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ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY NOV 13 AM 11:38

ENVIR. APPEALS BOARD

In re:)
)
)
Government of the District of Columbia,) Appeal No. NPDES 06-07 and 06-08
Municipal Separate Storm Sewer System,)
NPDES permit No. DC 0000221,)
)
Government of the District of Columbia)
)
Friends of the Earth and Defenders of Wildlife,)
Petitioners,)
)
U.S. Environmental Protection Agency,)
Region III,)
Respondent.)

**Response of Petitioners Friends of the Earth and Defenders of Wildlife
to EPA Region III Notice of Withdrawal of Permit Amendment
and Motion for Dismissal With Prejudice**

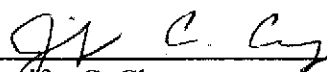
On October 29, 2007, the U.S. Environmental Protection Agency, Region III ("EPA" or "the Region") notified the Environmental Appeals Board that the Region is withdrawing portions of Amendment No. 1 to NPDES Permit No. DC0000221 for the District of Columbia municipal separate storm sewer system ("MS4"), and moved the Board to dismiss the above-captioned petitions for review with prejudice. Petitioners Friends of the Earth ("FOE") and Defenders of Wildlife ("Defenders") respond as follows:

In light of the Region's withdrawal of the contested permit terms, FOE and Defenders do not oppose dismissal of their petition for review as moot. By so stating, FOE and Defenders do not concede the lawfulness of any provision contained in the withdrawn modification or the underlying permit. Further, Petitioners contend, and respectfully request the Board to so state in

its Order, that dismissal of their petition due to the Region's withdrawal of the challenged provisions does not constitute a decision on the merits, and does not prejudice their right to petition for review of the re-issued permit modification.

Respectfully submitted this 2nd day of November, 2007.

For Petitioners:



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CERTIFICATE OF SERVICE

I hereby certify that on the date noted below I submitted the foregoing "Response of Petitioners Friends of the Earth and Defenders of Wildlife to EPA Notice of Withdrawal of Permit Amendment and Motion for Dismissal With Prejudice" in *In re. Government of the District of Columbia Municipal Separate Storm Sewer System, NPDES permit No. DC 0000221*, NPDES Appeal Nos. 06-07 and 06-08, to the Clerk of the Environmental Appeals Board electronically via the EAB's CDX system, and by U.S. Mail:

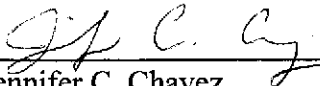
Eurika Durr
Clerk of the Board
U.S. EPA
Environmental Appeals Board 1103(B)
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

In addition, I hereby certify that on the date noted below I sent true and correct copies of the same via e-mail and first class U.S. Mail to the following persons:

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Date: Nov. 2, 2007



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