

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)	
)	
Mirant Kendall, LLC,)	NPDES Appeal Nos. 06-12,
Mirant Kendall Station)	06-13, and 09-04
)	
NPDES Permit No. MA0004898)	

**ORDER GRANTING EXTENSION OF STAY
AND SCHEDULING STATUS CONFERENCE**

On May 12, 2010, Region 1 of the U.S. Environmental Protection Agency, with the assent of petitioners Mirant Kendall, LLC ("Mirant Kendall"), Conservation Law Foundation ("CLF"), and Charles River Watershed Association ("CRWA"), filed a motion seeking another continuance of the long-standing stay in this case until October 29, 2010, along with cancellation of the May 18, 2010 status conference. The Region and Mirant Kendall report that they have nearly finalized the text of a permit modification that would resolve all elements of Mirant Kendall's appeal. CLF and CRWA report that they still have not endorsed the proposed permit modification but do not object to the stay being continued so that the modification can be submitted for public comment.

The motion to continue the stay until **Friday, October 29, 2010**, is hereby granted, and the May 18th status conference is cancelled. In the interim, the Environmental Appeals Board ("Board") orders the following:

- (1) Mirant Kendall shall notify the Board when it submits to the Region its formal request for a permit modification. According to the pending motion, this submittal should occur

“[w]ithin the next few weeks” (i.e., by approximately **the first week or two of June 2010**).

Motion at 4.

(2) The Region and Mirant Kendall shall notify the Board when they have agreed to the terms of an administrative compliance order that will govern operation of Mirant Kendall's plant until the new equipment contemplated by the proposed permit modification is installed and operating. According to the pending motion, this submittal should occur no later than **late August 2010** or thereabouts. See Motion at 4.

(3) The Region shall notify the Board when it submits the draft permit modification for public notice and comment under 40 C.F.R. § 124.10. According to the pending motion, this submittal should occur no later than **late August 2010** or thereabouts. Motion at 4.

(4) On or before **Friday, October 15, 2010**, the parties shall submit to the Board a status report (preferably jointly but separately if need be) on the progress of their settlement activities, advising the Board whether it is appropriate to continue the stay, establish a revised briefing schedule, or take other appropriate action.

(5) The parties shall appear for another status conference on **Thursday, October 21, 2010**, beginning at 10 a.m. EDT, in the Administrative Courtroom, U.S. Environmental Protection Agency, EPA East Building, Room 1152, 1201 Constitution Avenue, N.W., Washington, D.C. Counsel for any of the parties who wish to participate in the status conference

via the EPA video-conferencing equipment shall contact the Clerk of the Board, at (202) 233-0122, to make arrangements for the use of such equipment. If it appears, in light of the status of settlement negotiations, that a status conference would not be beneficial, the parties shall contact the Clerk of the Board to request that the conference be cancelled.

Finally, in light of the lengthy period of time this matter has been pending on the Board's docket, the Board notes with approval the Region's expression of its belief that this matter "may be finally and completely resolved by the end of this calendar year." Motion at 5.

So ordered.

Dated: May 18, 2010

ENVIRONMENTAL APPEALS BOARD

By: Kathie A. Stein
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Granting Extension of Stay and Scheduling Status Conference** in the matter of *Mirant Kendall, LLC, Mirant Kendall Station*, NPDES Appeal Nos. 06-12, 06-13, and 09-04, were sent to the following persons in the manner indicated:

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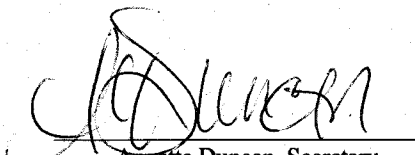
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Dated: MAY 18 2010


Annette Duncan, Secretary