of Alexandria

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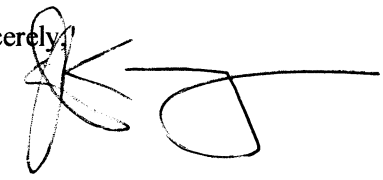

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Sincerely,

Leanne Cheders
809 Water Place

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004

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Sincerely,

Ellen Madison

Honorable Mayor and Members of the City Council 06/7/2004
City Hall
301 King Street
City Of Alexandria

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Thank you for your consideration in this matter.

Hopefully corporate citizen are held to the same standards as private citizen is non payment of property tax M.U.

Sincerely,

It is distressing to see this normally progressive Council not taking a firmer stand against Mirant in requiring them ~~not~~ reduce the harmful particles omitting from their coal power plant. I would like to open my windows and breath air that I am not afraid of. Mary Underhill 813 Water Pl. 24
Henry Underhill

Honorable Mayor and Members of the City Council 06/7/2004
City Hall
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City Of Alexandria

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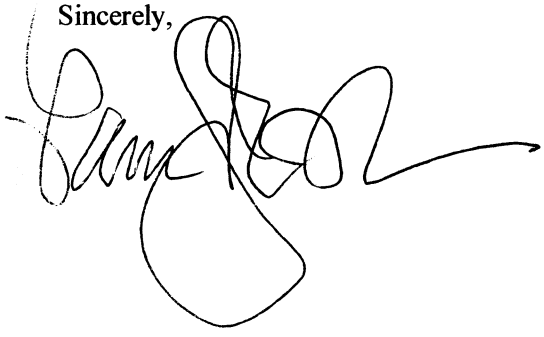

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Thank you for your consideration in this matter.

Sincerely,

Marjorie Theibaus
823 Water Place
Alex. VA. 22314

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City Hall
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06/7/2004

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Helen & Reuben Griffin
812 Water Place
Alexandria, Va. 22314

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Sincerely,

Sally Fortney

28

EXHIBIT NO. 6 — 29 — 6-22-04

COMMITTEE ON
APPROPRIATIONS
DEFENSE
LEGISLATIVE BRANCH
RANKING MINORITY MEMBER
INTERIOR

COMMITTEE ON
BUDGET

James P. Moran
Congress of the United States
8th District of Virginia

WASHINGTON OFFICE:
2239 RAYBURN HOUSE
OFFICE BUILDING
WASHINGTON, DC 20515-4608
(202) 225-4376
FAX: (202) 225-0017

DISTRICT OFFICES:
5115B FRANCONIA ROAD
ALEXANDRIA, VA 22310
(703) 971-4700
FAX: (703) 922-9436

SUITE 312
1760 RESTON PARKWAY
RESTON, VA 20190
(703) 481-4339
FAX: (703) 481-4338
www.house.gov/moran

Statement by Rep. Jim Moran
on the
Item #29 the Mirant Potomac River Generating Station.
on the Alexandria City Council Docket
for
Tuesday, June 22nd, 2004

I regret that I cannot be there in person to comment on a vital issue before City Council regarding the Mirant Potomac River Generating Station.

On this matter, I want to encourage City Council and the Mayor to pursue as aggressive a position as possible, including the possibility of a lawsuit, to ensure your citizens' exposure to harmful emissions from the Potomac River Plant are adequately addressed. Without the specter of a lawsuit, the City lacks a seat at the table to negotiate a more favorable outcome on behalf of its residents.

As you know, Mirant is now in negotiations with the Virginia Department of Environmental Quality and the Virginia Attorney General to discuss a settlement of Mirant's violation of its state permit limiting NOx emissions during the summer ozone season. Last summer the Mirant Potomac River Plant emitted more than twice the amount allowed under its NOx permit of 1,019 tons. That is no rounding error, it is a blatant violation of its operating permit.

In addition, I understand EPA and the Justice Department are in discussions with Mirant on a global settlement for installing boiler modifications without installing the necessary pollution control equipment, triggering a probable violation of New Source Review (NSR) requirements. Although the EPA has not issued a formal Notice of Violation (NOV), this citation and the NOx exceedance elevated the Mirant plant to High Priority Violator status within EPA and therefore puts the plant on high priority monitoring. Not only is the Alexandria Mirant plant an EPA High Priority Violator but all Mirant plants have been cited for violating New Source Review, resulting in EPA designating the entire corporation as Global High Priority Violators.

Mirant and its parent Southern Corporation has not proven to be a responsible corporation. In my view Mirant made a bad deal when it bought these out-dated power plants from Pepco and guaranteed a discounted rate for the power it sold back to Pepco. It has lost money on this deal and has already filed for bankruptcy in an attempt to get out from under the terms of its sales agreement. It's my guess that Mirant is generating as much power as it can to maximize its revenue.

As far as I know, Mirant has no plans to close down its Potomac River Plant and leave the City because some object to its presence or emissions. Whatever emission reductions we may observe through settlement agreements with Virginia and EPA are clearly the result of legal action. The State's settlement, however, is limited to Mirant's NOx violations. Any settlement EPA and Justice may secure will be global in scope against all of Mirant's plants. It is not likely to be specific to the Potomac River Plant.

A little more than five years ago, the City of Alexandria filed suit against the Federal Highway Administration challenging process used to develop the Environmental Impact Statement in an attempt to block construction of the 12-lane replacement bridge. I had my reservations about the merits of this lawsuit, but not the settlement. The City eventually settled the suit and established a legally enforceable agreement to ensure that some of the City's concerns with the 12-lane bridge would be honored. Without this legally enforceable agreement, I am certain that as the state pared back its transportation program during the Gilmore administration, the state commitments to fund the mitigation measures would have been cut from the project. The lawsuit ensured that the urban deck, the pedestrian access, improvements at Jones Point and other mitigation measures were honored.

In summary, I believe that the best way to ensure that Alexandria residents' concerns about the Potomac Power Plant are addressed is for the City engage Mirant directly through an aggressive strategy that includes a potential lawsuit.

Thank you.

EXHIBIT NO. 7

29
6-22-04

ENVIRONMENTAL CONCERNS REGARDING THE MIRANT POWER PLANT

Alexandria Environmental Policy Commission Resolution
June 21, 2004
Approved 9-0

WHEREAS, the Mirant Power Plant was constructed in 1949 and has not undergone recent significant upgrades to improve air quality; and,

WHEREAS, the Mirant Power Plant is land use incompatible with surrounding residential neighborhoods and sensitive environmental receptors; and,

WHEREAS, a study commissioned by the City of Alexandria and prepared by Dr. Jonathan Levy of the Harvard School of Public Health concludes that the Mirant Power Plant is likely the single source that contributes most to particulate matter ($PM_{2.5}$) levels in Alexandria; and,

WHEREAS, according to Dr. Levy's study, the Mirant Power Plant is on of the highest contributors of $PM_{2.5}$ per megawatt of power produced of any of the five power plants in the region evaluated in the study; and,

WHEREAS, Dr. Levy's study estimates that the Mirant Power Plant contributes to approximately 0.9 deaths, 0.7 cardiovascular hospital admissions, and 0.4 pediatric asthma emergency room visits in Alexandria per year; and,

WHEREAS, Dr. Levy's study concludes that reducing emissions from the Mirant Plant would provide the most health benefits to Alexandrians; and,

WHEREAS, the electricity needs of the region are currently dependent on the Mirant Power Plant making it a complicated regional decision to take the plant off line; and,

WHEREAS, the Environmental Policy Commission has heard from concerned citizens and the City of Alexandria staff on the impacts of the Mirant Power Plant; and

WHEREAS, in the City's limited authority to regulate the plant, it has made recommendations to the State to be incorporated into the permit issued to the Mirant Power Plant;

THEREFORE BE IT RESOLVED, that the Environmental Policy Commission recommends that the City's goal should be to close Mirant Power Plant; and,

BE IT FURTHER RESOLVED, that the Environmental Policy Commission specifically recommends that the City:

EXHIBIT NO. 8

29
6-22-04

League of Women Voters of Alexandria

119 West Mason Avenue, Alexandria, VA 22301

June 19, 2004

Dear Mayor Euille and Members of Council,

When the Alexandria League of Women Voters board met today, one of our agenda items was the on-going discussion of remedies for the hazardous pollution, both green house gases and particulate matter, being released into the community from the Mirant power plant.

All the officers and board members present agreed that the City Council should act immediately to advance clean up at the plant by taking the following actions:

- Go on record that our local government finds the level of pollutants emanating from the plant unhealthy and unacceptable and convey this position to the relevant state and Federal regulators. Making this clear would be part of the ground work for a nuisance suit against the power plant.

- Have city staff members or expert consultants audit the plant's equipment to determine if it meets even minimum standards for pollution control.

- Sponsor an extensive study of the location of downwash pollution in the city. Having full and accurate information on this is essential to any successful suit.

We do not rule out any other more long-term solutions to the problems engendered by having this outmoded facility located here in a high population area that is also a non attainment area under Federal clean air standards. The actions we have listed are only those we believe are urgent for the welfare of Alexandria residents in the near future.

Yours Truly,

Lillian J White

Lillian J. White
Co-President, League of Women Voters of Alexandria

EXHIBIT NO. 9

29
6-22-04

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

Dear Mayor Euille and Members of City Council:

Recently a report by Sullivan Environmental Consultants concluded (March 29, 2004) that downwash from the Mirant power plant stacks is "screened to occur" at Marina Towers as often as 1200 hours per year (equivalent to 50 days).

- Downwash results when an undiluted emission stream (plume) directly impacts nearby buildings.
- Downwash causes the plume to hit the ground more quickly, which can prevent the normal dilution of pollutants, thereby increasing the exposure level and associated health effect.
- Except for Marina Towers, no other surrounding sites have been evaluated; a more complete study is needed.

The Mirant power plant also emits 29 tons per year of fly ash (primary particulate matter) directly into the neighborhood because the ash house silos fail to capture them.

There is legal precedent for local governments on their own to take proactive steps to address the environmental hazards posed by power plants. We join the many Alexandria residents and civic organizations who are now advocating that the City be more proactive and strident in its efforts to address the serious health risks caused by these Mirant Power Plant emissions.

The issue of proximity and health impacts to contiguous populations is paramount and needs to be central in Council deliberations. In conclusion, as a citizen of Alexandria and a resident of Marina Towers, I ask that the City Council strongly focus on ensuring a healthy environment by demanding that the plant:

1) implement Best Available Control Technology (BACT) or,
2) convert to natural gas or,
3) shut down within a two-year time frame.

Hoping you will take strong action in this matter,

Very truly yours,

John C Carl

501 Slaters Lane #623
Alexandria, Va
22314

29
6-22-04

Honorable Mayor and Members of the City Council
City Hall
301 King Street
City Of Alexandria

06/7/2004

Dear Mayor Euille and Members of the City Council:

We request the City Council adopt a position stating that the power plant has two years to install "Maximum Achievable Control Technology," shut down, or convert to natural gas.

The Council discussions do not provide a proposal that addresses Particulate Matter ($PM_{2.5}$). The City is focusing on NOx instead, which is a regional, not a local issue. The Mirant Power Plant "is likely the single largest contributor to $PM_{2.5}$ in Alexandria" with higher concentrations occurring closer to the plant, according to Dr. Levy. Furthermore, Levy states:

- Particulate Matter is recognized to have serious health effects.
- Science cannot find a lower threshold under which there are no health effects.
- EPA staff, acknowledging the deleterious health effects, recommends that acceptable limits for $PM_{2.5}$be lowered from 15$\mu g/m^3$ to as low as 12$\mu g/m^3$, which would cause the City of Alexandria to exceed the National Ambient Air Quality Standard.

Sullivan Environmental Consultants conclude that downwash is "screened to occur" at Marina Towers as often as 1200 hours per year (equivalent to 50 days).

- Downwash results when an undiluted emission stream (plume) is directly impacted by nearby high-rise buildings.
- Downwash causes the plume to hit the ground more quickly, which can prevent the normal dilution of pollutants, thereby increasing the exposure level and associated health effects.
- Since no other surroundings sites have been evaluated, a more complete study is needed.

The Mirant power plant also emits 29 Tons per year of fly ash (primary particulate matter) directly into the neighborhood because the ash house silos fail to capture them.

The issue of proximity and health impacts to contiguous populations is paramount, and needs to be central in Council deliberations. In conclusion, we ask that the City Council, strongly focus on ensuring a healthy environment by demanding that the plant either install Maximum Achievable Control Technology, convert to natural gas or shut down in a two year time frame.

Thank you for your consideration in this matter.

Sincerely,

29
6-22-04

June 15, 2004

The Honorable Mayor and Members of City Council
Room 2300, City Hall
301 King Street
Alexandria VA 22314

Dear Mayor Euille and Members of City Council:

Recently a report by Sullivan Environmental Consultants concluded (March 29, 2004) that downwash from the Mirant power plant stacks is "screened to occur" at Marina Towers as often as 1200 hours per year (equivalent to 50 days).

- Downwash results when an undiluted emission stream (plume) directly impacts nearby buildings.
- Downwash causes the plume to hit the ground more quickly, which can prevent the normal dilution of pollutants, thereby increasing the exposure level and associated health effect.
- Except for Marina Towers, no other surrounding sites have been evaluated; a more complete study is needed.

The Mirant power plant also emits 29 tons per year of fly ash (primary particulate matter) directly into the neighborhood because the ash house silos fail to capture them.

There is legal precedent for local governments on their own to take proactive steps to address the environmental hazards posed by power plants. We join the many Alexandria residents and civic organizations who are now advocating that the City be more proactive and strident in its efforts to address the serious health risks caused by these Mirant Power Plant emissions.

The issue of proximity and health impacts to contiguous populations is paramount and needs to be central in Council deliberations. In conclusion, as a citizen of Alexandria and a resident of Marina Towers, I ask that the City Council strongly focus on ensuring a healthy environment by demanding that the plant:

1) implement Best Available Control Technology (BACT) or,
2) convert to natural gas or,
3) shut down within a two-year time frame.

Hoping you will take strong action in this matter,

Very truly yours,

Rena + John Howley

29
6-22-04

PHONE-O-GRAM for: CC

EXHIBIT NO. 10

From Jean Pippo Company

City Area Code 703 Phone 751-1239

☑ Telephoned ☐ Please return the call ☐ Returned your call ☐ Will call again ☐ Came in ☐ See me

Message Pls enforce the maximum control policy file a lawsuit if necessary to get them to comply with laws. (Re: Mirant Plant)

Date 6/22 Time 3:20 Taken by KY

#29
6-22-04

PHONE-O-GRAM® for: Mayor and Council

From Barbara & Harold Bamford Company

City 400 Madison Street Area Code Phone

☒ Telephoned ☐ Please return the call ☐ Returned your call ☐ Will call again ☐ Came in ☐ See me

Message Please act on Mirant tonight — give them two years to install the maximum.

Date 6/21 Time 5:45 Taken by Jackie

29
6-22-04

PHONE-O-GRAM® for: CC

From Beverly Bolton Company

City Area Code 703 Phone 212-8245

☑ Telephoned ☐ Please return the call ☐ Returned your call ☐ Will call again ☐ Came in ☐ See me

Message Use very agressive measures re: the Mirant Plant.

. . . . City Council request that, in drafting the nonconforming use text amendment, staff include a provision which would allow the installation of new or enhanced pollution control technologies and equipment, with the approval of the City Council.

RESOLUTION NO. 2111

WHEREAS, the Alexandria City Council may initiate the amendment of the Alexandria Zoning Ordinance whenever it determines that public necessity, convenience, general welfare or good zoning practice requires an amendment; and

WHEREAS, the provisions of the Zoning Ordinance which confer noncomplying use status on certain heavy industrial uses which have not obtained a special use permit as required under current law, and thus allow the operation, and adverse zoning impacts, of such uses without special use permit regulation to continue, are inadequate to protect the health, safety and welfare of the residents of Alexandria and other persons; and

WHEREAS, adequate protection of the public health, safety and general welfare through individualized special use permit review of such heavy industrial uses represents good zoning practice that is important to the public necessity and convenience and the general welfare;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria:

Section 1. That the public necessity, convenience, general welfare or good zoning practice requires consideration of a Text Amendment to revoke the noncomplying use status of certain heavy industrial uses which have not obtained a special use permit as required by current law, and categorize such uses as nonconforming uses.

Section 2. That the City Council does hereby initiate such Text Amendment, and refer the same to the Planning Commission for public hearing and consideration in the manner provided by law.

ADOPTED: June 22, 2004

WILLIAM D. EUILLE **MAYOR**

ATTEST:

Jacqueline M. Henderson, CMC City Clerk