



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1  
1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

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**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

ENVIR. APPEALS BOARD

MAR 6 2008

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

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

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

Re: Notice of Withdrawal of Contested Conditions  
Mirant Kendall Station, NPDES Permit MA0004898  
NPDES Appeal Nos. 06-12, 06-13

Dear Ms. Durr, Mr. Child, and Mr. Shelley:

On September 26, 2006, the New England Regional Office of the U.S. Environmental Protection Agency ("the Region") reissued NPDES Permit, No. MA0004898 ("Permit"), to Mirant Kendall, LLC ("Permittee"). The Permit authorizes wastewater discharges from the Mirant Kendall Station power plant into the Charles River and establishes effluent limitations, monitoring requirements and other conditions for these discharges, as well as conditions applicable to the plant's cooling water intake structures ("CWISs").

On October 30, 2006, both the Conservation Law Foundation (on behalf of itself and the Charles River Watershed Association) and the Permittee filed petitions for review of the Permit with the Environmental Appeals Board ("Board"). Each petition, albeit for different reasons, challenged, *inter alia*, the Permit's cooling water intake structure requirements imposed under Section 316(b) of the Clean Water Act.<sup>1</sup>

<sup>1</sup> The filing of these petitions stayed the contested conditions of the Permit pursuant to 40 C.F.R. §§ 124.16(a)(2) and 124.60(b). The Region has not issued a notice of uncontested and contested conditions. Therefore, the entire Permit remains stayed.

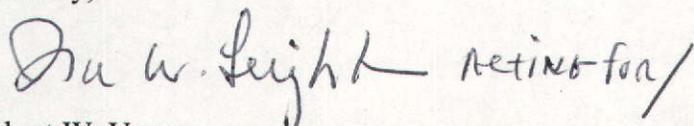
Pursuant to 40 C.F.R. § 124.19(d) and in accordance with the Board's September 28, 2007 Order Extending Stay of Proceedings, the Region hereby withdraws the following provisions of the Permit:

**Parts I.A.2.d, I.A.2.e, I.A.11, I.A.14.a.3.c, I.A.14.d.7, I.A.14.d.9, I.A.14.d.11, and I.A.16**

Also pursuant to 40 C.F.R. § 124.19(d), the Region plans to issue a public notice of proposed revised permit conditions in a draft permit modification in the near future. The rationale for these proposed conditions will be presented in a Statement of Basis that will accompany the draft permit modification. The Region expects to provide a thirty-day period for public comment on the proposed modification.

If you have any questions regarding this correspondence, please feel free to contact Ronald Fein, the Region's legal counsel in this matter, at 617-918-1040.

Sincerely,

A handwritten signature in black ink that reads "Rob W. Varney Acting for". The signature is written in a cursive style.

Robert W. Varney  
Regional Administrator

cc: David Webster, EPA  
George Papadopoulos, EPA  
Philip Weinberg, MassDEP  
Robert Brown, MassDEP  
Leslie-Ann S. McGee, MA CZM