

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

In re:)	
)	
City & County of Honolulu)	
Sand Island Wastewater Treatment Plant)	<i>NPDES Appeal No. 09-01</i>
Honouliuli Wastewater Treatment Plant)	
)	
NPDES Permit Nos. HI0020117 & HI0020877)	

NOTICE OF WITHDRAWAL OF PETITION FOR REVIEW

On December 17, 2010, the United States District Court for the District of Hawaii approved the consent decree that embodies the settlement of this case. *United States v. City and County of Honolulu*, Docket Entry 112, Case No. 1:94-CV-795 (D. Haw.). In accordance with the terms of the consent decree, the City and County of Honolulu hereby withdraws its petition for review in this case; the dispute between the City and Region 9 is now over.

In other cases, the Board has treated withdrawals of appeals as motions to withdraw, upon which the Board must act. *See, e.g., In re Flint Hills*, CAA Appeal No. 10-03 (EAB July 22, 2010) (construing withdrawal as motion and “dismiss[ing] the appeal in its entirety with prejudice). Because the Board’s proceedings in this case are still stayed by the August 24, 2010 order of the United States Court of Appeals for the Ninth Circuit in Case No. 10-72575, the City has asked the Ninth Circuit to partially lift the stay to allow the Board to dismiss the

City's petition without opinion. A copy of that Ninth Circuit filing is attached to this Notice. Once the Board grants the withdrawal and dismisses the appeal, the City will then move to dismiss the remaining proceedings in the Ninth Circuit.

Respectfully submitted,

DATED: January 5, 2011

/s/ David B. Salmons
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Withdrawal was sent this 5th day of January 2011, by email, to the following:

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U.S. Environmental Protection Agency,
Region 9

/s/ David B. Salmons

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