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From:

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2007 JUN 14 PM 12:42
ENTER APPEALS BOARD

EPA REGION III

To: Ms. Eireka Dean

at FAX No: 202 / 233-0121

Date: 6/13/07 Number of pages (including cover): 6

Subject: Blue Plains Plant Appeal 07-12
Response to DCWASA's Motion to determine

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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ENVIR. APPEALS BOARD

June 7, 2007

Ms. Erika Durr
Clerk of the Board, Environmental Appeals Board
U.S. Environmental Protection Agency
1341 G Street N.W., Suite 600
Washington, DC 20005

Re: Region III Response to the District of Columbia Water and Sewer Authority's Motion for
Leave to Intervene as a party and Request to Respond to Third party Petitioner's Petition
for Review
Permit Number: DC 0021199
Appeal No. 07-12

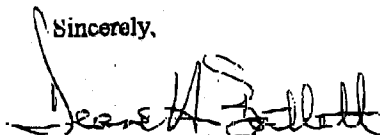
Dear Ms. Durr:

Enclosed please find one original and five copies of the above referenced document,
which I am also serving on counsel for Petitioners in this matter.

Please contact me at 215-814-2776 if you have any questions with regard to this filing.

Thank you for your attention to this matter.

Sincerely,



Deane H. Bartlett
Senior Assistant Regional Counsel

Enclosures

cc: (with enclosures):
Stewart Leeth, Esquire
Jennifer Chavez, Esquire
Amy McDonnell, Esquire

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BEFORE THE ENVIRONMENTAL APPEALS BOARD
U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

2007 JUN 14 PM 12:42

ENVIR. APPEALS BOARD

_____)	
In the Matter of:)	
)	
District of Columbia Water and Sewer Authority)	
)	NPDES Appeal No. 07-12
)	
NPDES Permit No. DC 0021199)	
_____)	

**REGION III RESPONSE TO DISTRICT OF COLUMBIA
WATER AND SEWER AUTHORITY MOTION FOR LEAVE TO INTERVENE AS A
PARTY RESPONDENT AND REQUEST TO RESPOND TO FRIENDS OF THE EARTH
AND SIERRA CLUB PETITION FOR REVIEW**

Respondent, the United States Environmental Protection Agency, Region III (Region) hereby responds to the District of Columbia Water and Sewer Authority (WASA) Motion for Leave to Intervene as a Party Respondent and Request to Respond to Third Party Petition for Review, filed on May 29, 2007.

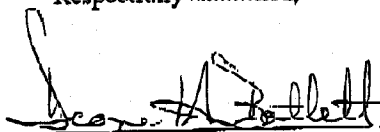
These proceedings are governed by 40 C.F.R. Part 124. There does not appear to be any mechanism to allow for intervention under Part 124. Certainly, it does not appear that WASA could intervene as a Respondent along with the Region in this matter. However, the Practice Manual of the Environmental Appeals Board (Board) notes that: "If requested by the permit applicant, the Board will also generally allow the permit applicant to respond to a petition filed by a third party petitioner." See, Board Practice Manual, Section III. D. 1., page 36. and Section

NPDES Permit DC 0021199

Response to WASA Motion to
Intervene

III. D. 4, footnote 42, page 41. To the extent that WASA, as the permit applicant, seeks leave to file a response to the petition for review of Section III. Part E. of NPDES Permit No. 0021199 - Water Quality-Based Requirements for CSOs - which was filed by the Friends of the Earth and the Sierra Club, Appeal No. 07-12, the Region does not object to WASA filing a response to that petition.

Respectfully submitted,



Deane H. Bartlett
Senior Assistant Regional Counsel
Office of Regional Counsel
USEPA Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103-2029

Date June 7, 2007

OF COUNSEL:
Sylvia Horwitz, Esquire
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

NPDES Permit DC 0021199

Response to WASA Motion to Intervene

CERTIFICATE OF SERVICE

I hereby certify that Respondent's Response to the District of Columbia Water and Sewer Authority Motion for Leave to Intervene as a Party Respondent and Request to Respond to Third Party Petitioners' Petition for Review was served on this date as set forth below:

One original and five copies were mailed by first class mail, postage prepaid to:

Ms. Eureka Durr
Clerk of the Board, Environmental Appeals Board
U.S. Environmental Protection Agency
1341 G Street N.W., Suite 600
Washington, DC 20005

One copy each was mailed by first class mail, postage prepaid to counsel for Petitioners:

Chesapeake Bay Foundation:

Amy McDowell, Esquire
Jon A. Mueller, Esquire
Chesapeake Bay Foundation
Philip Merrill Environmental Center
6 Herndon Avenue
Annapolis MD 21403

District of Columbia Water and Sewer Authority:

Stewart T. Leeth, Esquire
David E. Evans, Esquire
McGuirewoods LLP
Washington Square
1050 Connecticut Avenue, N. W.
Washington, D.C. 20036-5317

NPDES Permit DC 0021199

Response to WASA Motion to Intervene

Friends of the Earth and Sierra Club:

Jennifer C. Chavez, Esquire
David Baron, Esquire
Earthjustice Legal Defense Fund
1625 Massachusetts Ave., NW Suite 702
Washington, DC 20036-2212

Date: June 7, 2007



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