



Our Children's Earth Foundation | 100 First Street, Suite 100-367, San Francisco, CA 94105

NEWS RELEASE

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JUDGE UPHOLDS MIRANT POTRERO PEAKER SETTLEMENT DESPITE STATE OBJECTION

SAN FRANCISCO -- A U.S. Judge has upheld a settlement agreement requiring Mirant Potrero LLC to cease operating its Potrero power plant peakers outside of their permitted levels. The company is also required to make a mitigation payment of \$105,000 to the San Francisco Foundation designated for projects that create clean air benefits in Southeast San Francisco.

Judge Phyllis Hamilton of the United States District Court for the Northern District of California entered the consent decree despite objections from the State of California. The consent decree resolves a June 2001 lawsuit filed on behalf community groups Our Children's Earth, Bayview Hunters Point Community Advocates, and Communities for a Better Environment.

Notwithstanding Mirant's decision to settle with the community groups last October, the State of California objected saying that the ruling would limit the Governor's options in the remote case that transmission lines supplying power to San Francisco go down over the holidays.

"We stepped in to protect our own health, and the state tried its damndest to stop us," said Tiffany Schauer, Executive Director of Our Children's Earth.

"I think this is a great victory for the citizens of San Francisco, particularly those who live in the Hunters Point/ Potrero area," added Olin Webb, Executive Director of the Bayview Hunter's Point Community Advocates.

The suit originated after the Bay Area Air Quality Management District and Mirant made a backroom deal which allowed the company to exceed the number of hours it could run its oil burning peakers. Due to the political motivation, the state and the BAAQMD allowed the peakers to run without state of the art pollution controls required by the Clean Air Act and without proper permit modifications.

Peakers are engines that are intended to produce power only to meet peak power demands. The Potrero peakers use distillate fuel oil and have minimal pollution controls. Distillate fuel oil, when burned, results in high emissions of nitrogen oxide (smog precursor), particulate matter (soot), carcinogenic compounds and chemicals that cause nerve damage, including lead, mercury, dioxin, benzene, and formaldehyde.

"It's highly unusual for the state to object to entry of a settlement that enforces the laws," said Helen H. Kang, of the Environmental Law & Justice Clinic of Golden Gate University School of Law, who handled the litigation. "The state anticipated the energy fiasco back in 2000 and could have protected both the energy supply and public health by compelling power plants to put better controls on their peakers if the state really was concerned about public health. The governor's office managed the energy fiasco by choosing instead to endanger public health."

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