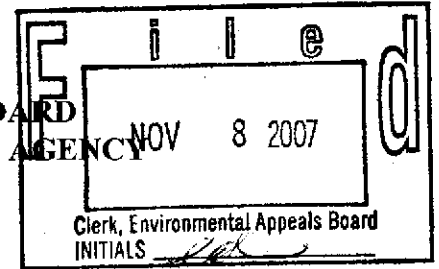


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)
)
Government of the District of Columbia,) NPDES Appeal Nos. 06-07
Municipal Separate Storm Sewer System) and 06-08
)
NPDES Permit No. DC0000221)
)

ORDER DISMISSING PETITIONS FOR REVIEW

On October 29, 2007, Region 3 of the U.S. Environmental Protection Agency filed a "Notice of Withdrawal of Permit Amendment, Motion for Dismissal with Prejudice and Memorandum in Support Thereof" with the Environmental Appeals Board. In its filing, the Region explains that it has been engaged in extensive settlement negotiations with both petitioners in this case, but to date the parties have been unable to resolve their differences through that mechanism. Thus, the Region has chosen at this juncture to withdraw all the contested permit terms. The Region plans to prepare a new draft permit modification addressing the disputed issues and will submit the new draft terms for public comment in the coming months. The Region contends that as a result of its withdrawal of the contested permit terms, the pending petitions for review of the permit amendment are moot and should be dismissed.

Counsel for petitioners report that their clients do not oppose the dismissal of their petitions as moot, but petitioners harbor some concern that a "dismissal with prejudice" might be misconstrued as a Board decision on the merits that might limit their rights to review, comment on, and/or subsequently petition for review of any reissued permit conditions. Petitioners

therefore request that the Board add explicit language to the dismissal order to ensure preservation of these rights.

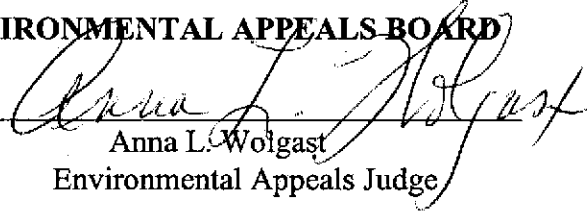
For good cause shown, the petitions for review, designated as Board NPDES Appeal Nos. 06-07 and 06-08, are hereby **DISMISSED WITH PREJUDICE**. These dismissals with prejudice have no effect on the petitioners' rights to submit comments on draft permit revisions or modifications pursuant to 40 C.F.R. § 124.11, to later petition the Board for appropriate additional permit modifications pursuant to 40 C.F.R. §§ 124.5 and 122.62, or to challenge any future EPA action with respect to NPDES Permit No. DC0000221 or any other permit on any grounds.

So ordered.

Dated: October 8, 2007

ENVIRONMENTAL APPEALS BOARD

By:


Anna L. Wolgast
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Dismissing Petitions for Review** in the matter of Government of the District of Columbia, Municipal Separate Sewer System, NPDES Appeal Nos. 06-07 and 06-08, were sent to the following persons in the manner indicated:

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Dated: NOV - 8 2007



Annette Duncan
Secretary