



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
BOSTON, MA 02109-3912

By Hand

April 20, 2010

Jill Metcalf
Acting Regional Judicial Officer
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: In the Matter of Mirant Kendall, LLC, Cambridge, Massachusetts
Docket No. CWA-01-2010-0023

Dear Ms. Metcalf,

In accordance with 40 C.F.R. § 22.18(b), enclosed please find a Clean Water Act Section 311 Expedited Settlement Agreement (ESA) that has been signed by the parties and is now being submitted to you for approval. Please note that consistent with 40 C.F.R. §§ 22.13(b) and 22.18(b) this ESA both commences and concludes the matter referenced above.

The proposed penalty of \$3,000 in the matter is consistent with EPA's Civil Penalty Policy for Violations of Section 311(b)(3) and Section 311(j) of the Clean Water Act ("CWA").

Because this is a Class I CWA action, no public notice is required. Once the Final Order has been signed, the parties will file the fully executed ESA with the Regional Hearing Clerk thereby resolving this matter. If you have any questions related to this matter please call me at 617-918-1762.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane Boisclair".

Diane Boisclair, Environmental Protection Specialist
U.S. EPA, Region 1

Enclosure (ESA)

cc: Paul Fiocchi, Manager, Mirant Kendall, LLC
Wanda Rivera, Regional Hearing Clerk

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Diore Basclair
Name of Case Attorney

6/7/10
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CWA-01-2010-0023

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Mivant Kendall, LLC
265 First Street
Cambridge, MA

Total Dollar Amount of Receivable \$ 3,000 Due Date: _____

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1ST \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

_____ Phone Number



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912
EXPEDITED SPILL SETTLEMENT AGREEMENT**

DOCKET NO. CWA-01-2010-0023

On or around November 22, 2009, Mirant Kendall, LLC (Respondent), the owner or operator of an onshore facility located at 265 First Street, Cambridge, Massachusetts, discharged oil, as defined in 40 CFR §110.1, to the Charles River, a navigable water of the United States as defined in Section 502(7) of the Act, and 40 CFR § 110.1, or its adjoining shorelines, in violation of Section 311(b)(3) of the Clean Water Act (the "Act").

EPA finds that Respondent is subject to the Act and has violated the Act by discharging a harmful quantity of oil, as defined in 40 CFR § 110.3, into navigable waters of the United States or adjoining shorelines. Respondent admits to being subject to the Act and that EPA has jurisdiction over Respondent and Respondent's conduct as described in this Expedited Settlement. Respondent does not contest the Findings, and waives any objections Respondent may have to EPA's jurisdiction.

EPA is authorized to enter into this Expedited Settlement under the authority vested in EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in this Expedited Settlement for a penalty of **\$3,000**. Respondent consents to the assessment of this penalty.

This Expedited Settlement also is subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, has cleaned up the spill pursuant to federal requirements, has taken corrective actions that will prevent future spills, and has sent a certified check in the amount of **\$3,000**, payable to the Environmental Protection Agency. Respondent shall send the check to: U.S. Environmental Protection Agency, Fines and Penalties, P.O. Box 979077, St. Louis, MO 63197-9000. Respondent shall send a copy of the check to Diane Boisclair, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square Suite 100, Mail Code OES04-3, Boston, Massachusetts 02109-3912. The check should reference the above docket number of the case and the "Oil Spill Liability Trust Fund - 311."

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and is effective after signature by the Regional Judicial Officer, the third signature below.

Once the Expedited Settlement is signed by the Regional Judicial Officer, the original Expedited Settlement will be filed with the Regional Hearing Clerk and a copy will be mailed to: U.S. EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive (MS-002), Cincinnati, Ohio 45268. A copy of the Expedited Settlement will also be mailed to the Respondent.

If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the noncompliance identified in this document.

After this Expedited Settlement becomes effective, EPA will take no further civil penalty action against Respondent for the violations of the Act described in this Expedited Settlement. However, EPA does not waive any rights to take any enforcement action for any other past present, or future violations by Respondent of the Act or of any other federal statute or regulations.

APPROVED BY EPA:

Joanna Jerison Date: 3/29/10

Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship

APPROVED BY RESPONDENT:

Name (print): James P. Garlick

Title (print): Sr. Vice President, Operations

James P. Garlick Date: 4-12-10
Signature

Estimated Cost of taking corrective action to clean spill and prevent future spills: \$ 300,000.00 

IT IS SO ORDERED:

Jill Metcalf Date: April 22, 2010
Jill Metcalf,
Acting Regional Judicial Officer



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Region 1
5 Post Office Square, Suite 100
BOSTON, MA 02109-3912

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Diane Boisclair, Environmental Protection Specialist
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