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DEC 30 2002

STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

LONE STAR INDUSTRIES, INC.

Petitioner,

v.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

PCB 03-95 03-94
(CAAPP Permit Appeal)

NOTICE OF FILING

TO: Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
**(VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED)**

(PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies each of an **ENTRY OF APPEARANCE OF KATHERINE D. HODGE, ENTRY OF APPEARANCE OF N. LADONNA DRIVER, PETITION FOR REVIEW and MOTION TO STAY EFFECTIVENESS OF CAAPP PERMIT**, copies of which are herewith served upon you.

Respectfully submitted,

LONE STAR INDUSTRIES, INC.,
Petitioner,

By: Kath D. Hodge
One of Its Attorneys

Dated: December 27, 2002

Katherine D. Hodge
N. LaDonna Driver
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

THIS FILING SUBMITTED ON RECYCLED PAPER

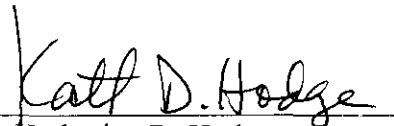
CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached ENTRY OF APPEARANCE OF KATHERINE D. HODGE, ENTRY OF APPEARANCE OF N. LADONNA DRIVER, PETITION FOR REVIEW and MOTION TO STAY EFFECTIVENESS OF CAAPP PERMIT upon:

Ms. Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Robert C. Sharpe, Esq.
Deputy Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

by depositing said documents in the United States Mail, in Springfield, Illinois on
December 27, 2002.


Katherine D. Hodge

LONE:001/Fil/NOF-COS

DEC 30 2002

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ILLINOIS
Pollution Control Board

ORIGINAL

LONE STAR INDUSTRIES, INC.

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v.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

PCB 03-94
(CAAPP Permit Appeal)

ENTRY OF APPEARANCE OF KATHERINE D. HODGE

NOW COMES Katherine D Hodge, of the law firm of HODGE DWYER
ZEMAN, and hereby enters her appearance on behalf of Petitioner, LONE STAR
INDUSTRIES, INC.

Respectfully submitted,

LONE STAR INDUSTRIES, INC.,
Petitioner,

By: Kath D. Hodge
Katherine D. Hodge

Dated: December 27, 2002

Katherine D. Hodge
N. LaDonna Driver
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LONE:001/Fil/EOA-KDH

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ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
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Pollution Control Board

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Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB 03-94
(CAAPP Permit Appeal)

ENTRY OF APPEARANCE OF N. LADONNA DRIVER

NOW COMES N. LaDonna Driver, of the law firm of HODGE DWYER ZEMAN, and hereby enters her appearance on behalf of Petitioner, LONE STAR INDUSTRIES, INC.

Respectfully submitted,

LONE STAR INDUSTRIES, INC.,
Petitioner,

By: N. LaDonna Driver
N. LaDonna Driver

Dated: December 27, 2002

Katherine D. Hodge
N. LaDonna Driver
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

LONE:001/Fil/EOA-NLD

DEC 30 2002

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

LONE STAR INDUSTRIES, INC.,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB 03-94
(CAAPP Permit Appeal)

PETITION FOR REVIEW

NOW COMES, Petitioner, LONE STAR INDUSTRIES, INC. (hereinafter "Lone Star" or "Petitioner"), by and through its attorneys, HODGE DWYER ZEMAN, pursuant to Section 40.2 of the Illinois Environmental Protection Act (415 ILCS 5/40.2) ("Act") and 35 Ill. Admin. Code § 105.Subpart C, and petitions the Board for review of the Clean Air Act Permit Program ("CAAPP") permit granted to Lone Star by the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to Section 39.5 of the Act on November 22, 2002.

In support thereof, Lone Star states as follows:

1. Lone Star owns and operates a Portland cement manufacturing facility in Oglesby, Illinois, which is classified as a "major source" for purposes of Title V of the Clean Air Act and Section 39.5 of the Act.
2. Pursuant to Section 504 of the Clean Air Act (42 U.S.C. § 7661b(c)) and Section 39.5(5) of the Act, Lone Star submitted an application for a CAAPP permit for its Oglesby, Illinois facility to the Illinois EPA on August 3, 1995.
3. On or about September 25, 2002, Illinois EPA sent to public notice a proposed CAAPP permit for this facility and also provided a copy of the proposed permit

to the United States Environmental Protection Agency (“USEPA”). However, Lone Star was afforded no opportunity to review the draft permit prior to its public notice (despite the fact that Illinois EPA had advised Lone Star that it would provide notice prior to review of the pending CAAPP application, so as to afford the applicant with an opportunity to update and supplement its pending application).

4. During the 45-day comment period provided pursuant to Section 505d of the Clean Air Act (42 U.S.C. § 7661d) and Section 39.5 (8) and (9) of the Act, Illinois EPA received no written objection from the USEPA and, with the exception of Lone Star’s comments (which are attached hereto as Exhibit A), received no comments from the public or any “affected states.”

5. On November 22, 2002, Illinois EPA granted a final CAAPP permit for the Lone Star Oglesby facility. (The November 22, 2002, permit is attached hereto as Exhibit B.) The final CAAPP permit utilizes an overall “fast track” approach of establishing “emission limitations” and other requirements by referencing and incorporating conditions contained in previously issued State Operating and Construction Permits. (See Section 7.1.6(a) of Exhibit B.) Moreover, the final CAAPP permit establishes “applicability provisions and applicable regulations” by referencing and incorporating potentially applicable regulations. (See Section 7.1.3(c), (d) and (e) of Exhibit B.) This approach is neither supported in the record before the Illinois EPA nor supported by applicable law, because a number of inconsistencies are established via the conditions in the various permits attached to the CAAPP permit. Similarly, there are a number of inconsistencies and actual conflicts between the conditions of the various permits and the referenced regulations. In addition, since May 2002, Lone Star has been

involved in discussions with the Illinois EPA permit staff regarding revisions to special conditions contained in several of the previously issued State Operating and Construction Permits. Such requested revisions were neither included in the proposed nor the final CAAPP permit. The Illinois EPA's failure to allow Lone Star the opportunity to review the draft permit prior to its public notice resulted in a CAAPP permit that does not truly reflect current operations at the Oglesby facility.

6. By merely referencing and incorporating requirements contained in the previously issued State Operating and Construction Permits and merely referencing and incorporating potentially applicable regulations, the CAAPP permit does not reflect the current applicable requirements or the current operations at the Oglesby facility, and thus is not "consistent with the Clean Air Act and regulations promulgated thereunder and this Act and regulations promulgated thereunder." Such conditions are not required to "accomplish the purposes and provisions of this Act and to assure compliance with all applicable requirements." As such, Illinois EPA has exceeded its authority and imposed conditions that violate Section 39.5 of the Act.

WHEREFORE, Lone Star petitions the Board for a hearing on the Illinois EPA's action to issue this CAAPP permit in this fashion. And, as set forth in the accompanying

Motion to Stay Effectiveness of CAAPP Permit, Lone Star requests that the effectiveness of the CAAPP permit be stayed until the Board's final determination in this matter.

Respectfully submitted,

LONE STAR INDUSTRIES, INC.
Petitioner,

By: Kath D. Hodge
One of Its Attorneys

Dated: December 27, 2002

Katherine D. Hodge
N. LaDonna Driver
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

LONE:001/Fil/Petition for Review

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

LONE STAR INDUSTRIES, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB ___ - ___
)	(CAAPP Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

MOTION TO STAY EFFECTIVENESS OF CAAPP PERMIT

Petitioner, LONE STAR INDUSTRIES, INC. (“Lone Star”), by and through its attorneys, HODGE DWYER ZEMAN, hereby moves the Board to stay the effectiveness of Lone Star’s Clean Air Act Permit Program (“CAAPP”) permit in this matter, pursuant to 35 Ill. Adm. Code 105.304(b).

In support thereof, Lone Star states as follows:

1. On November 22, 2002, the Illinois Environmental Protection Agency (“Illinois EPA”) issued a final CAAPP permit (No. 95080005) for Lone Star’s Oglesby, Illinois facility;
2. Today, December 27, 2002, Lone Star has filed a Petition for Review in order to preserve its right to appeal in this matter;
3. A stay of effectiveness of the CAAPP permit is needed to prevent irreparable harm to the Petitioner and to protect a certain and clearly ascertainable right of the Petitioner, the right to appeal permit conditions.
4. The Illinois EPA, the public, and the environment will not be harmed if a stay is granted.

5. The Illinois EPA has indicated that it has no objection to the granting of the stay.

WHEREFORE, the Petitioner moves the Board to grant a stay of effectiveness of Lone Star's CAAPP permit until the Board's final action in this matter.

Respectfully submitted,

LONE STAR INDUSTRIES, INC.
Petitioner,

By: Kath D. Hodge
One of Its Attorneys

Dated: December 27, 2002

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LONE:001/Fil/Motion to Stay