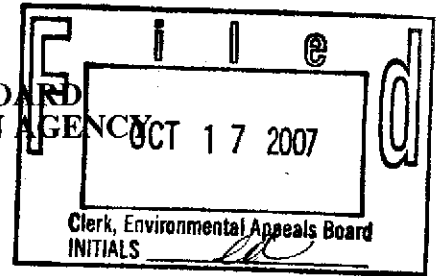


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:

District of Columbia Water and Sewer Authority

NPDES Permit No. DC0021199

NPDES Appeal Nos. 05-02, 07-10,
07-11, 07-12

ORDER GRANTING LEAVE TO FILE NON-PARTY BRIEF

By Motion dated October 16, 2007, the National Association of Clean Water Agencies and the Wet Weather Partnership (together, "NACWA/WWP") seek leave to file a joint non-party brief in the NPDES Appeal Nos. 07-10 and 07-11, which the Board consolidated for review, along with NPDES Appeal Nos. 05-02 and 07-12, on July 26, 2007. The non-party brief is attached to NACWA/WWP's motion. The above-captioned appeals challenge the modified NPDES permit issued to the District of Columbia Water and Sewer Authority ("WASA") on April 5, 2007, and, *inter alia*, raise the issue of whether U.S. Environmental Protection Agency Region 3 (the "Region") should have included a compliance schedule in the permit. NACWA/WWP seek to file a brief limited to the issue of whether a compliance schedule should have been included in the permit.

The Board previously granted NACWA/WWP leave to file a brief in Appeal No. 05-02, which was limited to the issue of whether a compliance schedule should have been included in an earlier permit modification. NACWA/WWP state that they now seek to file a non-party brief in Appeal Nos. 7-10 and 07-11 to address the same issue, but in a slightly different factual context. Motion at 1-2. They assert that "the proposed joint non-party brief will assist


in the resolution of the issues in these consolidated cases and will address an issue on which the Board has already granted leave for NACWA and the WWP to address in another context.” *Id.* at 2. NACWA/WWP state that they contacted the other parties in the consolidated cases to determine whether they concur with NACWA/WWP’s proposed filing. According to NACWA/WWP, WASA concurs; the Chesapeake Bay Foundation does not oppose the motion so long as it is limited to the compliance schedule issue; Friends of the Earth and the Sierra Club advised that they would not take a position; and the Region advised that it would wait to review the motion before deciding what position to take. *Id.* at 2-3.

Because neither the EAB Practice Manual nor 40 C.F.R. part 124 address the filing non-party briefs, the Board exercises its discretion in determining whether to accept non-party briefs. As a non-party, issues raised by NACWA would not expand the scope of the appeal. To assist in its deliberations, and for good cause shown, the Board hereby GRANTS NACWA/WWP leave to file a non-party brief in the above-captioned appeals and accepts for filing its attached Joint Non-Party Brief of NACWA and the Wet Weather Partnership.

So ordered.

Dated: October 17, 2007

ENVIRONMENTAL APPEALS BOARD

By: 
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Granting Leave to File Non-Party Brief, in the matter of District of Columbia Water and Sewer Authority, NPDES Petition Nos. 05-02, 07-10, 07-11, and 07-12 were sent to the following persons in the manner indicated:

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Dated: OCT 17 2007


Annette Duncan,
Secretary