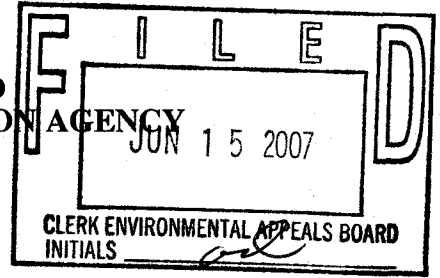


ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:

District of Columbia Water and Sewer Authority

NPDES Appeal No. 07-12

NPDES Permit No. DC0021199

**ORDER GRANTING MOTION FOR LEAVE TO INTERVENE AS PARTY
RESPONDENT AND REQUEST TO RESPOND TO THIRD PARTY PETITIONERS'
PETITION FOR REVIEW**

By motion dated May 29, 2007, the District of Columbia Water and Sewer Authority ("WASA") seeks leave (1) to intervene as a Respondent in the above-captioned petition for review ("Petition") filed by Friends of the Earth and the Sierra Club ("Petitioners") and (2) to file a response to the Petition.

The Petition, dated May 7, 2007, relates to NPDES Permit No. DC0021199 (the "Permit"), which United States Environmental Protection Agency Region 3 (the "Region") issued to WASA to authorize the discharge of treated wastewater from WASA's Blue Plains Wastewater Treatment Plant. The Petition seeks review of certain provisions in the April 5, 2007 modification to the Permit. The Region's deadline to file a response to the Petition is June 28, 2007.¹ See Letter from Eurika Durr, U.S. EPA, Environmental Appeals Board, to William Early, U.S. EPA Region 3, Office of Regional Counsel, at 1 (May 19, 2007). The Petition does not identify WASA, the permittee, as a respondent.

¹ The Board routinely requests a response from the permitting authority whose permit decision has been challenged, addressing whether the petition satisfies the requirements for obtaining review under 40 C.F.R. § 124.19. See EAB Practice Manual at III.D.5.

WASA states that it “will be substantially and specifically affected by the outcome of this proceeding” Motion for Leave to Intervene as a Party Respondent and Request to Respond to Third Party Petitioners’ Petition for Review (“Motion”) at 3. WASA also states that “while WASA and EPA both have similar goals in defending portions of the Permit, their interests are not the same in this case because WASA and its ratepayers, rather than EPA, will bear the burden of the liabilities and costs of compliance with the Permit if the Petitioners are successful.” *Id.* WASA states further that it is “uniquely situated to provide the Board with insight and perspective into all the issues raised” in the Petition. *Id.*

The Board received the Region’s Response to WASA’s Motion, by facsimile, on June 14, 2007.² In its Response, the Region objects to WASA’s request to intervene, and argues that the Board should allow WASA only to respond to the petition, because neither 40 C.F.R. part 124 nor the EAB Practice Manual specifically contemplates intervention. The Region did not, however, explain how it would be prejudiced if the Board granted intervention.

The Board generally allows “the permit applicant to respond to a petition filed by a third party petitioner if the permit applicant has filed a request to respond.” EAB Practice Manual § III.D.1. Additionally, the Board previously has granted motions for intervention upon the request of the permittee. *See, e.g., In re Aurora Energy, L.L.C.*, NPDES Appeal No. 03-11, at 1 (EAB Oct. 21, 2003) (granting permittee’s motion for leave to intervene); *In re Phelps Dodge Corp.*, 10 E.A.D. 460, 470 (EAB 2002) (explaining that permittee’s motion to intervene and file response to petition was granted); *In re Haw. Elec. Light Co.*, PSD Appeal Nos. 01-24 through 01-29, at 1 (EAB Oct. 18, 2001) (granting permittee’s motion to intervene and file a response to petitions for review). Moreover, WASA’s Motion is timely,

² Because the EAB Practice Manual generally allows 15 days for parties to respond to motions in permit proceedings, Region 3 should have filed its response by June 13, 2007. *See* EAB Practice Manual § III.D.7.d.

in that it follows closely the filing of the Petition on May 7, 2007, and indicates that it will comply with whatever deadlines for filing a response that the Board imposes.

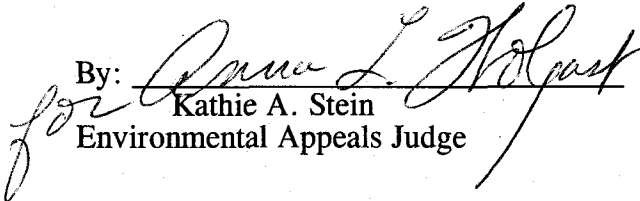
In light of the above, and for good cause shown, the Board hereby grants WASA's Motion. WASA shall file its response to the Petition no later than June 28, 2007. The response shall address the Petitioners' contentions and whether the Petitioners have satisfied the requirements for obtaining review under 40 C.F.R. § 124.19(a).

So ordered.

Dated: June 15, 2007

ENVIRONMENTAL APPEALS BOARD

By:

for 
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Granting Motion for Leave to Intervene as a Party Respondent and Request to Respond to Third Party Petitioners' Petition for Review, in the matter of District of Columbia Water and Sewer Authority, NPDES Petition No. 07-12, were sent to the following persons in the manner indicated:

By First Class Mail,
Postage Prepaid,
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Dated: JUN 15 2007


Annette Duncan,
Secretary