

**MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING
THURSDAY, SEPTEMBER 13, 2007**

**NANNIE J. LEE RECREATION CENTER
1108 JEFFERSON STREET
ALEXANDRIA, VA 22314**

Board Members Present:

Richard D. Langford, Chair
Hullihen W. Moore

Vivian E. Thomson, Vice-Chair
Bruce C. Buckheit

Board Members Absent:

John N. Hanson

Department of Environmental Quality:

David K. Paylor, Director

Cindy M. Berndt

Attorney General's Office:

Carl Josephson
Senior Assistant Attorney General

The meeting was convened at 4:10 p.m., recessed at 5:30 p.m., reconvened at 5:40 p.m., recessed at 7:15 p.m., reconvened at 7:30 p.m., went into closed session at 7:55 p.m., returned to open session and certified closed session at 8:32 p.m. and adjourned at 9:02 p.m.

Minute No. 1 – Mirant Potomac River Generating Station – Stack Merge Permit. The purpose of the meeting was to consider whether a construction permit was required in order for the Mirant Potomac River Generating Station proposed stack merge project. The meeting began with comments from Delegate Englin, Senator Ticer, Tim Aiken on behalf of Congressman Moran, City of Alexandria Vice-Mayor Pepper and City of Alexandria Councilman Paul Smedberg. Mr. William Skrabak was next with the City of Alexandria's technical comments. Following Mr. Skrabak were Julie Crenshaw Van Fleet, Elizabeth Chimento, David Hudert, Anna Prados and Alice Bertele. The Board then heard from representatives of Mirant; Jell Holmstead, David Cramer, Walter Stone and Kevin Finto.

The Board then received a presentation from Mr. James E. Sydnor and Ms. Angela Jenkins from the Department on the various bases the Board could use to decide the issue of whether or not a permit was needed to do the stack merge project.

The Board, on a motion by Mr. Langford, unanimously voted to go into closed session for consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel concerning the Mirant Potomac River Generating Station.

The Board, on a motion by Mr. Langford, unanimously ended the closed session and certified that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the board.

Based on the information received at the meeting and the Board discussions and questions, on a motion by Mr. Buckheit, the Board denied Mirant's request for a letter of exemption, determined that a ~~pre-construction~~ permit is required for the stack merge project and requested the Department take appropriate enforcement action to ensure that construction without a permit does not occur after September 14, 2007. The vote on the motion was 3 to 1 with Mr. Langford voting no.

Cindy M. Berndt

[NOTE: Approved Minute No. 10 on November 30, 2007, with amendment as follows: delete "pre-construction" before "permit" in 3rd line of last paragraph.]