

**Terms and Provisions from NPDES Permit  
No. MA0004898 Subject to Mirant Kendall's Appeal**

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While these are the provisions of the modified NPDES permit, issued by way of letter to Mirant Kendall on December 19, 2008, that are subject to Mirant Kendall's current appeal, Mirant Kendall notes that some of these provisions, as well as many others, were previously appealed by it in the matter of In re: Mirant Kendall, LLC, Mirant Kendall Station, No. 06-12, which is currently stayed.

Nothing in this Exhibit or this current appeal should in any way be construed to limit the scope of Mirant Kendall's prior appeal, or to limit Mirant Kendall's ability to continue to seek review of the provisions previously appealed.