

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,
Complainant,
v.
SAINT-GOBAIN CONTAINERS, INC., a Delaware corporation,
Respondent.

PCB NO. 03-22
(Enforcement)

RECEIVED
CLERK'S OFFICE
OCT 05 2005
STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: N. LaDonna Driver
David M. Walter
Hodge Dwyer Zeman
3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705-5776

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION FOR STAY, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: [Signature]
DELBERT D. HASCHEMEYER
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 3, 2005

CERTIFICATE OF SERVICE

I hereby certify that I did on October 3, 2005, send by First Class Mail with postage thereon fully prepaid a true and correct copy of the attached NOTICE OF FILING and MOTION FOR STAY


To: N. LaDonna Driver
Hodge Dwyer Zeman
3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705-5776

and the original and ten copies was sent by First Class Mail with postage thereon fully prepaid

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
Suite 11-500
100 West Randolph
Chicago, IL 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid

To: Carol Webb
Hearing Officer
Illinois Pollution Control Board
10212 North Grand Avenue East
Springfield, IL 62794


Delbert D. Haschemeyer
Assistant Attorney General

This filing is submitted on recycled paper.

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MOTION FOR STAY

Now comes the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by Lisa Madigan, Attorney General of the State of Illinois, and moves that the above-captioned matter be stayed pending resolution of a federal action addressing the same facility and issues which are present in the instant case. In support thereof, Complainant states:

- 1. On August 3, 2005, the United States Environmental Protection Agency (USEPA) extended to the Illinois Environmental Protection Agency (IEPA) an invitation to participate in a joint federal and state global initiative to address possible violations of federal and state law and regulations by Saint-Gobain Containers, Inc.
2. IEPA was invited to a meeting between representatives of the USEPA, Department of Justice, interested states and Saint-Gobain Containers, Inc., on September 23, 2005, at USEPA headquarters in Washington, D.C.
3. At the September 23, 2005 meeting, the USEPA identified concerns related to several facilities in the United States, including the Lincoln, Illinois, facility which is the subject of the instant enforcement case.
4. USEPA indicated that, with regard to Saint-Gobain's Lincoln facility, the concerns include apparent violations of applicable federal prevention of significant deterioration ("PSD") requirements relative to regulate air contaminants, including Nitrogen Oxide (NOx). These concerns mirror technical issues and PSD and state permitting violations alleged within the State's

Complaint filed with the Board.

5. The federal action will develop an appropriate technical remedy and seek resolution of the same violations alleged in the State's Complaint independent of the State's enforcement action in the instant case.

6. Saint-Gobain was informed that USEPA will be proceeding with either a traditional enforcement process for the Lincoln facility, or a voluntary global negotiated approach. Saint-Gobain took the options under consideration and will be informing USEPA in the near future which option it wishes to proceed with.

7. If both the instant case and the federal action proceed independently, a substantial likelihood exists for overlapping or inconsistent injunctive relief in each case.

8. Judicial economy and practicability clearly dictates that it would be a waste of resources for all involved to proceed with the instant case until such time as the resolution of the federal matter is known because, in all probability, resolution of the federal matter will also resolve and render technical and legal issues in the instant case moot.

WHEREFORE, for the foregoing reasons, the Complainant respectfully requests that the instant case be stayed pending resolution of the federal matter referenced herein.


Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,
Attorney General
of the State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY:


DELBERT D. HASCHEMEYER
Assistant Attorney General
Environmental Bureau

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