IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PENNSYLVANIA MUNICIPAL AUTHORITIES ASSOCIATION, et al.,	)	
Plaintiffs,	)	Civil Action No. 1-02-01361 (HHK)
v.	)	
CHRISTINE TODD WHITMAN, Administrator, United States Environmental Protection Agency, et al.,	)	
Defendants.	)	

DEFENDANTS' RESPONSE TO ASSOCIATION OF METROPOLITAN SEWERAGE AGENCIES' MOTION TO INTERVENE AS PLAINTIFF

Defendants Christine Todd Whitman, Administrator of the United States Environmental Protection Agency ("EPA"), Donald S. Welch, Regional Administrator, EPA Region III, J.I. Palmer, Jr., Regional Administrator, EPA Region IV, and Gregg A. Cooke, Regional Administrator, EPA Region VI (collectively "EPA") hereby respond to the "Motion to Intervene as Plaintiff" filed by the Association of Metropolitan Sewerage Agencies ("AMSA").

EPA does not oppose the motion for leave to intervene provided that the Court places reasonable and appropriate bounds on the Intervenor's role in this action to ensure that Intervenor's and Plaintiffs' efforts in litigating this case are not duplicative. EPA is particularly concerned about the potential for duplication of effort, where, as here, Plaintiffs and Intervenor make the same general allegations, seek the same relief, and represent the same type of waste treatment facility. Compare Compl. at 6-62, with Complaint in Intervention at 5-36.

In particular, EPA maintains that the interests of AMSA are virtually identical to those of the Plaintiffs, the Pennsylvania Municipal Authorities Association ("PMAA") and the Tennessee Municipal League ("TML"), because they, like AMSA, are organizations that represent the interests of publicly owned treatment works -- also known as municipal sewage treatment plants.[1] That AMSA's membership of publicly owned treatment works is national, whereas PMMA's and TML's is more localized, does not cause the interests of AMSA and Plaintiffs to become unaligned.

Indeed, in other similar cases where different associations representing the same type of waste treatment facility have participated as both plaintiff and intervenor, EPA has observed needless duplication of effort. Such duplication of effort often unnecessarily delays the proceeding and burdens the resources of both the Court and the parties, which is contrary to the intent of Federal Rule of Civil Procedure 24(b). See Fed. R. Civ. P. 24(b)(2) ("court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties"). EPA therefore respectfully requests that to the extent intervention is granted, the Court require AMSA to coordinate with Plaintiffs to the greatest extent possible to ensure that the two parties avoid unnecessary duplication of efforts.

EPA's non-opposition to AMSA's motion for leave to intervene is also premised on its understanding that the granting of such motion will not foreclose EPA from raising any and all defenses to the Complaint in Intervention, including jurisdictional defenses. Based on EPA's review to date of the Complaint in Intervention, that complaint suffers from the same jurisdictional flaws presented by

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[1] The other plaintiff -- the City of Little Rock, Arkansas -- operates a publicly owned treatment works and thus its interests are directly aligned with Plaintiffs PMMA and TML.

Plaintiffs' Complaint. EPA's response to Plaintiffs' Complaint is currently due on October 11, 2002. EPA's response to the Complaint in Intervention will be due approximately 60 days following any order granting intervention. See Fed. R. Civ. P. 12(a)(3) (United States has 60 days to respond to complaint); Local Rule 7.2(j) (intervention "pleading shall be deemed to have been filed and served by mail on the date on which the order granting the motion is entered").

Thus, EPA has no objection to the intervention provided the Court places reasonable bounds on the Intervenor's role in the action and EPA preserves all of its defenses to the Complaint in Intervention.

Respectfully submitted,

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