

Mirant Suit Targets Alexandria

Company Wants To Keep Plant Open

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The dispute between Alexandria and the Mirant power plant has reached the courts, with Mirant filing a lawsuit against the city seeking to stop zoning changes designed to eventually close the aging coal-fired plant.

The lawsuit, filed last month in Alexandria Circuit Court, is the latest escalation of the long-running battle over the ash emissions produced by the plant. Residents and city officials contend the emissions are a health hazard, and Mirant officials insist the plant is in compliance with environmental laws and have no intention of closing the facility.



A power plant overlooking the Potomac River has been the subject of a long-running feud between the Mirant Corp. and the City of Alexandria. (2004 Photo Larry Morris -- The Washington Post)

In the lawsuit, Mirant says the plant's operators have been "good neighbors" and that it is a "fixture on the Alexandria waterfront" and a key power source for the Washington region. The suit says the city lacked legal authority for the zoning changes targeting the plant enacted late last year and seeks to have them declared unlawful.

"This is a good little plant," said Steven Arabia, a spokesman for Mirant. "It's a valuable asset to the regional electrical grid, and it's cleaner now than it's ever been. We would like to stay in business."

Alexandria City Attorney Ignacio B. Pessoa said the city intends to vigorously defend the lawsuit. "We believe we had a perfectly proper basis for our actions," he said. "One way or another, the city wants Mirant to either clean up or shut down."

But Pessoa made it clear that city officials would strongly prefer that Mirant leave. He framed the dispute as being about two fundamentally different visions of the Alexandria waterfront, which until several decades ago was dominated by industrial plants such as the Mirant facility.

"It's fair to say that the vision of the city is not to have this remnant of the mid-20th century industrial waterfront left on the river across from the nation's capital," Pessoa said. "Particularly a power plant which has all of these negative environmental impacts."

The plant -- replete with smokestacks and coal heaps -- sits on a prominent site in north Old Town overlooking the Potomac River and supplies power to the District and Maryland, but not Virginia. The only coal-fired power plant in Alexandria, it began operations in 1949 and currently employs about 120 people.

For years, some residents in the northern part of Old Town had wondered whether the plant was the source of an unusual dust that they said coated everything from cars to windowsills in the area. They described it as a chalky gray residue that quickly stuck to anything it touched.

In 2001, longtime Alexandria residents Poul Hertel and Elizabeth Chimento decided to investigate. The two eventually submitted a thick report to the city that concluded the plant is a potential danger. It cited several studies showing that a significant portion of the soot collected in the neighborhood was directly associated with the plant.

Motivated in part by the work of Hertel and Chimento, city officials last year took action against the plant. In December, the City Council revoked a 1992 ordinance that had allowed the plant to continue operating indefinitely, even though it lacked the necessary zoning permit required by a citywide rezoning that year. The council also revoked two special-use permits that the plant had been granted in 1989, when it expanded.

The effect was to make the plant's current operation illegal under city zoning ordinances. But although the city's long-term goal is for the plant to close, "that doesn't mean we were going to go and shut them down tomorrow," Pessoa said. "We wanted to give the plant the opportunity to get a new special-use permit, so we could get some regulations in place to modernize the plant, to clean up the things it is putting out in the environment.

"We wanted to give them an opportunity to come in and work with the city to protect the interests of the residents of the city."

But Arabia said Atlanta-based Mirant Corp. had little choice but to sue. "What the city said was that power plants are no longer compatible and so we are revoking all of your permits and changing the zoning, but we want you to come in and show that you are compatible and get a permit.

"It was a setup."

The lawsuit, filed by two Mirant subsidiaries that own and operate the plant, argues that the city violated Mirant's rights and "lacked the authority to take these actions." City officials have until mid-February to file a response, and they expect the case to go to trial.

Along with the zoning crackdown, Alexandria has backed proposed "Clean Smokestacks" legislation in the General Assembly that would require coal-fired power plants in Northern Virginia to reduce certain emissions by 2009 or agree to cease operations by 2014.

The legislation did not pass in 2004 and recently died in committee during the current session, city officials said.

Chimento, one of the residents whose report helped trigger the crackdown on Mirant, said she is not surprised by the lawsuit. Chimento said she is more interested in the results of an ongoing study to nail down precisely what -- and how much -- is being emitted from the plant and where it is landing in the nearby neighborhood.

"The city has done what it could to get rid of a huge health nuisance in our community," she said.