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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III 1650 Arch Street Philadelphia, Pennsylvania 19103-2029

ENVIR. APPEALS BOARD

June 7, 2007

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

 Region III Response to the District of Columbia Water and Sewer Authority 's Motion for Leave to Intervene as a party and Request to Respond to Third party Petitioner's Petition for Review
Permit Number: DC 0021199
Appeal No. 07-12

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

Enclosures cc: (with enclosures): Stewart Leeth, Esquire Jennifer Chavez, Esquire Amy McDonnell, Esquire

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

In the Matter of:

District of Columbia Water and Sewer Authority

NPDES Permit No. DC 0021199

NPDES Appeal No. 07-12

REGION III RESPONSE TO DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY MOTION FOR LEAVE TO INTERVENE AS A PARTY RESPONDENT AND REQUEST TO RESPOND TO FRIENDS OF THE EARTH AND SIERRA CLUB PETITION FOR REVIEW

Respondent, the United States Environmental Protection Agency, Region III (Region) hereby responds to the District of Columbia Water and Sewer Authority (WASA) Motion for Leave to Intervene as a Party Respondent and Request to Respond to Third Party Petition for Review, filed on May 29, 2007.

These proceedings are governed by 40 C.F.R. Part 124. There does not appear to be any mechanism to allow for intervention under Part 124. Certainly, it does not appear that WASA could intervene as a Respondent along with the Region in this matter. However, the Practice Manual of the Environmental Appeals Board (Board) notes that: "If requested by the permit applicant, the Board will also generally allow the permit applicant to respond to a petition filed by a third party petitioner." See, Board Practice Manual, Section III. D. 1., page 36. and Section

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Response to WASA Motion to Intervene

III. D. 4, footnote 42, page 41. To the extent that WASA, as the permit applicant, seeks leave to file a response to the petition for review of Section III. Part E. of NPDES Permit No. 0021199 - Water Quality-Based Requirements for CSOs - which was filed by the Friends of the Earth and the Sierra Club, Appeal No. 07-12, the Region does not object to WASA filing a response to that petition.

Respectfully submitted,

Date

Jeane H. Bartlett Senior Assistant Regional Counsel

Senior Assistant Regional Counse Office of Regional Counsel USEPA Region III (3RC20) 1650 Arch Street Philadelphia, PA 19103-2029

OF COUNSEL: Sylvia Horwitz, Esquire Office of General Counsel U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20460 NPDES Permit DC 0021199

Response to WASA Motion to Intervene

CERTIFICATE OF SERVICE

I hereby certify that Respondent's Response to the District of Columbia Water and Sewer Authority Motion for Leave to Intervene as a Party Respondent and Request to Respond to Third Party Petitioners' Petition for Review was served on this date as set forth below:

One original and five copies were mailed by first class mail, postage prepaid 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, postage prepaid to counsel for Petitioners:

Chesapeake Bay Foundation:

Amy McDowell, Esquire Jon A. Mueller, Esquire Chesapeake Bay Foundation Philip Merrill Environmental Center 6 Herndon Avenue Annapolis MD 21403

District of Columbia Water and Sewer Authority:

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

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Response to WASA Motion to Intervene

Friends of the Earth and Sierra Club:

Jennifer C. Chavez, Esquire David Baron, Esquire Earthjustice Legal Defense Fund 1625 Massachusetts Ave., NW Suite 702 Washington, DC 20036-2212

Date: Jone 7, 2007

Deane H. Bartlett Senior Assistant Regional Counsel USEPA Region III 1650 Arch Street Philadelphia, Pa 19103-2029 (Tel) 215/814-2776 (Fax) 215/814-2603