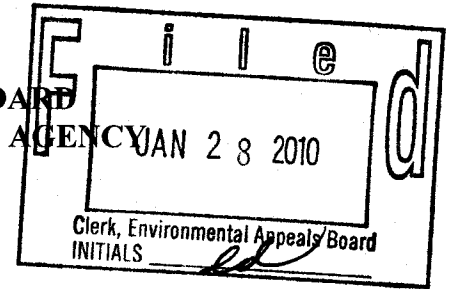


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



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 January 21, 2010, the Environmental Appeals Board ("Board") held a status conference in the above-captioned case, attended by counsel for Mirant Kendall, LLC ("Mirant Kendall"), Conservation Law Foundation ("CLF"), Charles River Watershed Association ("CRWA"), and U.S. Environmental Protection Agency Region 1 ("Region"). Counsel for the Region and Mirant Kendall reported that they had reached an "agreement-in-principle" regarding all substantive matters in dispute in these Clean Water Act permit appeals. Counsel for CLF and CRWA reported that his clients are close to agreement on the proposals for the facility, and that, although they have concerns about the temperature requirements that will be imposed on Mirant Kendall's discharges, they expect those concerns to be largely or completely mitigated by the new control technology the company is proposing to install.

All the parties estimated that they could reach agreement on the precise text of a final permit modification within three-and-a-half or four months from the date of this status conference. They represented further that they expected to reach an agreement-in-principle on the contents of an administrative compliance order within that same approximate time frame. With the assent of all parties, counsel for Region 1 made an oral motion to extend the existing

stay for three-and-a-half months, with a requirement to file a status report near the end of that period. Judge Kathie Stein granted the motion from the bench and informed the parties that the Board would memorialize the enlargement of time in a forthcoming order.

Accordingly, the Board hereby extends the stay of proceedings until **Thursday, June 3, 2010**. All parties shall file a status report (preferably jointly but separately if need be) with the Board no later than **Thursday, May 13, 2010**. This status report shall advise the Board on the progress of settlement discussions and whether it is appropriate to continue the stay, establish a revised briefing schedule, or take other appropriate action. In addition, the parties shall appear for another status conference on **Thursday, May 20, 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.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: January 28, 2010

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:

By Facsimile and First Class U.S. Mail:

Peter Shelley, Esq.
Conservation Law Foundation
62 Summer Street
Boston, Massachusetts 02110
telephone: (617) 350-0990
facsimile: (617) 350-4030

Kristy A.N. Bulleit, Esq.
Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
telephone: (202) 955-1547
facsimile: (202) 778-2201

Ralph A. Child, Breton Leone-Quick, and Colin Van Dyke, Esqs.
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, PC
One Financial Center
Boston, Massachusetts 02111
telephone: (617) 542-6000
facsimile: (617) 542-2241

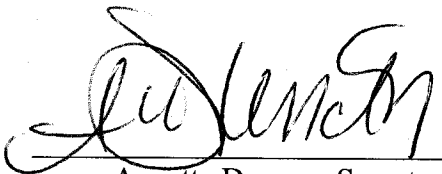
By Facsimile and EPA Pouch Mail:

Ronald A. Fein, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mailcode ORA18-1
Boston, Massachusetts 02109-3912
telephone: (617) 918-1040
facsimile: (617) 918-0040

By EPA Interoffice Mail:

Richard T. Witt, Esq.
U.S. Environmental Protection Agency
Office of General Counsel
1200 Pennsylvania Avenue, N.W.
Mail Code 2355A
Washington, D.C. 20460

Dated: JAN 28 2010



Annette Duncan, Secretary