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## State to Sue Mirant Over Coal Combustion Byproducts at Brandywine Plant

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*Posted on January 23, 2010*

BALTIMORE (January 23, 2010) - The Maryland Department of the Environment has issued a notice of intent to sue under federal law to the Environmental Protection Agency and Mirant Mid-Atlantic, LLC and Mirant Maryland Ash Management, LLC for water pollution violations at Mirant's Brandywine site related to the disposal of coal combustion products, including fly ash.

The following statement was issued by Maryland Department of the Environment Secretary Shari T. Wilson:

"As Marylanders well know, properly managing coal combustion byproducts is critical to protecting public health and our drinking water. Today the Department of Environment has taken the extraordinary step of issuing our notification of intent to sue in federal court in order to quickly bring Mirant's Brandywine coal combustion byproducts disposal site into compliance with important water pollution controls and other laws.

"MDE's investigation reveals that Mirant has discharged and continues to discharge pollutants from leachate into groundwater without a permit. New State regulations that took effect in December 2008 require leachate collection, groundwater monitoring, liners, and increased analysis for all coal combustion byproduct disposal facilities, as well as annual reporting. In addition, new coal combustion byproducts disposal sites must meet stringent permitting requirements to ensure their safe disposal.

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"When MDE's new requirements took effect, the Department recognized that existing disposal sites, constructed prior to the new regulations, would be out of compliance with the new law. MDE intended to enter into compliance schedules with all such facilities to ensure that timely actions were taken to upgrade those facilities to meet the requirements and other necessary measures as needed.

"To date, MDE has not been successful in securing such an agreement with Mirant on a schedule to fully investigate and clean up groundwater and surface water contamination, nor in achieving a compliance schedule for meeting the new requirements for coal combustion byproducts, at the Brandywine facility.

"Local residents should note that, based on historical and current sampling data from on and around the Brandywine site, the groundwater and surface water contamination does not appear to pose an immediate risk to public health. One of MDE's goals is to ensure that the monitoring system is adequate and will fully assess the conditions at the site.

"MDE has elected to file a citizen suit notice under the Clean Water Act because of the lack of progress in resolving the environmental violations at the Brandywine site and similar violations at Mirant's Faulkner fly ash site, which is the subject of a pending action in State court. Federal law authorizes higher penalties and may lead to a faster resolution."

In addition to this action, on November 19, 2009, the Patuxent Riverkeeper, the Sierra Club, the Chesapeake Climate Action Network, and the Defenders of Wildlife sent a joint citizen suit notice alleging groundwater and surface water contamination at the Brandywine site.

*Source: Maryland Department of the Environment*

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