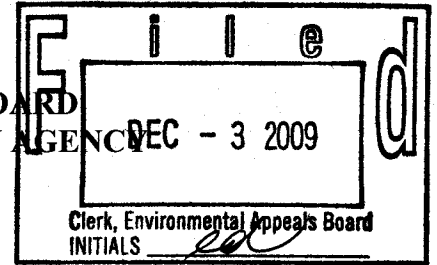


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



In re: )

Mirant Kendall, LLC, )  
Mirant Kendall Station )

NPDES Permit No. MA0004898 )

NPDES Appeal Nos. 06-12,  
06-13, and 09-04

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

On November 24, 2009, with the assent of petitioners Mirant Kendall, LLC, Conservation Law Foundation, and Charles River Watershed Association, Region 1 of the U.S. Environmental Protection Agency filed another status report and motion to extend the long-standing stay of proceedings in the above-captioned case. The parties report that on November 5, 2009, the Region transmitted to the other parties a complete draft permit modification intended to resolve all issues under dispute in these permit appeals. The petitioners subsequently informed the Region that they do not fully agree with all aspects of the proposed modification, but that they wish to continue attempting to negotiate a settlement of all disputed matters.

The parties seek a three-month further extension of the stay of proceedings, until February 24, 2010, with the intent of reaching "two significant milestones" in that time frame:

- (1) resolution of all outstanding issues pertaining to the permit modification text; and
- (2) submission to the Region by Mirant Kendall of a formal application for a permit modification, requesting that the permit be modified to reflect the agreed-upon text. The parties acknowledge that, once reached, these milestones would still have to be followed by a public notice-and-comment period, a response period, and installation/operation by Mirant Kendall of

new equipment; thus, the presently requested three-month extension would not be sufficient time to bring the pending appeals to a conclusion. Nonetheless, the parties would like to proceed along this track in the hope of ultimately resolving the case without protracted litigation.

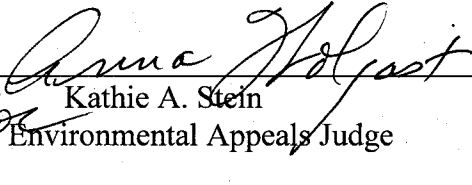
The Environmental Appeals Board hereby extends the stay of proceedings until **Monday, February 1, 2010**. However, in light of the lengthy period of time this case has been pending and the open-ended nature of possible future proceedings, the Board also hereby orders the parties to appear for a status conference on **Thursday, January 21, 2010**, beginning at 10 a.m. EST, 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, no later than Monday, January 11, 2010, to make arrangements for the use of such equipment.

So ordered.

Dated: December 3, 2009

**ENVIRONMENTAL APPEALS BOARD**

By: \_\_\_\_\_

  
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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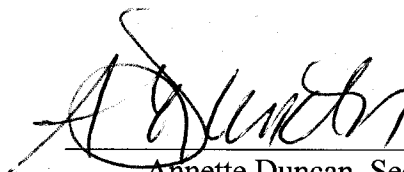
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DEC 3 2009

Dated: \_\_\_\_\_



\_\_\_\_\_  
Annette Duncan, Secretary