



**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

December 2, 2010

Dear Ms. Durr,

Enclosed please find the Region's Status Report Regarding Comments Received 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.**

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In re: Mirant Kendall, LLC	)	
Mirant Kendall Station	)	NPDES Appeal Nos. 06-12, 06-13, 09-04
	)	
NPDES Permit No. MA 0004898	)	
	)	

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**REGION’S STATUS REPORT REGARDING  
COMMENTS RECEIVED**

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 comment period on the Region’s draft NPDES permit modification has concluded without significant 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) (“October 19 Order”).

The Board’s order provides that “[w]ithin 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.” *Id.* at 2.

The Region hereby notifies the Board that on November 23, 2010, the public comment period for the draft NPDES permit modification for Mirant Kendall Station concluded. The Region received only one comment during that period, and that comment did not request a change to the draft permit modification. The Region intends to finalize the permit modification shortly, and does not request any changes to the notification and stay schedule as set forth in the October 19 Order.

The Region represents that its undersigned counsel has discussed this status report 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  
December 2, 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 Comments Received were sent on the 2d day of December 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: December 2, 2010

*Ronald A. Fein*