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

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|--|---|-----------------------------|
| _____ |) | |
| In re: |) | |
| |) | |
| Blue Plains Wastewater Treatment Plant |) | |
| |) | NPDES Appeal Nos. 05-01 and |
| |) | 05-02 |
| NPDES Permit No. DC 0021199 |) | |
| |) | |
| _____ |) | |

**MOTION BY PETITIONERS FRIENDS OF THE EARTH, SIERRA CLUB, and
DISTRICT OF COLUMBIA WATER & SEWER AUTHORITY TO AMEND ORDER
DISMISSING PETITIONS FOR REVIEW**

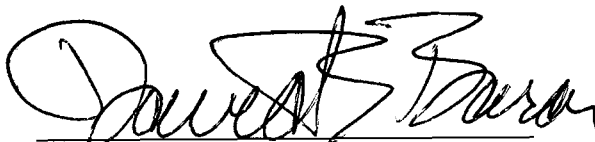
Friends of the Earth and Sierra Club (collectively, "FOE/SC") are the petitioners in Appeal No. 05-01 in the above-captioned consolidated case. The District of Columbia Water and Sewer Authority (WASA) is the petitioner in Appeal No. 05-02. On August 21, 2006, EPA Region III filed a motion on consent to dismiss without prejudice Appeal No. 05-01, as well as all but one issue in Appeal No. 05-02, on the ground that the Region had withdrawn the permit provisions contested in those Appeals.

On August 23, 2006, the Board entered an order dismissing Appeal No. 05-01, and all but the one issue in Appeal 05-02, "with prejudice." FOE/SC and WASA did not consent to dismissal with prejudice. Rather, the motion on consent expressly asked for dismissal "without prejudice." FOE/SC and WASA respectfully ask the Board to change its order accordingly.

Dismissal of the Appeal with prejudice could be misread as suggesting that the Board resolved something of substance in this case. In reality, dismissal is justified here only because

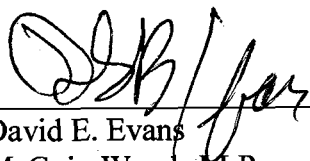
EPA withdrew the contested permit terms, thereby mooting the appeal. If the Board does not wish to grant the dismissal without prejudice, then FOE/SC and WASA ask in the alternative that the Board amend its order to provide that the appeal is “dismissed as moot,” rather than “with prejudice.”

DATED: August 25, 2006.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served, by first class mail, postage prepaid, this 25th day of August, 2006, on:

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