

**BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS**

AMERICAN BOTTOM CONSERVANCY, )  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, and UNITED )  
STATES STEEL CORPORATION - )  
GRANITE CITY WORKS, )  
)  
Respondents. )

**RECEIVED**  
CLERK'S OFFICE

JUN 30 2006

PCB No. 2006-171  
(NPDES Permit Appeal)

STATE OF ILLINOIS  
Pollution Control Board

**NOTICE OF FILING**

To: Maxine I. Lipeles  
Interdisciplinary Environmental Clinic  
Washington University School of Law  
One Brookings Drive - Campus Box 1120  
St. Louis, MO 63130-4899

Edward Heisel  
Interdisciplinary Environmental Clinic  
Washington University School of Law  
One Brookings Drive - Campus Box 1120  
St. Louis, MO 63130-4899

Sanjay K. Sofat  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-92760

**PLEASE TAKE NOTICE** that on June 30, 2006 there was filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original, executed copy of United States Steel Corporation's Motion for Leave to File a Reply in Support of Motion to Dismiss and United States Steel Corporation's Reply Memorandum in Support of Motion to Dismiss.

Dated: June 30, 2006

Respectfully submitted,

By: Carolyn S. Hesse  
U.S. Steel Corporation - Granite City Works  
One of Its Attorneys

Erika K. Powers, Esq.  
Carolyn S. Hesse, Esq.  
David T. Ballard, Esq.  
Barnes & Thornburg LLP  
One North Wacker Drive - Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313

**CERTIFICATE OF SERVICE**

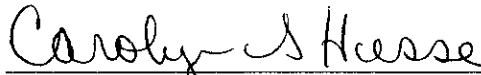
I, on oath state that I have served the attached United States Steel Corporation's Motion for Leave to File a Reply in Support of Motion to Dismiss and United States Steel Corporation's Reply Memorandum in Support of Motion to Dismiss by placing a copy in an envelope addressed to:

Maxine I. Lipeles  
Interdisciplinary Environmental Clinic  
Washington University School of Law  
One Brookings Drive - Campus Box 1120  
St. Louis, MO 63130-4899

Edward Heisel  
Interdisciplinary Environmental Clinic  
Washington University School of Law  
One Brookings Drive - Campus Box  
1120  
St. Louis, MO 63130-4899

Sanjay Sofat  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

from One North Wacker Drive, Suite 4400, Chicago, Illinois, before the hour of 5:00 p.m., on this 30<sup>th</sup> Day of June, 2006.



\_\_\_\_\_  
Carolyn S. Hesse

**BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS**

**RECEIVED**  
CLERK'S OFFICE

JUN 30 2006

STATE OF ILLINOIS  
Pollution Control Board

AMERICAN BOTTOM CONSERVANCY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB No. 2006-171
	)	(NPDES Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY, and UNITED	)	
STATES STEEL CORPORATION -	)	
GRANITE CITY WORKS,	)	
	)	
Respondents.	)	

**UNITED STATES STEEL CORPORATION'S MOTION FOR LEAVE TO FILE A  
REPLY IN SUPPORT OF MOTION TO DISMISS**

Respondent, United States Steel Corporation - Granite City Works ("U. S. Steel"), by its attorneys and pursuant to 35 Ill. Adm. Code 101.500(e), moves the Board for leave to file a Reply in Support of its Motion to Dismiss the American Bottom Conservancy's ("ABC") Petition for Review of a Decision by the Illinois Environmental Protection Agency (the "Petition"). In support of this Motion, U. S. Steel states as follows.

1. On May 8, 2006, ABC filed the Petition, seeking a review of the Illinois Environmental Protection Agency's ("IEPA") issuance of a National Pollution Discharge Elimination System ("NPDES") permit (Permit No. IL0000329) on March 31, 2006 to U. S. Steel to allow the Granite City Works facility to discharge certain pollutants into Horseshoe Lake (the "Final NPDES Permit").

2. On May 26, 2006, U. S. Steel filed a Motion to Dismiss all counts of ABC's Petition. With regard to all but one of ABC's claims, the basis of U. S. Steel's Motion to Dismiss is that the issues raised in the Petition were not properly raised by ABC during the

public comment period for the proposed NPDES Permit to be issued to U. S. Steel.<sup>1</sup> According to 415 ILCS 5/40(e)(2)(A), ABC's failure to raise the issues in the Petition during the public comment period requires that such issues be dismissed with prejudice.

3. On June 16, 2006, ABC filed its Opposition to U. S. Steel's Motion to Dismiss. In its Opposition, ABC argued that although it did not raise the issues contained in the Petition during the 30-day public comment period, the public comment period was *de facto* extended by IEPA for a period of 14 months, such that ABC's comments were submitted within the extended comment period. *See* ABC's Opp. at 5.

4. In support of its argument that IEPA *de facto* extended the comment period, ABC states that U. S. Steel submitted three comment documents to IEPA after the 30-day comment period ended, thus demonstrating that the comment period was extended by 14 months. ABC's citation to these documents, however, is misleading and needs to be clarified. Indeed, the three documents ABC cites in support of its argument were not public comments on the draft permit that were required to be submitted during the public comment period. Instead, these documents were sent to IEPA to provide IEPA with specific information to assist IEPA as it was writing the Final NPDES Permit.

5. Because ABC mischaracterizes the three documents that U. S. Steel submitted to IEPA after the public comment period ended, U. S. Steel seeks leave pursuant to 35 Ill. Admin. Code 101.500(e) to file a Reply in Support of its Motion to Dismiss, in order to address this narrow issue and to prevent the material prejudice that will result from ABC's misleading description of U. S. Steel's submissions.

---

<sup>1</sup> The one claim that U. S. Steel is not moving to dismiss on this basis is ABC's claim that IEPA wrongfully denied ABC's right to a public hearing. U.S. Steel is moving to dismiss this claim on the basis that the decision to hold a public hearing is within IEPA's discretion.

6. Attached to this Motion as Exhibit A is a proposed Reply in Support of Motion to Dismiss that U. S. Steel seeks to file.

WHEREFORE, U. S. Steel requests that the Board grant this Motion for Leave to file the attached Reply in Support of Motion to Dismiss, and grant all other relief that the Board deems fair and just.

Respectfully submitted,

**U.S. Steel Corporation - Granite City Works**

By: Carolyn S. Hesse  
One of Its Attorneys

Erika K. Powers, Esq.  
Carolyn S. Hesse, Esq.  
David T. Ballard, Esq.  
Barnes & Thornburg LLP  
One North Wacker Drive  
Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313