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January 28, 2009

BY FEDERAL EXPRESS

David Webster
Chief, Industrial Permits Branch
Office of Ecosystem Protection
United States Environmental Protection Agency - Region 1
One Congress Street, Suite 1100
Boston, MA 02114-2023

Re: **Mirant Canal Station, Sandwich**
Draft NPDES Permit No. MA0004928
Comments/Town of Sandwich

Dear Mr. Webster:

The Town of Sandwich (the "Town") hereby submits the following comments on the Draft NPDES Permit No. MA0004928 (the "Draft Permit") issued in connection with the Mirant Canal Station. The Town is the host community for the Mirant Canal Station. The Draft Permit, if implemented as drafted, could have material adverse economic, environmental, energy-related and aesthetic impacts on the Town, as more fully set forth below.

1. **Economic Impacts**

Mirant Canal, LLC ("Mirant") projects that construction of the cooling towers and installation of the technologies in the Draft Permit will cost approximately two hundred million dollars. Mirant has concluded that these costs will make continued operation of the Mirant Canal Station cost-prohibitive.

Closure of the Mirant Canal Station would be economically devastating to the Town. In 2005, Mirant entered into a Tax Valuation Agreement with the Town (the "Tax Agreement"). Under the Tax Agreement, Mirant is scheduled to make annual tax payments to the Town in excess of two million dollars through and including the year 2013. The Tax Agreement terminates if the Mirant Canal Station is retired. Mirant currently accounts for 5.5% of the

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Town's tax base and is the Town's single largest taxpayer. Loss of the Mirant tax revenue could result in large tax increases for residents and businesses located in Sandwich and/or further cuts in municipal services. Sandwich taxpayers already have the highest tax bills on Cape Cod. If the Mirant Canal Station is closed, each taxpayer would likely have to pay an additional \$250 per year in taxes. The timing could be devastating to the Town as state and federal aid to the Town continues to be reduced in these difficult economic times. In addition, the Mirant Canal Station currently employs eighty-four people. These jobs would be lost if the Mirant Canal Station were to close and would not be easily replaced. This in turn would lead to additional indirect economic harm to the Town in terms of lost business revenues at local businesses and the loss of jobs for scores of local and regional residents.

The negative aesthetic impacts of the Mirant Canal Station (which are discussed further below) could also adversely impact property values. One area that is of specific concern is a part of the Town called Town Neck. There are about one hundred homes in the Town Neck area whose viewshed will be materially altered if the cooling towers are constructed. The effects on Town property values in surrounding neighborhoods are still being evaluated.

2. **Environmental Impacts**

The environmental impacts of the Draft Permit have not been fully evaluated. In an earlier draft of the Draft Permit, it was proposed that extensive studies be undertaken to determine the scope and severity of projected environmental impacts. None of these studies have been performed. These studies should be performed and analyzed by the Environmental Protection Agency ("EPA") and the Massachusetts Department of Environmental Protection ("DEP") before a final permit is issued.

3. **Energy-Related Impacts**

On January 20, 2009, ISO New England ("ISO-NE") issued a report on recent and planned transmission upgrades and their impact on the continued need to operate the Mirant Canal Station.¹ According to the report's Executive Summary, short term transmission upgrades will result in a drastically reduced need to run Mirant Canal Station. Prior to the upgrades, Mirant Canal Station was required to run every day due to reliability needs and Mirant Canal Station's own operating characteristics. With the upgrades, ISO-NE estimates needing to operate Mirant Canal Station for only 42 to 58 days a year. According to ISO-NE, as early as June 2009, these changes will allow utilization of load shedding to maintain system reliability as opposed to the operation of the Canal plant.² As stated by ISO-NE, "[b]ecause of the dramatically reduced number of days and hours that load shedding would be relied upon, the significantly reduced

¹ ISO New England Inc., Long-Term Report of ISO New England Inc. Required Pursuant to Section 6.1(c) of the SEMA Settlement Agreement (January 20, 2009). The report contains Critical Energy Infrastructure Information so it is not publicly available. However, an excerpt of this report's Executive Summary is publicly available on ISO-NE's website at http://www.iso-ne.com/pubs/spcl_rpts/2009/executive_summary_sema_long_term_report.pdf.

² ISO-NE Long-Term Report, Executive Summary at 4-5.

level of exposed load, and the reduced potential duration of any outage, ISO believes that the lower SEMA area can be operated reliably and within criteria after the completion of the short term upgrades *without the need to operate the generation at Canal station at current system loads.*³ However, ISO-NE cautions that “[w]hile load shedding can be relied upon for a few years, as load continues to grow the operational headroom afforded by the short term upgrades will be reduced and additional reinforcements in the area, either transmission or generation, will be necessary in order to operate the area reliably without reliance on the Canal generation.”⁴

ISO-NE’s report results in several conclusions. First is that the Canal plant will be operating much less than it is currently. This in itself will greatly reduce “entrainment” and “impingement” of aquatic organisms, which the Draft Permit attempts to address. Second, the economic impacts of the Draft Permit (discussed above) are even more disproportionate in light of the anticipated reduced need for Mirant Canal Station. Finally, while the need for the Canal plant will be greatly reduced, there is still an important role for Mirant Canal Station in the region’s energy supply. Currently the Canal plant is the only major source of electricity production in Southeastern Massachusetts, and constitutes a substantial generation resource for the Commonwealth and New England. Thus, forcing Mirant Canal Station to close due to economic or other reasons could negatively impact the reliability of the region’s system in the long-run, especially if there is any significant load growth.

4. Aesthetic Impacts

The two cooling towers required by the Draft Permit would be an estimated 255 feet in diameter and 500 feet tall. They will have a negative aesthetic impact on the region. While the current appearance of the Mirant Canal Station is not aesthetically pleasing, the new towers will add significant visual blight to the area. The Mirant Canal Station is located northeast of the Shawme-Crowell State Park and the Scusset Beach State Reservation is directly across the Cape Cod Canal. The towers will be visible from 10 miles away. Visitors using the nearby Sagamore Bridge, one of the main gateways to the Cape Cod region, will be impacted. There will also be related illumination and noise issues of concern, once fully identified.

5. Legal Uncertainties

In addition to the potential adverse economic, environmental, energy-related, and aesthetic impacts discussed above, the Town is very concerned about the resolution of several pending legal matters that could affect the Draft Permit. First, there are proceedings at ISO-NE that may affect the Mirant Canal Station’s continuing role in the region’s energy supply. Second, EPA is considering implementing new rules (the so called “Phase II Rules”) that would change numerous aspects of the Draft Permit and could very well eliminate the cooling-tower requirement. Finally, there is a pending Supreme Court case that could affect the Draft Permit.

³ *Id.* at 5 (emphasis added).

⁴ *Id.*

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The Town believes the greatest benefit to the environment, the local and regional economy and the regional and New England wide energy planning perspective is disserved by implementation of the Draft Permit. In the longer-term, the Town is committed to a solution at Mirant Canal Station that maximizes environmental and energy planning objectives and, in turn, recognizes the role of a clean, quick start natural gas fired generating plant at the Canal station site in meeting Cape and regional needs. To the extent the process of determining how to best achieve those objectives is ongoing, a precipitous rush to require cooling towers at Mirant Canal Station would cripple if not kill that process.


The Town is very concerned about implementing the Draft Permit before these legal uncertainties are resolved. The Town's fiscal planning and economic development projects depend in no small part on the operation of the Mirant Canal Station. The Town therefore respectfully requests that EPA and Mass DEP delay finalizing the Draft Permit until these legal uncertainties are resolved.

Please contact Jeff Bernstein at (617) 244-9500 if you have any questions about this letter. Thank you.

Very truly yours,

The Town of Sandwich

BY ITS ATTORNEYS


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JMB/EMO:drb

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