

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

In the Matter of:	)	
	)	
Government of the District of Columbia,	)	
Municipal Separate Storm Sewer System	)	Docket No. : DC0000221
	)	NPDES Appeal No. 04-10
NPDES Permit No. DC 0000221	)	
	)	
Friends of the Earth and	)	
Defenders of Wildlife	)	
Petitioners.	)	
	)	
U.S. Environmental Protection Agency, Region III,	)	
Respondent.	)	
	)	

**CONSENTED MOTION TO WITHDRAW APPEAL WITHOUT PREJUDICE**

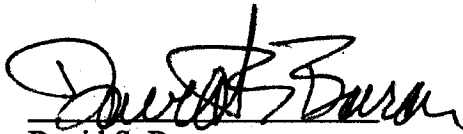
On September 20, 2004, Friends of the Earth and Defenders of Wildlife ("Petitioners") filed a Petition asking the Environmental Appeals Board ("EAB") to review certain issues regarding an NPDES permit no. DC 0000221 ("the Permit") issued by U.S. EPA Region III ("the Region") to the District of Columbia ("District"). The Region's decision to issue the Permit is dated August 17, 2004.

The parties previously notified the Board that they had reached a settlement whereby the Region agreed to propose a "Permit Amendment Number 1" to the present Permit, and upon the formal proposal of that amendment, Petitioners would withdraw the present appeal without prejudice. To facilitate this settlement, the Board extended the time for the Region to file its response to Petitioners' appeal, most recently to October 21, 2005.

On July 21, 2005, the Region formally proposed the above-referenced Permit

Amendment Number 1. Accordingly, pursuant to the parties' settlement, Petitioners hereby move the Board for leave to withdraw their present appeal without prejudice. Petitioners request that the Board specify in its order that withdrawal of this appeal is without prejudice. Counsel for the Region has authorized the undersigned to represent that the Region concurs in this motion.

DATED this 19th day of October, 2005.



David S. Baron

Earthjustice

1625 Massachusetts Avenue, NW, Suite 702

Washington, DC 20036

202-667-4500

Counsel for Petitioners

CERTIFICATE OF SERVICE

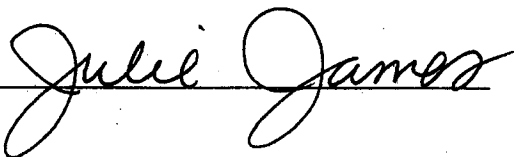
I hereby certify that copies of the foregoing Motion were served by first class mail, postage prepaid, this 19 day of October, 2005, on:

Lori Kier  
Office of Regional Counsel  
EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Bruce Brennan  
Assistant Deputy Commercial Division  
Office of the Attorney General  
for the District of Columbia  
441 4<sup>th</sup> Street, NW  
Washington, DC 20001

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

David W. Burchmore  
Squire, Sanders & Dempsey L.L.P.  
4900 Key Tower  
127 Public Square  
Cleveland, OH 44114-1304

A handwritten signature in cursive script that reads "Julie James". The signature is written over a horizontal line.