

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

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In the Matter of:	)	
	)	
Blue Plains Wastewater Treatment Plant,	)	Consolidated NPDES Appeal Nos.
NPDES Permit No. DC0021199	)	05-02, 07-10, 07-11, 07-12
	)	
	)	
	)	

**CLARIFICATION REGARDING MOTION  
OF FRIENDS OF THE EARTH AND SIERRA CLUB  
FOR LEAVE TO INTERVENE IN D.C. WASA PETITION FOR REVIEW**

Friends of the Earth and Sierra Club (FOE/SC) submit the following to clarify their position regarding their Motion to Intervene in WASA’s petition for review filed with the Board on June 26, 2007, and respectfully request that the Board modify a portion of its Order dated July 26, 2007, in which the Board declined to rule on FOE/SC’s Motion to Intervene. For all the following reasons, FOE/SC should be granted leave to intervene in WASA’s petition for review.

**A. Chronology**

On May 7, 2007, FOE/SC and D.C. WASA each filed petitions for Board review of NPDES Permit No. DC0021199 for effluent discharges from the Blue Plains Wastewater Treatment Plant (NPDES Appeal No. 07-12). On May 29, WASA requested and the Board on July 26 granted WASA leave to intervene in FOE/SC’s petition for review. On June 26, FOE/SC filed a motion asking the Board for leave to intervene in WASA’s petition and for leave to respond to the issues raised therein (Dkt. # 20). WASA did not oppose the motion, and the Region took no position (Dkt. # 25).

On July 23, because their motion to intervene was still pending before the Board, FOE/SC filed a motion for leave to file a reply to the briefs filed by EPA and WASA (Dkt. 28).

They noted that their motion to intervene had not been ruled upon, but requested that the attached response be accepted as FOE/SC's response to the arguments raised in WASA's response to their petition for review. *Id.* n. 1. By so stating, FOE/SC *did not* intend to withdraw their motion to intervene or to suggest that their latter motion for leave to reply superseded their pending motion to intervene.

On July 26 the Board issued an Order stating, *inter alia*:

FOE/SC request he Board to allow this response to serve as FOE/SC's reply to WASA's petition, to the extent the issues raised in WASA's petition overlap with the issues discussed herein." Motion for Leave to Reply at n.l. The Board interprets this statement to mean that FOE/SC's Motion for Leave to Reply supersedes its June 26,2007 Motion for Leave to Intervene, in which FOE/SC requested leave to intervene in Appeal 07-11 and to respond to the issues raised therein. Accordingly, in light of the Board's acceptance of FOE/SC's Reply Brief, it is unnecessary for the Board to rule on Motion for Leave to Intervene.

Dkt. # 30 at n. 5.

## **B. Request**

FOE and Sierra Club have longstanding and substantial interests in the matters at issue. They have not found it necessary to file a separate reply brief addressing issues raised by WASA, because so far those issues have been adequately addressed in briefs filed by EPA and by FOE/SC. However, as explained in the motion to intervene, FOE/SC have a strong interest in continued participation in this matter, particularly given their disagreements with EPA on significant issues regarding the permit.

As explained above, FOE/SC did not withdraw their motion to intervene and consider it to be pending before the Board. To the extent the Board requires that it be renewed, this filing can be considered a renewal of FOE/SC's original motion to intervene.

For the reasons stated in their motion to intervene, FOE/SC have a substantial interest in the issues raised in WASA's petition. FOE/SC's intervention will not cause unnecessary delay

or prejudice to any party, and their motion was timely filed. Therefore, FOE/SC respectfully request leave to intervene.

DATED October 26, 2007.

A handwritten signature in cursive script, appearing to read "J.C. Chavez".

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## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing CLARIFICATION REGARDING MOTION OF FRIENDS OF THE EARTH AND SIERRA CLUB FOR LEAVE TO INTERVENE IN D.C. WASA PETITION FOR REVIEW was served on each of the following by first-class mail, postage prepaid, on October 26, 2007:

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Dated October 26, 2007.



Jennifer C. Chavez