UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION III 1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

February 22, 2005

Via Federal Express

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

Re: Respondent's Motion to Consolidate Petitions for Appeal Nos. 05-01 and 05-02

Permit Number: DC 0021199

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.

Thank you for your attention to this matter.

Deane H. Bartlett

Sincerely,

Senior Assistant Regional Counsel

Enclosure

cc (with enclosure):

David Baron, Esquire - Earthjustice Legal Defense Fund

David Evans, Esquire - McGuireWoods LLP

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

NPDES Appeal No 05-01
NPDES Appeal No. 05-023
STS:

$\frac{\textbf{RESPONDENT'S UNOPPOSED MOTION TO CONSOLIDATE PETITIONS FOR}{\textbf{REVIEW}}$

Respondent, the United States Environmental Protection Agency, Region III (Region or EPA) hereby files this unopposed Motion to Consolidate the above captioned petitions for review.

On December 16, 2004, EPA issued the final modified National Pollutant Discharge Elimination System (NPDES) Permit No. DC0021199 (Permit) for the Blue Plains Wastewater Treatment Facility to the District of Colombia Water and Sewer Authority (WASA). On January 18, 2005, the Friends of the Earth and the Sierra Club filed a petition to review the modified Permit, designated Appeal No. 05-01. Also on January 18, 2005, the permittee, WASA filed a

petition for review, designated Appeal No. 05-02. Each of the petitions identifies the same three Permit provisions for which review is sought: Part III.E 1., Part III.E.2. and Part III.E.3., although the petitioners each base their challenges on different arguments. In addition, petitioner WASA asserts that it is entitled to a compliance schedule for implementation of its long term CSO control plan in the Permit.

The Board has directed that EPA file its response to appeal No.05-01 on or before March 14, 2005. Likewise, the Board has directed that EPA file its response to Appeal No. 05-02 on or before March 14, 2005.

In the interest of judicial economy, as the Board will have to determine whether each of the petitioners has met their burden largely with respect to the same Permit provisions, and to enable the Region to address the arguments put forth in a single comprehensive response, the Region requests that these appeals be consolidated. EPA has consulted with counsel for Friends of the Earth and Sierra Club and counsel for WASA and neither Petitioner opposes consolidation of these matters.

For the foregoing reasons, EPA hereby respectfully moves the Board to consolidate Appeal Nos. 05-01 and 05-02. Consolidation of these appeals will promote judicial economy

and the efficient resolution of these petitions for review.

Respectfully submitted,

Deane H. Bartlett

Senior Assistant Regional Counsel Office of Regional Counsel USEPA Region III (3RC20)

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

In the Matter of: Friends of the Earth and Sierra Club,)))
Petitioners and) NPDE\$ Appeal No 05-01
District of Columbia Water and Sewer A	uthority) (
Petitioner)) NPDES Appeal No. 05-02
NPDES Permit No. DC 0021199 U.S. Environmental Protection Agency, Reg Respondent.) gion III,)))
ORDER GRANTING	MOTION TO CONSOLIDATE
Upon Motion of the United States E	invironmental Protection Agency, Respondent in the
above appeals, to consolidate the appeals for	r purposes of adjudication, and there being no
opposition to the Motion, it is hereby ORDI	ERED that Appeal Nos 05-3 and 05-02 are hereby
CONSOLIDATED.	
Date:	ENVIRONMENTAL APPEALS BOARD

CERTIFICATE OF SERVICE

I hereby certify that Respondent's Unopposed Motion to Consolidate Petitions for Review of NPDES Permit DC0021199 issued December 16, 2004, was served on this date as set forth below:

One original and five copies were mailed by Federal Express to:

Ms. Eurika 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 to counsel for Petitioners:

Friends of the Earth and Sierra Club:

David Baron, Esq. Earthjustice Legal Defense Fund 1625 Massachusetts Ave., NW Suite 702 Washington, DC 20036-2212

District of Colombia Water and Sewer Authority:

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

Date: 2/22/05

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