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EPA REGION III

To: Ms. Eivika Dawn - Clerk of the Board

at FAX No: 202/233-0121

Date: 8/17/06 Number of pages (including cover): 6

Subject: Ben Plans 05-01/05-02
Motion on Consent for Stay of Proceedings

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

August 17, 2006

Via Telefax and Federal Express

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

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ENVIR. APPEALS BOARD

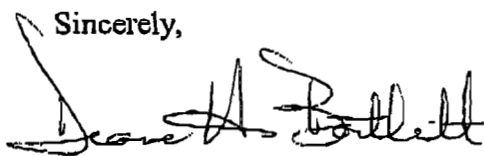
Re: Motion on Consent to Extend Stay of Proceedings
Permit Number: DC 0021199
Consolidated Appeals 05-01 and 05-02

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 with regard to this filing.

Thank you for your attention to this matter.

Sincerely,

Deane H. Bartlett
Senior Assistant Regional Counsel

Enclosure

cc: via telefax and regular mail (with enclosure):
David Baron, Esquire - EarthJustice Legal Defense Fund
David Evans, Esquire - McGuireWoods LLP

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

ENVIRONMENTAL APPEALS BOARD

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In re:)
)
Blue Plains Wastewater Treatment Plant)
)
NPDES Permit No. DC 0021199)
_____)

NPDES Appeal Nos. 05-02
and 05-02
Consolidated

MOTION ON CONSENT TO EXTEND STAY OF PROCEEDINGS

The United States Environmental Protection Agency, Region III (Region or EPA), Respondent in the above-referenced consolidated appeals, hereby moves the Environmental Appeals Board (Board) for a stay of briefing in this matter until August 24, 2006. Both of the petitioners consent to this extension of the stay. In support of its Motion, the Region states as follows:

1. The Region issued the above-captioned modified permit on December 16, 2004.
2. Two parties filed timely Petitions for Review with the Board. Specifically, on January 18, 2005, the Friends of the Earth and the Sierra Club (FoE/SC) filed a petition to review the modified Permit, designated Appeal No. 05-01. Also on January 18, 2005, the permittee, the District of Columbia Water and Sewer Authority (WASA), filed a petition for review, designate Appeal No. 05-02. By letters dated January 25, 2005, the Board directed the Region to file its Responses to the Petitions on or before March 14, 2005. By Order dated February 23, 2005, the

Board granted the Region's unopposed Motion to consolidate these appeals.

3. The Board has granted six unopposed motions by the Region to extend the time for the Region to file its response to the consolidated petitions. The present deadline for filing is August 17, 2006.

4. Subsequent to the Board's granting of the last request to extend the stay, the parties continued to attempt to resolve the petitions. This ultimately proved unsuccessful.

5. On August 10, 2006, EPA filed a Notice of Partial Withdrawal of Permit Conditions (Withdrawal), withdrawing all of the contested permit conditions.

6. After filing the Withdrawal, EPA proposed a Motion on Consent to Dismiss the petitions, except for the sole remaining issue before the Board: WASA's request that the Board review EPA's decision not to include a schedule for implementation of WASA's CSO Long Term Control Plan in the Permit. Under the Motion on Consent to Dismiss, that issue would be stayed, by agreement between WASA and EPA. EPA had expected that the Motion would be filed with the Board today. However, it has not proved possible to obtain all of the necessary client approvals by today. The parties do anticipate that there will be agreement on the Motion on Consent to Dismiss and expect that it can be filed within the next several days. For that reason, a one week extension of the stay, until August 24, 2006, is requested.

7. The Region has consulted with counsel for FoE/SC and counsel for WASA and the consent to this extension of the stay.

For the foregoing reasons, the Region requests a stay of these proceedings until August 24, 2006.

Date: 8/17/06



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OF COUNSEL:
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Office of General Counsel
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Washington, D.C. 20460
sweeney.steve@epa.gov

CERTIFICATE OF SERVICE

I hereby certify that Respondent's August 17, 2006 Motion on Consent to Extend Stay of Proceedings in these consolidated Appeal Nos. 05-01 and 05-02, was served on this date as set forth below:

A copy of the Motion was telefaxed and the original and five copies were mailed by Federal Express to:

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

One copy each was telefaxed and mailed by first class mail, postage prepaid to counsel for Petitioners:

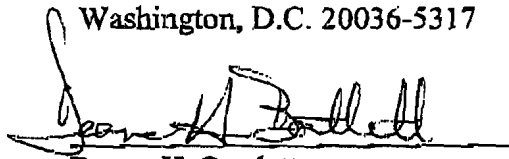
Friends of the Earth and Sierra Club:

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EarthJustice Legal Defense Fund
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District of Columbia Water and Sewer Authority

David E. Evans, Esq.
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Date: 8/17/06



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