

**GROUPS: MARYLAND AGENCY FAILING TO ADDRESS VIOLATIONS
BY MAJOR POLLUTERS IN BALTIMORE AND WASHINGTON, D.C. AREAS**

Over 1,000 Violations Reported To Agency and Not Addressed; Legal Action Initiated to Force Action on Wheelabrator Incinerator in Baltimore and Mirant Chalk Point Power Plant Outside D.C.

WASHINGTON, D.C.//January 22, 2009//The same environmental groups that joined forces with the Maryland Department of the Environment (MDE) to help get the agency more than \$11 million in extra funds to enforce state and federal clean air rules are now warning that the same state agency has failed to take action on more than 1,400 separate pollution violations across Maryland, including those at the Wheelabrator Incinerator in Baltimore and the Mirant Chalk Point power plant on the Patuxent River in Prince Georges County right outside of Washington, D.C.

The Environmental Integrity Project (EIP), the Baltimore Harbor Waterkeeper, Inc., and Clean Water Action, represented by the University of Maryland Environmental Law Clinic, are filing a complaint in Maryland state court, asking the judge to order the MDE to issue for the Wheelabrator incinerator a Clean Air Act permit that was supposed to have been put in place more than a year ago by *September 1, 2007*. In a separate action, EIP and the Chesapeake Climate Action Network sent a letter today notifying Mirant of the groups' intent to sue over more than 1,400 violations of the Clean Air Act at the Chalk Point power plant.

The groups emphasized that they are taking these actions reluctantly and only after making repeated efforts to work with the MDE to take the necessary actions to enforce the Clean Air Act.

Jennifer Peterson, lawyer, Environmental Integrity Project, said: **"We have been very slow to publicize our frustration until now, hoping that the new administration in Annapolis would take a tougher stance on enforcement of the Clean Air Act. We've uncovered significant violations of the Clean Air Act in our review of Maryland's Clean Air program. Although we have shared our findings with the state and helped them secure over \$11 million dollars in additional funding for the Clean Air program, the state has been largely unresponsive to the serious issues we have brought to their attention."**

Andy Fellows, Chesapeake regional director, Clean Water Action, said: **"We feel that we have waited long enough for an answer from MDE to our questions about pollution from the Wheelabrator incinerator and other Maryland facilities that still don't have Clean Air Act permits. These permits are long overdue, and the issues we raise have real impacts on Maryland's waters, including the Chesapeake Bay, in addition to the obvious impacts to public health."**

Jane Barrett, director, University of Maryland Environmental Law Clinic, said: **"The fundamental building blocks for implementing the Clean Air Act and the Clean Water Act are permits. MDE's failure to issue permits as required by law in a timely manner undermines its compliance and enforcement responsibilities and is a disservice to the citizens of the state."**

The three major deficiencies identified by EIP in its review of the Maryland Clean Air program are: the failure to issue Clean Air Act operating permits for major polluters; inclusion of illegal provisions in operating permits; and a reluctance to enforce the Clean Air Act and hold polluters accountable.

Clean Air Act operating permits are critical to ensure that facilities are complying with the law. Without these permits, facilities are not required to monitor and measure their emissions of air pollution, and both the state and citizens have no way of knowing whether the facility is actually meeting the emission limits they are subject to. According to EIP's review, two major power plants in Maryland still do not have operating permits even though they should have been issued *nearly 10 years ago*. A third power plant in the state is operating with an expired permit.

Even more significantly, Maryland operating permits contain illegal provisions and missing emission limits, which result in the dumping of hundreds of tons of illegal emissions into the air in violation of the Clean Air Act.

THE WHEELABRATOR INCINERATOR AND MIRANT'S CHALK POINT

In addition to failing to respond to EIP objections to the illegal provisions in the Wheelabrator draft permit, the MDE has not issued the final permit even though the state agency was required to do so by September 1, 2007. MDE's failure to issue final operating permits to major sources of air pollution like the Wheelabrator incinerator when citizens submit comments on a draft permit effectively prevents citizens from seeking review by the EPA. The Clean Air Act provides citizens the right to seek review in state court to compel MDE to issue a final operating permit, which is what the groups are now doing in relation to the Wheelabrator incinerator.

The EIP investigation found that Chalk Point power plant is burning dirty, residual fuel oil without required pollution controls for particulate matter in violation of the Clean Air Act and Maryland law. According to data from the U.S. Energy Information Administration, Chalk Point received over 187 million gallons of residual fuel oil from January 2005 to June 2007. Using EPA data, EIP documented 1,430 separate violations of the Clean Air Act at the Chalk Point facility since January 4, 2006.

Particulate matter is a mixture of very small particles, including organic chemicals, metals, and ash, which can cause health and environmental problems. Once inhaled, PM can affect the heart and lungs, and cause serious health effects. Numerous scientific studies have linked PM exposure to increased respiratory systems, such as irritation of the airways, coughing, and difficulty breathing; decreased lung function; aggravated asthma; development of chronic bronchitis; irregular heartbeat; heart attacks; and premature death in people with heart or lung disease. The burning of the volume of dirty residual fuel oil received by the Chalk Point facility would result in public health costs of up to \$101.6 million, according to EPA formulas. Per unit of energy, the burning of residual fuel oil produces nearly 30 percent more carbon dioxide emissions, a greenhouse gas that contributes to global warming, than burning natural gas.

Although the Mirant Chalk Point violations were brought to the state's attention in August 2008, no action was taken. Today, the groups are sending a notice letter to Mirant announcing their intent to sue the company for failure to comply with the Clean Air Act.

The details of the Wheelabrator court filing and the notice-of-intent letter sent to Mirant are available online at <http://www.environmentalintegrity.org>.

ABOUT EIP

The Environmental Integrity Project (<http://www.environmentalintegrity.org>) is a nonpartisan, nonprofit organization established in March of 2002 by former EPA enforcement attorneys to advocate for effective enforcement of environmental laws. EIP has three goals: 1) to provide objective analyses of how the failure to enforce or implement environmental laws increases pollution and affects public health; 2) to hold federal and state agencies, as well as individual corporations, accountable for failing to enforce or comply with environmental laws; and 3) to help local communities obtain the protection of environmental laws.

Baltimore Harbor Waterkeeper is a local grass-roots organization dedicated to addressing Baltimore's water-quality issues. Its mission is to protect and restore Baltimore Harbor and the greater Patapsco River and its tributaries through enforcement, fieldwork, and citizen action in order to make the river suitable for recreation, including fishing and swimming, to improve public health, and to improve the health of the river ecosystem.

The Chesapeake Climate Action Network is the first grassroots, nonprofit organization dedicated exclusively to fighting global warming in Maryland, Virginia, and Washington, D.C. Its mission is to educate and mobilize citizens of this region in a way that fosters a rapid societal switch to clean energy and energy-efficient products, thus joining similar efforts worldwide to halt the dangerous trend of global

warming. For more on current campaigns and an exclusive multi-media climate blog, visit <http://www.chesapeakeclimate.org>.

Clean Water Action is an organization of 1.2 million members working to empower people to take action to protect America's waters, build healthy communities and to make democracy work for all of us. For 36 years Clean Water Action has succeeded in winning some of the nation's most important environmental protections through grassroots organizing, expert policy research and political advocacy focused on holding elected officials accountable to the public.

The Environmental Law Clinic at the University of Maryland School of Law provides pro bono legal services to environmental organizations and other clients concerned about environmental problems in Maryland, as well as issues of national significance that affect the State's environment.

CONTACT: Patrick Mitchell, (703) 276-3266, or pmitchell@hastingsgroup.com.

EDITOR'S NOTE: A streaming audio replay of the news event will be available on the Web at <http://www.environmentalintegrity.org> as of 6 p.m. ET on January 22, 2009.