



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

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ENVIR. APPEALS BOARD

OFFICE OF REGIONAL COUNSEL

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FROM: Lori Kierz

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NOTES/COMMENTS: \_\_\_\_\_

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From:  
**Lori G. Kier**  
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<b>To:</b>	<u>Ms. Eurika Durr</u>	<b>Fax No. :</b>	<u>(202) 233-0121</u>
	<u>David S. Baron, Esq.</u>	<b>Fax No. :</b>	<u>(202) 667-2356</u>
	<u>Bruce Brennan, Esq.</u>	<b>Fax No.:</b>	<u>(202) 727-6014</u>
	<u>David E. Evans, Esq./Darin K. Waylett, Esq.</u>	<b>Fax No.:</b>	<u>(804) 698-2049</u>

**Date:** February 12, 2007 Number of pages (including cover): 7

**Re:** DC MS4 Permit Amendment, Docket Nos. NPDES Appeal No. 06-07 and 06-08  
Fifth Joint Motion for Stay of Proceedings, Extension of Time and Consolidation  
of Proceedings

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February 12, 2007

Via Facsimile and Regular Mail

Ms. Eurika Durr  
Clerk of the Board, Environmental Appeals Board (MC 1103B)  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

In Re: Government of the District of Columbia,  
Municipal Separate Storm Sewer System  
Docket No. NPDES Appeal No. 04-10

Dear Ms. Durr:

Enclosed for filing please find the original and five copies of the parties' Fifth Joint Motion for Stay of Proceedings and Extension of Time in the above-captioned matter. Also enclosed is a proposed Order granting same.

Sincerely,

Lori G. Kier

cc: (all via facsimile and regular mail)  
David S. Baron, Esq.  
Bruce Brennan, Esq.  
David E. Evans, Esq./Darin K. Waylett, Esq.

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

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ENVIR. APPEALS BOARD

In Re: )

Government of the District of Columbia, )  
Municipal Separate Storm Sewer )  
System )

NPDES Appeal Nos. 06-07  
and 06-08

NPDES Permit No. DC 0000221 )

Government of the District of Columbia and )  
District of Columbia Water & Sewer Authority, )

Friends of the Earth and Defenders of Wildlife, )

Petitioners, )

U.S. Environmental Protection Agency, Region III, )

Respondent. )

FIFTH JOINT MOTION FOR STAY OF PROCEEDINGS AND EXTENSION OF TIME

The Respondent in this proceeding, the United States Environmental Protection Agency Region III ("EPA"); and Petitioners, the Government of the District of Columbia ("DC Government") including its independent instrumentality the District of Columbia Water and Sewer Authority ("DC WASA"); and Friends of the Earth and Defenders of Wildlife ("FOE/DOW"), collectively, "the Parties," hereby submit this Fifth Joint Motion for Stay of Proceedings and Extension of Time for EPA to file a response to the Petitioners' petitions

("Response") and certified index to the administrative record. Pursuant to Order of the Environmental Appeals Board ("Board") dated November 22, 2006, EPA's consolidated brief in response to the DC and FOE/DOW's Petitions for Review is currently due March 1, 2007.

As indicated in previous filings in this matter, the parties have engaged in numerous settlement discussions, including meetings or teleconferences on June 30, 2006; July 19, 2006; September 12, 2006; October 16, 2006; November 9, 2006; December 11, 2006 and January 26, 2007. However, a number of issues remain unresolved, and the parties agree that approximately forty-five (45) additional days would be helpful to complete this process, which may include a formal mediation.

Accordingly, the parties hereby jointly move for an additional stay of proceedings and extension to EPA's filing obligations until April 16, 2007 to facilitate continued settlement discussions.

Respectfully submitted this 12<sup>th</sup> day of February 2007,

For Petitioners:

David S Baron by Jon Hiki

David S. Baron  
Counsel for Friends of the Earth and  
Defenders of Wildlife  
Earthjustice  
1625 Massachusetts Ave., N.W. #702  
Washington, D.C. 20036

Bruce Brennan by Lori Kier

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Counsel for the Government of the District of  
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David Evans by Lori Kier

David E. Evans  
Darin K. Waylett  
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Sewer Authority and the Government of the  
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For Respondent:

Lori Kier

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WASHINGTON, D.C.

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 In Re: )  
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 Government of the District of Columbia, )  
     Municipal Separate Storm Sewer )  
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 NPDES Permit No. DC 0000221 )  
 )  
 Government of the District of Columbia and )  
     District of Columbia Water & Sewer Authority, )  
 )  
 Friends of the Earth and Defenders of Wildlife, )  
 )  
   ) Petitioners, )  
 )  
 U.S. Environmental Protection Agency, Region III, )  
 )  
   ) Respondent. )

Appeal Number: NPDES No. 06-07  
Appeal Number: NPDES No. 06-08

PROPOSED ORDER GRANTING FIFTH JOINT MOTION FOR STAY  
OF PROCEEDINGS AND EXTENSION OF TIME

For good cause shown, the Parties' Motion for Stay of Proceedings and Extension of Time is hereby granted. EPA shall file its Response to the Petitions and administrative record no later than April 16, 2007.

So ordered.

Dated: \_\_\_\_\_

ENVIRONMENTAL APPEALS BOARD

By: \_\_\_\_\_

\_\_\_\_\_  
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below I filed the original and five copies of the foregoing Fifth Joint Motion for Stay of Proceedings and Extension of Time with the Clerk of the Environmental Appeals Board by facsimile and U.S. mail. Moreover, I hereby certify that on the same date I sent a copy of the foregoing document to each of the parties below, by facsimile and first class certified mail, return receipt requested:

David S. Baron, Esq.  
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Dated: 2/12/07



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