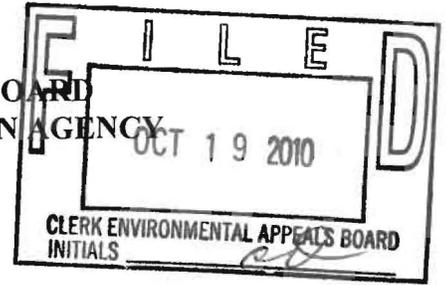


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



_____)
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 RESCHEDULING STATUS CONFERENCE**

On October 15, 2010, Region 1 of the U.S. Environmental Protection Agency, Mirant Kendall, LLC (“Mirant Kendall”), Conservation Law Foundation (“CLF”), and Charles River Watershed Association (“CRWA”) filed a joint status report seeking a continuance of the long-standing stay in this case until January 14, 2011, along with cancellation of the October 21, 2010 status conference. The parties report that they have successfully completed settlement negotiations. The Region and Mirant Kendall have reached agreement on a proposed permit modification and an administrative compliance order, and the parties expect that within two weeks of this order, the Region will notice the proposed permit modification for public comment. In addition, Mirant Kendall, CLF, CRWA, and the Massachusetts Department of Environmental Protection have reached agreements (collateral to the EPA administrative order and final permit decision) that will lead to all three parties requesting leave to withdraw their petitions for review of Mirant Kendall’s permit.

The motion to continue the stay until **Friday, January 14, 2011**, is hereby granted, and the October 21st status conference is cancelled. In the interim, the Environmental Appeals Board (“Board”) orders the following:

- (1) Within 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.
- (2) Within ten business (10) days after conclusion of the public comment period, the Region shall notify the Board whether it received any comments requesting changes to the draft permit modification and, if so, whether the notification and stay schedule in the present case should be revised.
- (3) Within five (5) business days after issuing a final permit modification, the Region shall notify the Board that it has issued said final permit modification.
- (4) Within ten (10) business days after the expiration of the deadline under 40 C.F.R. § 124.19 for seeking review of the final permit modification, Mirant Kendall, CLF, and CRWA shall either request the Board's leave to withdraw their respective appeals or inform the Board why they have not done so.
- (5) The parties shall appear for another status conference on **Thursday, January 6, 2011**, 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 other developments related to this case, that a status conference would not be beneficial, the parties shall contact the Clerk of the Board to request that the conference be cancelled.

Finally, in light of the lengthy period of time this matter has been pending on the Board's docket, the Board notes with interest the parties' present anticipation, as represented in their status report and motion, that the pending appeals potentially will be dismissed within three months of this order (i.e., by mid-to-late January 2011). Joint Status Report & Motion at 5.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: 10/19/10

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 Rescheduling 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:

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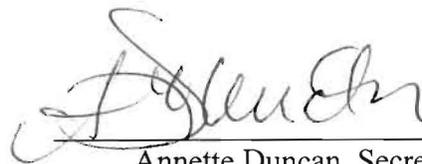
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Dated: OCT 19 2010



Annette Duncan, Secretary