

CAPE COD COMMISSION

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Mr. David Webster
Chief, Industrial Permits Branch
Office of Ecosystem Protection
U.S. Environmental Protection Agency
Region 1
1 Congress Street, Suite 1100
Boston, MA 02114-2023

Re: Public Notice
Issuance of NPDES Draft Permit Conditions
NPDES Permit Number: MA0004928 for the Mirant Canal Station

Dear Mr. Webster:

The Cape Cod Commission (the "Commission") has received your correspondence regarding the proposed withdrawal and re-noticing of certain provisions of the NPDES permit issued under NPDES Permit Number MA0004928 for the Mirant Canal Station. This letter is to provide the Commission's comments on the proposed Draft Permit Conditions contained in your December 10, 2008 correspondence. The Mirant site is located at a regional gateway to Cape Cod and within a locally designated National Register Historic District. The visual impacts of any proposed addition to the Mirant facility raise concerns regarding historic and community character and the economic vitality of the region and the Town of Sandwich.

According to the documents provided by your office, the draft permit conditions were adopted to reduce impingement and entrainment of marine species resulting from the cooling water intake system (CWIS) at the Mirant plant. These conditions are also proposed in order to support EPA's consultation responsibilities under Section 7(a)(2) of the Endangered Species Act. While we support these worthwhile goals, we also encourage the permitting agencies to balance these interests and take into account other impacts on the region that may result from the proposed conditions.

Section 13(g) of the draft permit provides two methods for the applicant to achieve its Best Technology Available ("BTA") requirements:

1. Utilize a closed-cycle cooling system for electrical generating Units 1 and 2; or,
2. Utilize another method of achieving the standard.

These draft permit conditions may result in further action on the part of Mirant that are inconsistent with the Cape Cod Commission Act and certain provisions of the Cape Cod Regional Policy Plan.

Our understanding of current technology is that a closed-cycle cooling system (or alternative method) would likely result in the construction of one or more large, visually imposing cooling tower(s) at the Mirant Canal site. This raises concerns about potential impacts to historic and community character and for regional and local economic development.

The existing power plant, and any proposed additional cooling tower, may be described as inconsistent with the traditional character of Cape Cod. This is due to its immense size as well as its visual appearance. The proposed CWIS requirements may further adversely impact two National Register Historic Districts. Any new cooling tower would likely be located within the Sandwich Old Kings Highway Historic District and within close visual proximity to Sandwich's Town Hall Square Historic District. The proposed permit requirements could impact the historic center of Sandwich, which uses its historic character as a major factor for attracting tourism, a significant portion of its economy.

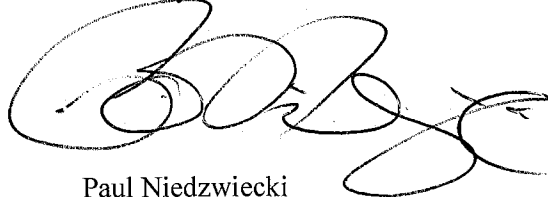
The Mirant site is located at one of two gateways to Cape Cod and is highly visible from many communities on Cape Cod. The Mirant facility is also located adjacent to major recreational facilities, including the Cape Cod Canal bike path and the Sandwich Marina. The draft Sandwich Local Comprehensive Plan proposes redevelopment of the Sandwich Marina for mixed residential and commercial uses. Any additional cooling towers at the Mirant site may be incompatible with the vision for this area. Thus, the proposed conditional language may adversely impact many Cape towns and the ability of the Cape as a region to attract tourism, as well as the ability of the Town of Sandwich to stimulate its economy. We encourage the permitting agencies to consider visual impacts to this important and historic gateway to Cape Cod and to take some time to explore non-vertical options for water cooling prior to adopting final conditional language.

Finally, we note that for many decades Cape Codders have recognized that the environment is the economy of Cape Cod. People visit the Cape to enjoy its beaches and uninterrupted views and vistas. A very large industrial addition to the existing facility at the gateway/entrance to Cape Cod may be inconsistent with the Cape's efforts to attract visitors to support its local economy.

Because no specific development plans are associated with the draft permit conditions, the Commission reserves the right to comment further on potential impacts to open space, wetlands, plant and wildlife habitat, historic resources, community character and economic development, and other interests that the Commission is charged with protecting.

Thank you for the opportunity to comment on these proposed Draft Permit Conditions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Niedzwiecki', written over a large, stylized circular flourish.

Paul Niedzwiecki
Executive Director

cc: George Dunham, Sandwich Town Administrator
Alan Trebat, Sandwich Representative, Cape Cod Commission
Greg Smith, Sandwich Town Planner
Ian Bowles, Mass Secretary of Energy and Environmental Affairs
Laurie Burt, Commissioner, Massachusetts DEP
Robert Varney, Regional Administrator, USEPA, Region 1