

**Comments by Alexandria City Attorney Ignacio Pessoa
Northeast Citizens Association
March 15, 2006**

I am here tonight to reiterate that the City will continue its efforts to protect our citizens and environment from the threats posed by Mirant's antiquated coal-burning plant, located in the heart of residential Alexandria. Mirant's own documentation has described this plant as "obsolete" (when they were trying to reduce their tax assessment from \$200 to \$20 million, and shift their rightful burden onto our residents). Because of the age of the plant, its compliance record and the impact of its emissions, the Mayor, City Council and members of the community have called for the plant's immediate and permanent closure.

In response, Mirant has launched an unprecedented campaign to block the city's legitimate efforts to protect its citizens.

Given Mirant's unlimited resources, we are not competing on a level playing field, and we are not dealing with a good corporate citizen.

Mirant often spends wildly in an effort to clean up the messes it has made. After a disastrous entanglement with Enron, the company incurred more than \$85 million in lawyers' fees and expenses in a desperate effort to satisfy its creditors and escape bankruptcy – and was unsuccessful.

According to California's Attorney General, Mirant "profited by plundering the people of California" during the state's energy crisis. Charging Mirant with "breaking the law" and engaging in "manipulative and fraudulent schemes," the state sued the company – a suit Mirant eventually settled by paying \$750 million.

In 2005, a year in which it posted a \$1.3 billion loss, Mirant spent \$171 million on lawyers and accountants in its bankruptcy proceedings; reports of the total tab in the multi-year bankruptcy exceeded \$300 million.

If you Google Mirant, you see almost daily reports about the hurtful environmental and health impacts of Mirant plants across the river in Maryland, on Cape Cod in Sandwich, Massachusetts, in New York state, and even in the Philippines.

Here in Alexandria, Mirant deceived the City, the federal court, as well as state and federal agencies, about its ownership interests in two other coal-burning plants, in an attempt to shift compliance costs to other unsuspecting parties, and thus prolonging the consent decree litigation.

As recently as December 2005, the US EPA concluded that the continued operation of the plant caused serious violations of the human health-based NAAQS, and violated state and federal law.

And earlier this month, Mirant sought to conceal the results of the TRONA injection tests that it is trying to use to circumvent the NAAQS. It produced this document [attached], claiming that the tests results were a "trade secret," including the identity of the company that ran the test! The result – the City will have to go to court again, to

force the release of this critical, public health and safety information.

Mirant's Potomac River plant, when in full operation, unloads and burns enough coal every year to fill 10,000 railroad cars. The hazardous air pollutants released by Mirant's coal-burning operations include arsenic, beryllium, lead, chromium, cadmium, nickel and mercury, in addition to acid gasses such as hydrogen chloride and hydrogen fluoride. With no room to expand at its existing site, Mirant cannot even add standard modern pollution control devices to its operations.

Tiny particulate matter (PM 2.5) from the plant presents a serious, invisible threat, one that penetrates indoors. Within the scientific community, there is consensus regarding the insidious threat posed by PM 2.5. There is mounting, indisputable evidence that PM 2.5 causes pulmonary and cardio-vascular problems, contributes to low birth weights and is associated with many other serious health problems. The Environmental Protection Agency and Virginia's Department of Environmental Quality agree with these conclusions, and on March 8 JAMA published the results of an epidemiological study which showed that even short term exposure to PM 2.5 increases the incidence of hospital admissions for cardiovascular and respiratory diseases.

In spite of this irrefutable evidence, Mirant's hardened indifference to the people of Alexandria remains evident. Mirant's said in one document that people with severe asthma don't exercise enough to feel the harmful effects of sulfur dioxide. Such a cold statement reflects the views of the leadership at Mirant and is insulting to individuals and families struggling with asthma and other respiratory illnesses.

The health risks are real – in Alexandria and in the region. Mirant is paying the lawyers and lobbyists, but we are paying the price.

For Mirant this is just business as usual. But it has forced the City to spend scarce public resources to try and protect the health and safety of Alexandria's families. To date, Mirant's violations have forced the City to incur costs over \$125,000 on experts to do air quality modeling, and assess the health risks, and the risks to air travel, posed by the plants operations and the proposed expansion of the stacks. And that's on top of more than \$800,000 in legal costs, to keep up with no less than nine court or agency proceedings engendered by the plant's problems. Without those efforts, I and others are certain that the full extent of the plant's health and environmental harm would not be known, even to the extent it is today, and the state and federal regulatory agencies would not have taken the interest in the case they have.

As some of you know, the City has filed a nuisance suit, among other actions, seeking to shut down the operations of the plant. Today, I have directed our outside counsel to add a complaint for damages, to attempt to recover from Mirant compensation for the environmental and health impacts to the City and its residents caused by the plant's past operations and the company's continued intransigence.

I can tell you that we are moving forward to put together the best case we can for the nuisance suit. We are aggressively monitoring the federal consent decree case to ensure that any resolution addresses the Alexandria impacts of this plant. We are appealing the lower court decision in the zoning case, as well as the FAA's shocking decision – at least to those of

us who remember the Air Florida crash – to permit a further constraint on the already constricted flight paths in and out of National Airport. We are working to mitigate the adverse effect of the DOE order to restart the plant. And our public health director, Dr. Charles Konigsberg, has requested, and the federal Agency for Toxic Substances and Disease Registry, has agreed to do a health study of the impacts of this plant on nearby residents.

We're working closely with Congressman Moran, and our delegation in Richmond, and their support has been unflagging. In short, the City is pursuing every avenue to shut this plan down.

I and my colleagues from T&ES will try and answer any questions.

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“Individuals with more severe asthmatic conditions have poor exercise tolerance, and, therefore, are less likely to engage in sufficiently intense outdoor activity to achieve the requisite breathing rates for notable SO₂-induced respiratory effects to occur.”

Mirant Operating Plan, filed with US DOE