

MINUTES

STATE AIR POLLUTION CONTROL BOARD MEETING  
FRIDAY, NOVEMBER 30, 2007

OMNI NEWPORT NEWS HOTEL  
1000 OMNI BOULEVARD  
NEWPORT NEWS, VA

Board Members Present:

Richard D. Langford  
Vivian E. Thomson

Bruce C. Buckheit  
Hullihen W. Moore

Board Members Absent:

John Hanson

Department of Environmental Quality:

David K. Paylor

Cindy M. Berndt

Attorney General's Office:

Carl Josephson, Senior Assistant Attorney General

The meeting was convened at 9:05 a.m., recessed at 10:30 a.m., reconvened at 10:50 a.m., recessed at 12:30 p.m., reconvened at 1:20 and adjourned at 2:15 p.m.

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**Minute No. 1 – Vehicle Emissions Working Group Report:** The Board received the State Advisory Board's report on the Use of Tire-Derived Fuel in Virginia from Mr. James Christman.

**Minute No. 2 – Vehicle Emissions Working Group Report:** The Board received the State Advisory Board's Vehicle Emissions Working Group Report from Mr. Joe Loschiavo.

**Minute No. 3 – State Advisory Board on Air Pollution 2008 Planning Discussion:** Discussion of projects for the State Advisory Board on Air Pollution to undertake in 2008 was deferred to a future meeting.

**Minute No. 4 – State Advisory Board on Air Pollution Appointments:** The Board, on a motion by Ms. Thomson, unanimously approved the appointment of Wilmer Stone to fill the unexpired term of Brock Herzberg and the following appointments to the Advisory Board with terms expiring December 31, 2009:

Dr. Samuel McLaughlin  
Daniel Anconia, III  
Mark Feltner  
Brain T. Castelli  
Dan Demers  
Paige Holt  
Sheryl Raulston

Tim Mallan  
Joseph Herrmann  
Carmine Battafarano  
James Christman  
L. Evans Drake  
Gerald L. Pellett

**Minute No. 5 – Major Source Permits (Rev. L07):** Mr. Robert A. Mann advised the Board that on May 1, 2007 (72 FR 24060), EPA promulgated a final rule revising the federal new source review (NSR) permitting program for PSD (attainment) and nonattainment areas, and the Title V operating permit program and adoption of these changes at the state level keep the state permitting program

consistent with the federal. He explained that the changes revise the definitions of “major stationary source” and the lists of exempted facilities to exclude chemical processing plants that are ethanol production facilities that produce ethanol by natural fermentation. A similar change is made in the federal operating permit (Title V) regulation to the definition of “major source.” For the Title V, PSD NSR and nonattainment NSR programs, fugitive emissions would be excluded in determining whether a new source is major. For the PSD NSR program, the applicability level would change from 100 tpy to 250 tpy for determining whether a new source is major.

In addition, Mr. Mann discussed several issues associated with the amendments and options for action by the Board before recommending that the Board approve the amendment under Section 2.2-4006 A 4 c of the Code of Virginia.

The Board, based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Moore, unanimously approved the proposal for processing as a proposed regulation under an informal procedure (30 day comment period and public hearing). In addition, the Board requested that DEQ provide information to the Board and the public on the potential costs to the affected industry and the potential emissions impacts to the Commonwealth associated with the amendments, including, but not limited to, an assessment of the differences in costs and potential emissions and BACT determinations under the major and minor NSR programs.

**Minute No. 6 – High Priority Violators Report:** The Board received a report from Michael G. Dowd on high priority violators for the second and third quarters of 2007.

**Minute No. 7 – Virginia City Hybrid Energy Center:** The Board received a briefing on the Virginia City Hybrid Energy Center, a proposed power plant in Wise County. Representatives of Dominion Resources briefed the Board on several matters including site selection, power generation technology, emissions controls and air quality modeling. Staff from the Department briefed the Board on the draft permit and its development.

The Board, based on the presentations and discussions, on a motion by Mr. Moore, (1) asked Virginia Power to reconsider and propose a plant that will be most protective of human health and the environment, an IGCC plant if that is the case; (2) asked Virginia Power to meet with staff, (3) asked staff to report back to the Board at the next meeting, (4) affirmed that the report shall not delay, hinder or shall not be a prerequisite of any kind for the issuance of the permit. The vote was 3 to 1 with Mr. Langford voting no.

**Minute No. 8 – Mirant Potomac River Generating Station:** Prior to the staff presentation, Mr. Paylor advised the Board that letters from representatives of the City of Alexandria, County of Arlington and Ms. Chimento had been received and provided to each member. Also, some members of the Board made statements regarding their attendance at the public hearing on the draft 5-stack permit on November 19, 2007.

Mr. James Golden, Deputy Director, briefed the Board on a draft 2-stack permit for Mirant. Mr. Golden explained that the permit would be based on a single S)2 emission rate of .3 pounds per million Btu rate to be effective as of January 1, 2009, and if a permit were issued prior to that date, the permit would include an SO2 emission rate of .35 pounds per million Btu.

The staff recommended that the Board direct the staff to (1) move forward and develop a draft stack merge permit based on a single SO2 emission rate of .3 pounds per million Btu rate to be effective as of January 1, 2009, and should a permit be issued prior to that date, a single SO2 emission rate of .35 as an interim rate to bridge that gap to the January 1 final permit; and (2) notice it for public comment. Mr. Golden explained that the single SO2 emission rate would eliminate the multiple operating scenarios and the minimum coal sulfur content condition currently contained in the draft 5-stack

permit. Further, Mr. Golden advised the Board that the permit would include a PM 10 limit, however the Department is still evaluating the use of PM 2.5.

The Board, based on the staff presentation and Board discussion, on a motion by Ms. Thomson, unanimously approved the staff recommendation that the Board direct the staff to develop a stack merge permit based on the concept presented to the Board and notice the draft permit for public comment.

(A transcript of the discussion on the Mirant Potomac River Generating Station is Attachment A to these minutes.)

**Minute No. 9 – Public Forum:** Ms. Joy Oakes of the National Parks Conservation Association appeared during the public forum to discuss the need to protect our National Parks and the Association’s concerns over the impacts of the Dominion Virginia City Hybrid Energy Center on our parks.

Mr. John C. Holland appeared to discuss his concerns with the Board’s open burning rules. Mr. Holland explained that he operated a construction demolition debris landfill in tidewater Virginia and that the burning ban significantly impacts his business and creates other environmental issues from improper disposal of these wastes during the times the open burning ban is in effect. Mr. Holland requested that the Board once again consider granting a variance for his operation. The Board asked staff to review Mr. Holland’s request and report back to the Board at a future meeting.

**Minute No. 10 – Minutes:** Mr. Buckheit advised the Board that in reviewing the minute on the Mirant Potomac River Generating Station from the Board’s meeting on September 13, 2007, he believed a clarification was necessary. He explained that while his motion stated that a pre-construction permit was required that was not his intention. He informed the Board that in his view a permit is required for the stack merge project, but that a pre-construction permit was just one option available to the Company. Based on that, Mr. Buckheit moved that the decision set forth in Minute No. 1 from the Board’s meeting on September 13, 2007, be amended to remove the word “pre-construction” before permit. The Board unanimously approved the amendment and then on a motion by Mr. Langford unanimously approved the Minutes from the September 13, 2007, meeting.

The Board, on a motion by Mr. Buckheit, unanimously approved the minutes from October 10, 2007.

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**Cindy M. Berndt**

## Partial Transcript – November 30, 2007 – Mirant Potomac River Generating Station 2-Stack Permit Discussion

- Mr. Golden: Good afternoon. My name is James Golden. I'm Deputy Director at DEQ and want to speak to you briefly this afternoon concerning a stack merge permit, but before I do that I would like Tom Faha whose the Regional Director of our Northern Office, just to give you a very quick status of where we are on the 5-stack permit which was the subject of the hearing you're just mentioning now and he'll just give you a real quick update on where that is before I begin discussing the stack merge permit.
- Mr. Faha.: Members of the Board. Good afternoon and again I'm Tom Faha, the new director of the regional office, the Northern Office and as you all just discussed we did hold the hearing on November 19<sup>th</sup>. We had approximately, no we had 35 people who spoke to us, 8 of them were elected officials. The hearing closed with the close of the gavel. Excuse me, the public comment period closed with the closing of the hearing. All together we received 75 comments from 75 individuals. We are only now beginning the process of reviewing those comments and we are also getting, we are trying to get onto our web site, hopefully next week, a copy of the comments that people sent to us, the letters so that the public can see other people's comments that have been submitted and as I said, we're only beginning the process right now of responding to all those comments. That's going to take us several weeks before we can have that back and ready for everyone.
- Mr. Buckheit: [comments about why Mirant is on the agenda]
- Mr. Golden: At tab G you'll find a draft permit that was put together pursuant to this at the time the Board books were sent. What I'd like to talk to you this afternoon about briefly are some revisions to that draft that we'd like to present to you for your information. As mentioned by Mr. Buckheit at the October 10 meeting there was some discussion about additional evaluation from the Department. What we'd like to discuss this morning is this couple of items relative to that permit. We would propose that a single SO<sub>2</sub> emission rate be placed in the permit, specifically a .3 pounds per million BTU rate to be effective as of January 1, 2009. Should a permit be issued prior to that date, staff would recommend that a .35 rate be put in the permit as an interim rate to bridge that gap to the January 1 final permit? Both of these rates have been evaluated and are NAAQS compliant. What this single SO<sub>2</sub> emission rate does is it eliminates the multiple operating scenarios that are currently contained in the draft permit. It also will eliminate the minimum coal sulfur content condition that also is in the current draft. In terms of particulate matter, a PM 10 limit will be included in the permit. Relative to 2.5, as discussed earlier in reference to the Dominion permit, the agency is still evaluating its use relating to PM 2.5 so that will continue at least in the short term relative to this draft. The staff's recommendation or request would be that the Board direct staff to move forward and develop a stack merge, a draft stack merge permit and notice it for public comment.
- Mr. Langford: Is that it?
- Mr. Golden: That's it.
- Mr. Langford: Are there questions for staff before we

Ms. Thomson: Yes, also the annual limit that has been in place for several months, 3813 that also still will be in the permit. Is that correct?

Mr. Golden: Correct.

Mr. Moore: Does that mean all the annual limits will be in the permit?

Mr. Golden: That's correct.

Mr. Langford: And what we're talking about here is a, preparing a draft state operating permit and then noticing that for a public comment period at which time the Board would review the comments on 5-stack permit as well as perhaps comments on this one and then whatever appropriate action from that point. Is that

Mr. Golden: It certainly could be simultaneously with the 5-stack or independently.

Mr. Langford: Or independently?

Mr. Golden: Right.

Mr. Buckheit: Or it might moot the 5-stack.

Mr. Golden: It may. So they could be concurrent, or at the very least what we're asking is to move forward with a draft for a merged stack permit, take it to comment, receive comments, respond to those and then bring all of that back to the Board relative to the merged stack permit.

Mr. Buckheit: Where do you all come out on the PM CEMS issue?

Mr. Golden: That's still being evaluated. We are still actively looking into the availability of that type of –

Mr. Buckheit: Well, what's in, what would be in your proposal?

Mr. Golden: Well we're still evaluating PM 2.5.

Mr. Buckheit: I didn't ask you about PM 2.5. I'm asking PM CEMS.

Mr. Langford: Continuous emissions monitors for particulate.

Mr. Paylor: The question is do we know at this point whether or not we would be able to include PM CEMS in the draft permit.

Mr. Kiss: Mike Kiss. At this point I believe the permit states that when the technology is available it would be implemented. I think what Mr. Golden is saying that we haven't determined whether or not the technology is indeed available at this time and so we're continuing to evaluate.

Mr. Langford: So that would be an opportunity to get comment on that draft permit from interested parties about whether that is an appropriate provision?

Mr. Kiss: Yes.

Mr. Langford: Are there any other comments or questions of staff?

Ms. Thomson: I move that we adopt the staff's recommendation.

Mr. Langford: We have a motion. Do we have a second?

Mr. Buckheit: I'll second it, but I think there are other issues that we'll have to discuss, PM, for instance. A synthetic minor, in order to serve its full purpose has to establish limits on PM so that there couldn't be an increase and I think that's part of your thing, but it just didn't show up in your bullets.

Mr. Golden: Yes.

Ms. Thomson: Now that we're sort of into the discussion phase, I think we all have more questions about this for clarification. My understanding is that because this holds all of the limits in place, all the annual limits are in place for all the pollutants that are currently in, effectively, implicitly or explicitly in the permit, in the current permit and that are explicit in the 5-stack permit that relative to the 5-stack permit there would be no emissions increases. Is that correct?

Mr. Golden: That's correct.

Ms. Thomson: For any pollutant?

Mr. Golden: That's correct.

Ms. Thomson: Okay. So the effect of this permit should it be the one that the Board eventually decides to adopt would be to allow absolutely no emission increases, but to allow the stack merge to proceed which would in effect reduce concentrations in Alexandria? Is that correct?

Mr. Golden: Well there would be no increases in the annual limits. There can be some increases in short term limits for certain pollutants relative to the – dispersion credit.

Mr. Buckheit: Actually I think for the broad range of operating scenarios the Company has been running currently a monthly average rate of .32 pounds per million BTU so we impose a short term limit here, I think you're talking a 3-hour limit here?

Mr. Kiss: Yes, it is a 3-hour limit.

Mr. Buckheit: If we impose a short term limit of .32, .30 pounds per million BTU, we can't be any increase.

Mr. Kiss: For SO<sub>2</sub>.

Mr. Buckheit: That's SO<sub>2</sub>.

Mr. Kiss: In terms of the 5-stack permit I want us to remember that deals with only the operation of 3 units and the merge stack will allow the operation of 5 units.

Mr. Buckheit: Okay.

Mr. Moore: Would it increase the concentrations at the breathing level?

Mr. Kiss: Certainly if you're operating 5 units at a time versus 3 units, the emissions are going to be higher and thus the concentrations are going to go up. I think the important thing to remember is that this particular limit protects the NAAQS in all circumstances.

Mr. Langford: Let me clarify. The concentration will go up at the same stack configuration, but we're talking about a different stack configuration than today, so you'd have to do modeling to determine whether the concentrations were up or down from that right?

Mr. Kiss: We have conducted that modeling, but I think my point is the 5-stack permit only lets the company operate 3 units.

Mr. Moore: I understand.

Mr. Kiss: This would allow 5 units.

Mr. Moore: That's right, but would the concentrations with the 5 units at .30 and the stack merge, would the concentrations at ground level, if you will, will they increase?

Mr. Kiss: If you're comparing 5 units operating at the existing stack configuration to 5 units after the merge, the concentrations will decrease.

Mr. Moore: What about 3 and versus 5? The existing, what is available under the existing 5-stack permit, the concentration that's there versus the concentration, so that would be the maximum that's allowable under the current permit and what I'm asking is: would the maximum, I'll say ground level but I know it's not that simple, ground level concentrations be greater than under the current permit with the new permit assuming 5 units running?

Mr. Kiss: They would be, in a lot of cases they would be less under the merge, not in all circumstances, but I would say that there certainly is no increase. They would be either comparable or less under the current scenario.

Mr. Moore: Okay.

Ms. Thomson: I'm sorry, I just want to make sure I have this straight. What I think I just heard you say because we don't have the numbers in front of us, is that if we compare the short term modeled concentrations under this proposal, it's possible, that are possible under this proposal, versus the short term modeled concentrations in breathing zones of Alexandria residents under the 5-stack permit, that comparing those 2 that the proposal that is before us today, concentrations would not exceed, but they would be at the same level or lower than those predicted for the 5-stack permit. Is that correct?

Mr. Kiss: That's correct.

Mr. Buckheit: I think I remember the numbers. In this proposal, at .35 pounds per mBTU at any conceivable operating scenario the 2 stack facility, 2 stack configuration, would be NAAQS compliant. Correct?

Mr. Kiss: Yes.

Mr. Buckheit: So at .30 we have NAAQS compliant plus a substantial margin of safety. Is that correct?

Mr. Kiss: Correct.

Ms. Thomson: How do these levels, .30 and .35, compare to what the Company has been showing recently?

Mr. Kiss: Well I think as Mr. Buckheit had point out, they're running in the neighborhood of .32 in recent data so it compares favorably in terms of how the company's been operating so we believe they can achieve these numbers.

Mr. Buckheit: Yeah. .32 is a monthly average. I think if you look at shorter term periods, .35 is probably right at what they are doing and so part of the whole thought here, we have to, in order to allow dispersion credit it has to be part of a pollution control project. I've been saying that for a while. I think that's the law. Whether or not the initial Trona project qualifies, the idea here is they would have to do additional contemporaneous work to improve from .35 short term to .30 short term and that, I think, would provide a clear basis for dispersion credit.

Mr. Langford: Are there other comments or questions for staff?

Mr. Buckheit: Let's just go down the PM list to make sure I sort of check all the boxes because I would hope that this next permit proposal gets us pretty near the end. The, one step that has to be done in developing the PM synthetic minor limit, I think, is to resolve the NSR issue. There is some allegation or assertions that installing SOFA, low NOx burners, Trona may have increased PM emissions and there's an EPA enforcement policy that I authored that says, in an enforcement action you can't unring the bell, you must insist on BACT. However, we're not in an enforcement action. We're in a permitting context and in that context there's an EPA guidance that says if in the permitting arena you discover that you missed a point on the NSR compliance, the appropriate step is to go back and obtain the permit limit that you should have obtained and so in that context I think appropriate measure would be for Mirant to obtain a synthetic minor PM limit based on the years immediately preceding the installation of SOFA and low NOx burners so, I think we need to figure out that permit limit. Then we need to take a look at whether that number is NAAQS compliant, because if not we have to reduce it to be NAAQS compliant and then we have to impose some number to make sure that this latest change which would be our greatest concern that it could increase emissions. So there has to be some number that's an annual limit on PM that serves as a synthetic minor and I think in the interest of resolving all of this both for the pre-SOFA period and the pre-merge period and then carry that forward into the merge permit that's in effect the synthetic minor catalyst of it all. So I would guess I would ask you to make sure that that's included in the draft permit and we'll solicit comment on (a) whether it's all needed and (b) whether the numbers are right.

Mr. Langford: Are there other questions or comments to staff?

Ms. Thomson: I'm sorry I just want to make sure that I'm absolutely clear on the emissions implications of this proposal versus the one that is out there right now. I'd be interested in getting the staff's calculation on this front and that is the emissions reductions that have been accomplished through either, well, either one of these which I understand will be the same, the same emission reduction, and just making a



rough calculation based on using 15,000 tons a year of sulfur dioxide, which is approximately what the company asked for in its original permit application and then taking 3813 as a fraction of that I come up with roughly a reduction of 3 quarters of the annual emissions of the facility. Does that seem about right to you?

Mr. Golden: Well the difference between 15,000 and 3813, I'll trust on your percentage on that.

Ms. Thomson: It would be good at some point maybe have the staff check and present us with that calculation because it would be good for us to have in mind I think that first of all that the 2 proposals accomplish or confirm that the 2 proposals accomplish exactly the same overall emission reduction and to have the figure of what that is and I think its about 75% relative to before the permit, but it would just be nice to have that –

Mr. Buckheit: I believe you touched on this in your bullet, but just to clarify it, we, DEQ and the Board both recognize that at some point this facility needs to be modeled for NAAQS compliance and downwash issues respecting PM 2.5. We aren't prepared to do that in the short term, but that is part of the long term plan.

Mr. Golden: Yes.

Mr. Moore: I don't need this today, but I think before when we consider this later, I think it would be helpful for us to have the NAAQS concentrations, what's required by the NAAQS, what would be the max possible under the 5-stack scenario and what will be the maximum under the 2 stack scenario so we can sort of see how we're doing there.

Mr. Golden: I'm sure Mr. Kiss will be happy to put that together for you.

Mr. Buckheit: And it appears that the City of Arlington is also now interested in that information.

Mr. Langford: Are there other comments or questions of staff? Are there any other discussion on the motion that we have before us? Hearing none. I will ask for the vote on the motion to adopt staff recommendations to develop a stack merge state operating permit and proceed for notice for public comment on that permit. If no further discussion, all those in

Mr. Buckheit: I think the motion should be subject to the subsequent discussion with respect to PM.

Mr. Langford: I take it that the discussion, the staff has already acknowledged that the permit is going to cover the PM and that the PM is going to be dealt with. Okay. All those in favor of the motion say aye. Those opposed say no. Motion passes unanimously.