

## **Response to Public Comments**

From October 25, 2010 to November 23, 2010, the United States Environmental Protection Agency (“EPA”) and the Massachusetts Department of Environmental Protection (“MassDEP”) (together, the “Agencies”) solicited public comments on a draft NPDES permit modification developed pursuant to a permit modification application from Mirant Kendall, LLC for the issuance of a National Pollutant Discharge Elimination System (“NPDES”) permit modification to discharge non-contact cooling water, ultrafilter and reverse osmosis (UF & RO) treatment system reject and backwash waters, boiler blowdown, intake screen backwash water, and low volume waste streams from several outfalls to the Charles River and the Broad Canal in Cambridge, Massachusetts.

After a review of the comment received, EPA and MassDEP have made a final decision to issue this permit modification authorizing these discharges. The final permit modification is identical to the draft permit modification that was available for public comment, with the exception of a language change regarding the submission of an annual report and the ownership name change for the permittee, which are detailed below.

Copies of the final permit modification may be obtained by writing or calling EPA’s NPDES Industrial Permits Branch (OEP 06-1), Office of Ecosystem Protection, 5 Post Office Square, Suite 100, Boston, MA 02109-3912; Telephone: (617) 918-1579.

### **Comment submitted by Rae Stiening by e-mail of 11/5/10:**

The following text appears in (the U.S. Securities and Exchange Commission) SEC form 10-Q submitted by Mirant on November 5, 2010.

“As part of its settlement with the EPA and MADEP, Mirant Kendall expects the EPA and MADEP to issue administrative consent orders that defer application of the new limit on the amount of river water used by the Kendall generating facility and the new temperature limits imposed by the 2010 Kendall Permits until installation has been completed of the new pipeline, the back pressure steam turbine, and the air cooled condenser, which is not expected to occur until 2015.”

Is this an accurate statement of what the EPA intends to do?

### **Response to Rae Stiening comment:**

The comment does not address the final permit modification in that the modification is written to require immediate compliance. Nonetheless, because the permittee will need some time to comply with the revised permit conditions, EPA anticipates that it will impose a compliance schedule, including interim limits, through a federal administrative compliance order. EPA

currently intends to require that the permittee proceed expeditiously with a construction schedule that will closely parallel the Longfellow Bridge construction schedule, and to require interim effluent limitations that will include certain interim heat load reductions.

**Other changes to the final permit modification:**

Annual Monitoring Report Language Change

Upon further consideration of the Annual Monitoring Report (AMR) requirement in Part I.B.3 of the draft permit modification, EPA believes that it is preferable to base such submissions on a calendar year cycle. Therefore, the following language change provides a revised description of when the first AMR and subsequent AMRs are due. In addition, the draft modification had incorrectly noted that the description of the AMR requirement was in Part I.A.14.a., when in fact it was in Part I.A.14.d.

Draft modification language:

The **Annual Monitoring Report** is also due no later than ninety (90) days after the Effective Date of the permit and annually thereafter, as described in Part I.A.14.a.

Final modification language:

The **Annual Monitoring Report** is also due no later than ninety (90) days after the **close of the calendar year** of the Effective Date of the permit and annually thereafter, as described in Part I.A.14.d.

Corporate Name Change

With a letter submitted by Shawn Konary, representing the permittee, to Olga Vergara of EPA on December 8, 2010, the permittee noted that as of December 3, 2010, as a result of a corporate merger with another entity, the permittee has changed its name from Mirant Kendall, LLC to GenOn Kendall, LLC. Therefore, the name of the permittee on the cover page has been changed.

December 9, 2010