

RECEIVED
U.S. E.P.A.

2007 JUN -7 AM 8:37

MCGUIREWOODS

ENVIR. APPEALS BOARD

No. of pages (including cover): 13 Date: Wednesday, June 06, 2007 4:25:40 PM
If all pages are not received, please call the Fax Operator indicated below

To: Eurika Durr, Clerk of the Board

Office/Company/Firm: EPA Environmental Appeals Board (1103B)

Phone Number: _____ Fax Number: 1-202-233-0121

From: Stewart T. Leeth

Office: Richmond Direct Fax Number: _____

Sender's Direct Dial Phone Number: 804-775-4719

Remarks:

OFFICE	GENERAL FAX NUMBER	SWITCHBOARD	FAX OPERATOR
RICHMOND, VA	804/775-1061	804/775/1000	804/775-7456

This Fax is intended for the recipient indicated above. It may be confidential or protected from disclosure by the attorney-client privilege or work-product doctrine. If you have received this Fax in error, please destroy it immediately. Thank you.

McGuireWoods LLP
One James Center
901 East Cary Street
Richmond, VA 23219-4030
Phone: 804.775.1000
Fax: 804.775.1061
www.mcguiirewoods.com

Stewart T. Leeth
Direct: 804.775.4719

MCGUIREWOODS

RECEIVED
U.S. E.P.A.

2007 JUN -7 AM 8:37

ENVIR. APPEALS BOARD

stleth@mcguiirewoods.com
Direct Fax: 804.225.5341

June 6, 2007

BY FACSIMILE AND FIRST-CLASS MAIL

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

*In re: Government of District of Columbia Municipal Separate
Storm Sewer System, NPDES Permit No. DC 0000221*

Dear Ms. Durr:

Enclosed for filing are an original and five (5) copies of the District of Columbia Water and Sewer Authority's (1) Motion for Leave to Withdraw as a Petitioner; and (2) Motion to Substitute and Withdraw Counsel along with proposed orders.

Also enclosed is an additional copy of each motion which I ask that you file stamp and return in the enclosed self-addressed and stamped envelope.

Very truly yours,



Stewart T. Leeth

STL/csr

Enclosures

cc: Jennifer C. Chavez
Lori G. Kier
Caroline Burnett
David E. Evans

RECEIVED
U.S. E.P.A.

2007 JUN -7 AM 8:37

**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

ENVIR. APPEALS BOARD

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

**THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY'S
MOTION FOR LEAVE TO WITHDRAW AS A PETITIONER**

Pursuant to Environmental Appeals Board (Board) Practice Manual § III.D.7.b.,
the District of Columbia Water and Sewer Authority ("WASA") hereby moves for leave
to withdraw as a Petitioner in NPDES Appeal No. 06-07. In support of its motion,
WASA submits the following.

1. On April 12, 2006, the Government of the District of Columbia
("District") and WASA jointly filed with the Board a Petition for Review ("Petition")
asking the Board to review a determination by Region III of the U.S. Environmental
Protection Agency ("EPA") to modify National Pollutant Discharge Elimination System
("NPDES") permit No. DC0000221 ("Permit") for the District of Columbia's Municipal
Separate Storm Sewer System (MS4). This appeal is designated as NPDES Appeal
No. 06-07.

2. On April 17, 2006, Friends of the Earth and Defenders of Wildlife jointly
filed with the Board a Petition for Review asking the Board to review the same EPA
determination appealed by the District and WASA. This appeal is designated as NPDES

Appeal No. 06-08. By order dated May 25, 2006, the Board consolidated the two appeals.

3. The District, as the Permit holder, has overall responsibility for compliance with the Permit, including coordination of permit compliance and implementation activities of its various agencies, including both those under the direct control of the Mayor and its independent agencies. At the time the Petition was filed, WASA served as the MS4's Storm Water Administrator, and thus appropriately coordinated the District's response to the permit, even though it was separately named to reflect its special status as both an independent agency and the then Stormwater Administrator.

4. Effective February 15, 2007, the responsibilities and title of the Storm Water Administrator were transferred from WASA to the newly created Department of the Environment within the executive branch of Government of the District of Columbia. See D.C. Code § 8-151.03(b)(2). Therefore, WASA no longer need be separately identified in the petition, but simply can participate with all other affected District agencies through the Mayor and the Stormwater Administrator.¹

5. Counsel for EPA does not object to the granting of the request set forth in this motion. Counsel for Earthjustice could not be reached at the time of the filing of WASA's motion.

WHEREFORE, for the reasons explained above, WASA requests that the Board enter an Order granting WASA's motion for leave to withdraw.

¹ WASA has moved separately, for the same reasons, to substitute counsel in this matter.

Respectfully submitted,

District of Columbia Water and Sewer Authority



David E. Evans
McGuireWoods LLP
One James Center
Richmond, VA 23219
(804) 775-4317
devans@mcguirewoods.com

CERTIFICATE OF SERVICE

I hereby certify that on the date noted below I sent the original and five copies of the foregoing Motion 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, by facsimile and Overnight Mail:

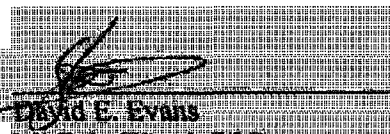
Eurika Durr
Clerk of the Board
Environmental Appeals Board 1103(B)
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

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 mail to the following persons:

Jennifer C. Chavez
Earthjustice
1625 Massachusetts Avenue, N.W., Ste. 702
Washington, D.C. 20036
(202) 667-4500
jchavez@earthjustice.org

Lori G. Kier
Senior Assistant Regional Counsel
EPA Region II (3RC20)
1650 Arch Street
Philadelphia, PA 19103
kier.lori@epa.gov

Date: 6/12/07



David E. Evans
McGuire Woods LLP
One James Center
Richmond, VA 23219
(804) 775-4317
devans@mcguirewoods.com

RECEIVED
U.S. E.P.A.

2007 JUN -7 AM 8:37

**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

ENVIR. APPEALS BOARD

_____)
 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

ORDER

This matter comes before the Board on the motion of the District of Columbia Water and Sewer Authority ("WASA") for leave to withdraw as a Petitioner in NPDES Appeal No. 06-07, and it appearing that, effective February 15, 2007, the responsibilities and title of the Storm Water Administrator were transferred from WASA to the newly created Department of the Environment within the executive branch of Government of the District of Columbia and, therefore, WASA no longer need be separately identified in the petition, it is hereby

ORDERED that WASA's motion be and hereby is GRANTED. WASA may participate with all other affected District agencies through the Mayor and the Stormwater Administrator for the purposes of this case.

Dated: _____

Judge