



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

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ENVIR. APPEALS BOARD**FACSIMILE TRANSMISSION****RESTRICTED INFORMATION**

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**To: Eurika Durr, Clerk of the Board  
Environmental Appeals Board  
(202) 233-0121**

**Peter Shelley, Esq.  
Conservation Law Foundation  
(617) 350-4030**

**Ralph A. Child, Esq.  
Mintz, Levin, Cohn, Ferris Glovsky and Popeo, P.C.  
(617) 542-2241**

**From: Ron Fein, Office of Regional Counsel** *RAF*

**Date: 10/14/2008**

**Number of pages including cover: 5**

**Return Fax: 617-918-0040**

**Message:**

In re Mirant Kendall, LLC, NPDES Appeal Nos. 06-12, 06-13  
Respondent's Status Report and Motion to Extend Stay of Proceedings



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
ONE CONGRESS STREET SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

VIA FAX AND VIA FIRST CLASS MAIL

Eurika Durr, Clerk of the Board  
Environmental Appeals Board (MC 1103B)  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Re: NPDES Appeal Nos. 06-12, 06-13  
NPDES Permit No. MA 0004898  
Mirant Kendall, LLC

October 14, 2008

Dear Ms. Durr,

Enclosed please find the original of Respondent's Status Report and Motion to Extend Stay of Proceedings in the above-captioned case, with an attached certificate of service. The motion and the certificate of service have also been mailed to the Board and to counsel of record today. In lieu of five additional paper copies for the Board, an electronic copy has been posted to the CDX system.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald A. Fein".

Ronald A. Fein, Assistant Regional Counsel  
U.S. Environmental Protection Agency Region I  
One Congress Street, Suite 1100 (RAA)  
Boston, MA 02114  
617-918-1040  
Fax: 617-918-0040

cc: Ralph A. Child, Esq., Mintz, Levin, Cohn, Ferris Glovsky and Popeo, P.C.  
Peter Shelley, Esq., Conservation Law Foundation  
Robert Brown, Esq., Massachusetts Department of Environmental Protection

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In re Mirant Kendall, LLC  
NPDES Appeal Nos. 06-12, 06-13

comments received on the draft permit modification, consult with interested state and federal agencies as necessary, and finalize the permit modification. *See id.*

### STATUS REPORT AND GROUNDS FOR EXTENSION OF STAY

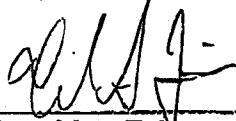
The Region has been working diligently to respond to the large number of comments received on the draft permit modification, and is nearing completion. However, the Region requires approximately five more weeks to finalize the permit modification and accompanying response to comments.

### REQUESTED RELIEF

In the interest of judicial economy and to enable the Region to complete the permit modification process contemplated by 40 C.F.R. § 124.19(d), the Region requests that the Board issue an order extending the stay of proceedings. The Region proposes to submit a status report no later than November 21, 2008, advising whether the Board should extend the stay, establish a revised schedule for the litigation, or take other appropriate action.

The Region represents that its undersigned counsel has discussed this Status Report and Motion to Extend Stay of Proceedings with Petitioners' respective counsel, and that Petitioners assent to the motion.

Respectfully submitted,



Ronald A. Fein, Assistant Regional Counsel  
U.S. Environmental Protection Agency Region 1  
One Congress Street, Suite 1100 (RAA)  
Boston, MA 02114  
617-918-1040  
Fax: 617-918-0040  
Date: October 14, 2008

Of Counsel:

Richard T. Witt, Attorney-Adviser  
Office of General Counsel  
U.S. Environmental Protection Agency  
Washington, D.C. 20460

In re Mirant Kendall, LLC  
NPDES Appeal Nos. 06-12, 06-13

In re: Mirant Kendall, LLC  
NPDES Appeal Nos. 06-12, 06-13

CERTIFICATE OF SERVICE

I, Ronald A. Fein, hereby certify that copies of the foregoing Respondent's Status Report and Motion to Extend Stay of Proceedings were sent on the 14th day of October 2008 to the following persons in the manner described below:

Original by first class mail  
Copy posted to CDX electronic system  
Copy by fax

Eurika Durr, Clerk of the Board  
Environmental Appeals Board (MC 1103B)  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Fax (202) 233-0121

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Copy by e-mail  
Copy by first class mail

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Conservation Law Foundation  
62 Summer Street  
Boston, MA 02110


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Ralph A. Child, Esq.  
Mintz, Levin, Cohn, Ferris Glovsky and Popeo, P.C.  
One Financial Center  
Boston, MA 02111

Fax (617) 542-2241

Signed: October 14, 2008

  
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