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Congress of the United States
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Statement by Rep. Jim Moran
on the

Proposed Revision to the Commonwealth of Virginia
State Implementation Plan

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I regret that I cannot be here in person to offer comment on a troubling issue of great concern, but I am traveling on a congressional delegation trip to the Middle East with my colleague Rep. Tom Davis.

There is much to say, unfortunately much of it falls outside the constrained and limited scope of this hearing, but it bears mentioning never-the-less given the absence of opportunities to comment at additional public forums.

I appreciate the sincere efforts of some state officials, but in all good conscience, I cannot fathom how the state can proceed with revisions to the Potomac River Power Plant's operating permit until it can answer a host of questions and undertakes substantial amount of additional work to investigate and monitor the operations of this plant. The more I look into this issue, the more I am troubled by what appears to be a minimalist approach on regulation and oversight, doing the least amount necessary, and in the process failing completely to safeguard the public's health.

Mirant's behavior, in general, is deplorable. It violated its permit level for NOx at all four of its coal-fired power plants in the D.C. area during this past summer's ozone season. At Potomac River, Mirant emitted more than twice the amount allowed under its NOx permit of 1,019 tons during the summer ozone season. That is no rounding error, it is a blatant violation of its operating permit. In addition, I understand EPA cited the Potomac River Plant two years ago with 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. Clearly, Mirant is not a responsible corporation.

Having set the context, let me now comment on the proposed revision to the State Implementation Plan and specifically on the state operating permit. While I welcome the state's efforts to block Mirant from using the federal acid rain reduction cap and trade program as a way to get out from under the state's emission limits on its NOx permit, this revision falls far short of what is necessary to address a pattern of problems at the plant. It misses this most critical point: much of the analysis used to determine compliance with EPA air quality standards used incomplete abstract models based on the assumption the plant had a much taller smoke stack that would have dispersed pollutants over a much larger geographic area.

Instead, we have a plant without tall stacks operating and 14 story apartment and condominium buildings within 300 yards of the opening of those stacks. Two Alexandria residents, at their own expense, recently hired Sullivan Environmental Consultants, Inc of Alexandria to conduct a screening-level modeling analysis of the plant and just one of the adjacent residential buildings. Sullivan Environmental Consultants found that the top floors of Marina Towers were subject to maximum exposure of the plant's exhaust plume at least 1,200 hours per year. That is 50 days every year.

If the residents of the neighboring condominium and apartment building are in the direct path of emissions plumes from the plant, the 1019 tons per summer limitation may be insufficient to safeguard public health. If this plant has committed uncontrolled emissions increases in violation of the Clean Air Act's New Source Review requirements, then its NOx emissions could well be unlawfully high year round. The state permit may need to set limits on what the plant can emit during the rest of the year, not just a summertime limit. And, perhaps it needs to set an even lower limit during the summer ozone season.

Moreover, the NOx violations may be just one of what could be a number of violations of the National Ambient Air Quality Standards (NAAQS) including standards for sulphur dioxide (SO₂), carbon monoxide (CO), particulate matter (PM₁₀), volatile organic compounds (VOC) may also have been violated. At a minimum the plant warrants further review of state air toxic guidelines for mercury, cadmium, arsenic and lead. Unless you assume all emissions traveled straight up before dispersing into the atmosphere, there is a very high probability that elevated levels, concentrations above EPA's standards for safe exposure, are hitting these residents on a daily basis.

Reviewing the Department of Environmental Quality's emission statement certification data of March 28, 2003, we find that the Potomac River Plant emitted an estimated 16,120 tons of SO₂ last year, 241.8 tons of carbon monoxide, 588.3 tons of PM₁₀, 33.9 tons of VOC, 644.7 tons of non-VOC hazardous air, 0.2 tons of lead and 72 pounds of mercury. Sullivan Environmental consulting made a rough calculation on SO₂ emissions and found that 16,120 tons per year translates into 3,865 micrograms per cubic meter/day. EPA's ambient air quality standard for SO₂ is for no more than 360 micrograms per cubic meter within a 24-hour period. In other words, the concentration levels of SO₂ that may be found on the top floors of Marina Towers may be 10 times higher 24 hours a day than what EPA allows to exist within a 24-hour period.

What steps is the state taking to determine if Marina Tower's residents and other neighboring residents are being exposed to unhealthy air? The plant is producing hot spots of elevated emission levels of these hazardous chemicals in these local residents' homes. DEQ needs to abandon its incomplete model, set up actual monitors, track emissions and measure actual concentration levels of the harmful air pollutants and the downright hazardous ones and determine if EPA's air quality standards are being met. Until this action is taken, I don't see any rationale for proceeding with revisions to the plant's operating permit.

Before closing let me comment on a separate but related issue. It is my understanding that the state has entered into closed negotiations with Mirant to determine the penalty for violations of the summertime NOx limits. Under state law, the Potomac River Plant can be fined up to \$25,000 per day. 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 is losing 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 cranking as much power as it can to maximize its revenue.

Alexandria residents are paying the price in unhealthy air and poor quality of life. The state should not side the with this company and help it through a difficult financial time, not when it has so callously disregarded its impact on the residents of Alexandria.

As the guardian of the public's health and the public interest, the state must speak in the language the company seems to understand best, economics, and level the strongest possible penalties against this plant.

Thank you.