



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
FIVE POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912**

VIA ELECTRONIC FILING

Eurika Durr, Clerk of the Board
Environmental Appeals Board
U.S. Environmental Protection Agency

Re: NPDES Appeal Nos. 06-12, 06-13, 09-04
NPDES Permit No. MA 0004898
Mirant Kendall, LLC

October 26, 2010

Dear Ms. Durr,

Enclosed please find the Region's Status Report Regarding Draft Permit Modification Issuance in the above-captioned case, with an attached certificate of service.

Sincerely,

Ronald A. Fein
Ronald A. Fein, Assistant Regional Counsel
U.S. Environmental Protection Agency Region 1
Mailcode: ORA18-1
617-918-1040
Fax: 617-918-0040

cc: Ralph A. Child, Esq., Mintz, Levin, Cohn, Ferris Glovsky and Popeo, P.C.
Kristy A. Bulleit, Esq., Hunton & Williams LLP
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, 09-04
)	
NPDES Permit No. MA 0004898)	
)	

**REGION’S STATUS REPORT REGARDING
DRAFT PERMIT MODIFICATION ISSUANCE**

Respondent United States Environmental Protection Agency, Region 1 (“Region”), provides this status report as required by the most recent order of the Environmental Appeals Board (“Board”) in this National Pollutant Discharge Elimination System (“NPDES”) permit appeal. As set forth below, the Region has submitted a draft NPDES permit modification for public notice and comment.

These proceedings have been stayed for various reasons since 2007. On October 19, 2010, the Board extended the stay and ordered the parties to submit status reports upon the completion of various milestones in the process of modifying the challenged NPDES permit and resolving the outstanding appeals. *See In re Mirant Kendall, LLC, Mirant Kendall Station*, NPDES Appeal Nos. 06-12, 06-13, & 09-04 (EAB, Oct. 19, 2010) (Order Granting Extension of Stay and Rescheduling Status Conference).

The Board’s order provides that “[w]ithin three (3) business days of submission of the draft permit modification for formal public notice and comment, the Region shall notify the Board of such submission.” *Id.* at 2. The Region hereby notifies the Board that on October 25, 2010, the Region submitted a draft NPDES permit modification for Mirant Kendall Station for public notice and comment. The public notice appeared in the legal

notice section of the *Boston Globe* and is also available on the Region's web site.¹ As set forth in the public notice, the comment period runs to November 23, 2010.

No further relief is requested. The Region represents that its undersigned counsel has discussed this Status Report Regarding Draft Permit Modification Issuance with Petitioners' respective counsel, and that Petitioners assent to the report.

Respectfully submitted,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 1

By its attorney,

Ronald A. Fein

Ronald A. Fein, Assistant Regional Counsel
U.S. Environmental Protection Agency Region 1
5 Post Office Square, Suite 100 ORA18-1
Boston, MA 02109-3912
October 26, 2010

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

CERTIFICATE OF SERVICE

I, Ronald A. Fein, hereby certify that copies of the foregoing Status Report Regarding Draft Permit Modification Issuance were sent on the 26th day of October 2010 to the following persons in the manner described below:

Posted to CDX electronic system

Eurika Durr, Clerk of the Board
Environmental Appeals Board

Copy by e-mail

Peter Shelley, Esq.

Copy by e-mail

Ralph A. Child, Esq.

Copy by e-mail

Kristy A. Bulleit, Esq.

Signed: October 26, 2010

Ronald A. Fein

¹ See <http://www.mypublicnotices.com/bostonglobe/PublicNotice.asp?Page=PublicNotice&AdId=2128462> (Boston Globe); <http://epa.gov/ne/npdes/permits/draft/2010/draftma0004898pn.pdf> (EPA web site).