



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 1
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

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

_____)	
In re: Mirant Kendall, LLC)	
Mirant Kendall Station)	NPDES Appeal Nos. 06-12, 06-13
_____)	
NPDES Permit No. MA 0004898)	
_____)	

**RESPONDENT’S STATUS REPORT AND
MOTION TO EXTEND STAY OF PROCEEDINGS**

Region 1 (“Region”) of the United States Environmental Protection Agency, with the assent of Petitioners Mirant Kendall, LLC, the Conservation Law Foundation, and the Charles River Watershed Association, hereby provides this status report and respectfully requests that the Environmental Appeals Board (“Board”) extend the stay of proceedings in this case, in light of the status of a pending modification to the permit under appeal.

As explained in more detail below, the Region requests that the stay be extended to November 21, 2008, so that the Region may finalize the permit modification.

BACKGROUND

This proceeding is currently stayed in light of a pending permit modification. *See In re Mirant Kendall, LLC, Mirant Kendall Station, NPDES Appeal Nos. 06-12 & 06-13, at 1 (EAB June 9, 2008) (Order Granting Unopposed Motion for Third Stay of Proceedings).* In the Region’s most recent status report, filed May 27, 2008, the Region estimated that it would require until October 15, 2008 to review and draft responses to

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

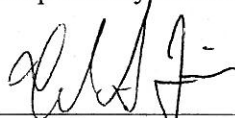
The Region has been working diligently to respond to the large number of comments received on the draft permit modification, and is nearing completion. However, the Region requires approximately five more weeks to finalize the permit modification and accompanying response to comments.

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

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

Copy by fax
Copy by e-mail
Copy by first class mail

Peter Shelley, Esq.
Conservation Law Foundation
62 Summer Street
Boston, MA 02110

Fax (617) 350-4030

Copy by fax
Copy by e-mail
Copy by first class mail

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