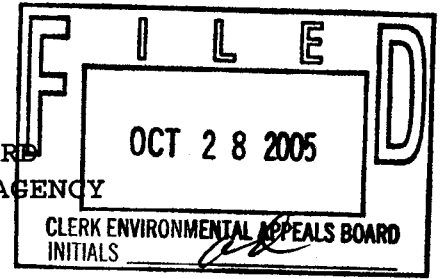


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



_____)
In re:)
)
Government of the District of Columbia,) NPDES Appeal No. 04-10
Municipal Separate Storm Sewer)
System)
)
NPDES Permit No. DC 0000221)
_____)

ORDER GRANTING WITHDRAWAL OF PETITION

On September 20, 2004, the Friends of the Earth and Defenders of Wildlife ("Petitioners") filed a petition requesting that the Environmental Appeals Board review the conditions set forth in the NPDES Permit No. DC 0000221 (the "Permit") issued by U.S. EPA Region III (the "Region") to the Government of the District of Columbia ("District"). The Region's decision to issue the Permit is dated August 17, 2004. Consistent with the Board's practice, the Clerk of the Environmental Appeals Board sent a letter to the Region requesting that the Region file a certified index to the administrative record and a response to Petitioners' petition on or before November 9, 2004.

By orders dated November 3, 2004, January 10, 2005, March 3, 2005, April 19, 2005, June 1, 2005, and August 4, 2005, the Board granted the Region's unopposed motions for extension of time to allow the parties to conduct settlement negotiations. Before the Board at this time is Petitioners' motion to withdraw Petitioners' appeal "without prejudice." Petitioners state that the withdrawal of their petition is in accordance with their settlement agreement with the Region and in response to the Region's proposing, on July 21, 2005, a "Permit Amendment Number 1" to the Permit. Petitioners state that the Region concurs in Petitioners' request.

Upon consideration, Petitioners request to withdraw their petition for review of the Permit is hereby granted and their petition is hereby deemed withdrawn without prejudice.¹ The motion for leave to intervene filed by the National League of Cities, the National Association of Flood and Stormwater Management Agencies, the Association of Metropolitan Sewerage Agencies, the CSO Partnership, the West Virginia Municipal

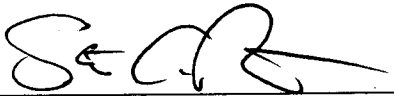
¹ The Petitioners' withdrawal of their petition does not constitute an adjudication of the issues Petitioners raised in their petition. It does, however, constitute completion of Board review under 40 C.F.R. part 124 with respect to the Region's August 17, 2004 permitting decision, which is now final. The Region's proposed Permit Amendment Number 1 remains subject to the part 124 procedures, including opportunity for affected persons to seek Board review in due course.

League, and the Virginia Municipal League is hereby denied as moot.

So ordered.

Dated: OCT 28 2005

ENVIRONMENTAL APPEALS BOARD

By: 

Scott C. Fulton
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Withdrawal of Appeal in the matter of Government of the District of Columbia, Municipal Separate Storm Sewer System, NPDES Appeal No. 04-10, were sent to the following persons in the manner indicated:

By First Class, U.S. Mail
and facsimile (where indicated):

David S. Baron
Earthjustice Legal Defense Fund
1625 Massachusetts Ave., N.W.
Suite 702
Washington, D.C., 20036
Fax: 202-667-2356

Counsel for the Government of the District of Columbia
Bruce Brennan
Assistant Deputy Commercial Division
Office of the Attorney General for D.C.
441 4th Street, N.W.
Washington, D.C. 20001

Counsel for WASA
David E. Evans
Darin K. Waylett
McGuire Woods LLP
One James Center
Richmond, VA 23219

Counsel for AMSA et al.
David W. Burchmore
Squire, Sanders & Dempsey LLP
4900 Key Tower
127 Public Square
Cleveland, OH 44114-1304

By Pouch Mail
and facsimile:

Lori G. Kier
Senior Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Fax No. 215-814-2603

Dated: OCT 28 2005

A handwritten signature in cursive script, appearing to read "Annette Duncan", written over a horizontal line.

Annette Duncan
Secretary