

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

_____)	
In re:)	
)	
Joint Base Lewis-McChord Municipal)	
Separate Storm Sewer System)	NPDES Appeal No. 13-09
)	
United States Department of the Army, Joint)	
Base Lewis-McChord, <i>Permit Applicant</i>)	
)	
NPDES Permit No. WAS-026638)	
_____)	

UNOPPOSED MOTION FOR LEAVE TO PARTICIPATE AS AMICUS

Pursuant to 40 C.F.R. § 124.19(e), American Rivers, Puget Soundkeeper Alliance, Washington Environmental Council, and Natural Resources Defense Council (collectively, “Conservation Amici”) respectfully petition for leave to participate as amicus curiae in the above-captioned matter. Conservation Amici intend to file a single joint amicus brief in response to Petitioner’s appeal. The current deadline for the filing of such brief is 15 days after the filing of EPA’s response brief, which is currently due January 15, 2014.

Undersigned counsel has asked for the parties’ positions on this motion. Both Petitioner and EPA have confirmed that they do not oppose this motion.

All four Amici organizations have a long-standing interest in Clean Water Act permitting for municipal storm sewer systems, and have participated extensively in stormwater control and permitting education and advocacy programs, in Washington State as well as the nation

generally. For example, Puget Soundkeeper Alliance was the lead appellant in an appeal of Washington State's 2007 general municipal stormwater National Pollutant Discharge Elimination System ("NPDES") permit that resulted in significant improvements in the state's approach to managing stormwater. Some of those improvements are incorporated into the JBLM NPDES permit that is the subject of this appeal. Washington Environmental Council has advocated for many years within legislative and administrative fora for stronger regulation and funding of municipal stormwater programs. Both American Rivers and Natural Resources Defense Council have conducted extensive research, advocacy, and education programs relating to municipal stormwater regulation.

Conservation Amici and their members would be adversely affected by the relief requested by Petitioner in this matter. Most of Petitioners' arguments in this appeal would, if successful, result in a revised permit that does not adequately reduce stormwater pollution to Puget Sound and local waterways. Moreover, Petitioner's arguments would, if successful, undercut Conservation Amici's efforts to advocate for stronger stormwater management. Accordingly, all Amici qualify as "interested person[s]" under EAB rules. 40 C.F.R. § 124.19(e).

While the parties to this motion share a common interest with EPA in defending the challenged provisions of the JBLM permit, they represent individual and organizational members whose interests are not adequately represented by EPA. In fact, Conservation Amici often find themselves advocating for more effective stormwater regulation, and sometimes in an adversarial relationship, such as litigation, with EPA. Accordingly, Conservation Amici request leave to participate in this appeal to protect the interests of their members, and believe that the perspective of their organizations will be relevant to the Board's deliberations.

Granting this motion will not expand the issues raised in this appeal or delay the Board's decision, nor will it prejudice the existing parties.

Respectfully submitted this 9th day of January, 2014.

s/ Jan Hasselman

JAN HASSELMAN

JANETTE K. BRIMMER

Earthjustice

705 Second Avenue, Suite 203

Seattle, WA 98104

(206) 343-7340 | Phone

(206) 343-1526 | Fax

jhasselman@earthjustice.org

jbrimmer@earthjustice.org

*Attorneys for Proposed Amici, American Rivers,
Puget Soundkeeper Alliance, Washington
Environmental Council, and Natural Resources
Defense Council*

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of Washington. I am over 18 years of age and not a party to this action. My business address is 705 Second Avenue, Suite 203, Seattle, Washington 98104.

I HEREBY CERTIFY that on January 9, 2014, I served the following documents on the following parties:

1. Unopposed Motion for Leave to Participate as Amicus.

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, N.W.
WJC East Building, Room 3334
Washington, D.C. 20004
(202) 233-0122 | Phone

- via facsimile
- via overnight courier
- via first-class U.S. mail
- via hand delivery
- via EPA ECF system

Kari L. Hadley
Department of the Army
Environmental Litigation Center
9275 Gunston Road, Suite 4301
Fort Belvoir, VA 22060
(703) 693-0624 | Phone
(703) 806-0900 | Fax
kari.l.hadley.mil@mail.mil
Attorney for Petitioner United States Department of the Army

- via facsimile
- via overnight courier
- via first-class U.S. mail
- via hand delivery
- via EPA ECF system

Courtney Weber
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900, MS ORC-158
Seattle, WA 98101
(206) 553-1477 | Phone
weber.courtney@epa.gov
Attorney for Respondent U.S. Environmental Protection Agency

- via facsimile
- via overnight courier
- via first-class U.S. mail
- via email
- via EPA ECF system

I, Catherine Hamborg, declare under penalty of perjury that the foregoing is true and correct. Executed this 9th day of January, 2014, at Seattle, Washington.


Catherine Hamborg