

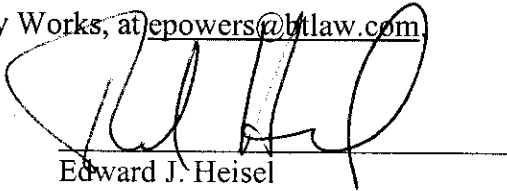
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

NOTICE OF FILING

PLEASE TAKE NOTICE that on July 14, 2006 I filed with the Office of the Clerk of the Pollution Control Board Petitioner's Motion to Supplement the Record.

I filed the above document electronically with the Clerk of the Pollution Control Board and with Carol Webb, Hearing Officer, at webbc@ipcb.state.il.us. In addition, I served copies of the foregoing electronically upon Sanjay K. Sofat, counsel for respondent Illinois Environmental Protection Agency, at Sanjay.Sofat@epa.state.il.us, and Erika K. Powers, counsel for respondent United States Steel Corporation – Granite City Works, at epowers@btlaw.com



Edward J. Heisel
Counsel for Petitioner

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AMERICAN BOTTOM CONSERVANCY,)	
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Petitioner,)	
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)	(3 rd Party NPDES Permit Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION)	
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Respondents.)	

PETITIONER’S MOTION TO SUPPLEMENT THE RECORD

Petitioner American Bottom Conservancy (“ABC”) moves the Illinois Pollution Control Board (“Board”) to supplement the incomplete record compiled by the Illinois Environmental Protection Agency (“IEPA”). Five documents have been erroneously excluded from the record, including IEPA’s response to one of ABC’s comment letters submitted on the underlying permit. U.S. Steel Corporation-Granite City Works (“Granite City Works”) objects to the inclusion of any of these five documents. IEPA opposes the inclusion of two of the five documents, including its response to ABC’s comment letter.

In support of this motion, ABC states as follows:

1. On May 18, 2006, the Board issued an order accepting ABC’s appeal of a National Pollution Discharge Elimination System (“NPDES”) permit issued by IEPA on March 31, 2006, to Granite City Works. Granite City Works is a large steel mill that discharges its wastewater into Horseshoe Lake, which is part of Horseshoe Lake State Park.
2. The Board’s order noted that its rules require IEPA to file the record within 14 days of notice of the petition.
3. On June 5, 2006, IEPA filed the agency record.

4. On June 22, 2006, IEPA filed a motion for leave to amend the record to include a copy of the previously omitted final permit (dated March 31, 2006), as well as several items of correspondence sent to ABC, Granite City Works, and other parties in conjunction with issuance of the permit.

5. Despite this amendment to the record, there remain five documents that have been improperly omitted. ABC raised its concerns about the incompleteness of the record at the June 27, 2006, status conference, after which it sought to resolve the issue informally with opposing counsel. As noted above, Granite City Works objects to inclusion of any of the five documents, while IEPA objects to inclusion of two of the five.

6. A June 28, 2006, order issued by the Hearing Officer directed ABC to file any motion to supplement the record with the Board if the issue could not be resolved informally between the parties.

7. The Board's regulations state that the record "must include . . . [c]orrespondence with the petitioner and any documents or materials submitted by the petitioner to the Agency related to the permit application". 35 Ill. Admin. Code § 105.212.

8. The two documents objected to by both Granite City Works and IEPA include:

a. Correspondence dated April 10, 2006, from IEPA to counsel for ABC.

See Exh. A. The correspondence is IEPA's response to technical comments on the draft permit that were submitted by ABC on December 9, 2005, nearly four months before the permit was issued. ABC's December 9th comment letter is already in the record at pages 611-624.

b. Correspondence dated April 5, 2006, from IEPA to counsel for ABC. *See* Exh. B. This document is IEPA's response to correspondence dated March 24, 2006,

from ABC's counsel to IEPA concerning procedural irregularities in the issuance of the permit. The March 24th correspondence from ABC's counsel to IEPA is one of the three remaining documents at issue in this motion as discussed below.

9. Exhibits A and B are both items of correspondence between Petitioner ABC and IEPA that directly relate to the permit at issue in this appeal. As such, they "must" be included in the record. 35 Ill. Admin. Code § 105.212(b).

10. Moreover, Exhibit A consists of IEPA's response to ABC's technical comments on the draft permit, which comments are already in the record. IEPA apparently objects to the inclusion of its response to comments because they are dated April 10, 2006, ten days after issuance of the permit on March 31, 2006. Nevertheless, the Board's regulations require that all correspondence between the agency and the petitioner be included in the record, 35 Ill. Admin. Code § 105.212(b), and it only serves to cause confusion to exclude the agency's response to comments that are already before the Board. ABC seeks to have included in the record the agency's purported rationale for rejecting its comments on the draft permit, not to inject into the record new information that was not before the agency when it issued the permit.

11. The remaining three documents at issue in this motion include:

a. Correspondence dated March 7, 2006, from ABC to IEPA that reiterates ABC's request for a public hearing on the underlying permit. *See* Exh. C.

b. E-mail correspondences dated March 7, 2006, and March 14, 2006, between IEPA and ABC, which are a continuation of an email string already in the record at pages 633-634. *See* Exh. D.

c. Correspondence dated March 24, 2006, from ABC's counsel to IEPA that discusses procedural irregularities in the issuance of the underlying permit. *See* Exh. E.


12. Granite City Works objects to the inclusion of Exhibits C, D and E in the record. IEPA does not object to inclusion of these documents.

13. Exhibits C, D and E are all items of correspondence between Petitioner ABC and IEPA that directly relate to the permit at issue in this appeal. As such, they "must" be included in the record. 35 Ill. Admin. Code § 105.212(b).

WHEREFORE, Petitioner American Bottom Conservancy requests that this Board grant its Motion to Supplement the Record.

Dated: July 14, 2006

Respectfully submitted,


Maxine I. Lipeles, Pro Hac Vice
Counsel for Petitioner

Interdisciplinary Environmental Clinic
Washington University School of Law
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St. Louis, MO 63130-4899
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814 6026

2177782-0610 RUD R. BLAGOJEVIC, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

April 10, 2006

Ms. Sara Rubenstein
Washington University in St. Louis
School of Law
Interdisciplinary Environmental Clinic
Campus Box 1120
One Brookings Drive
St. Louis, Missouri 63130-4899

Re: United States Steel-Granite City Works
NPDES Permit No. IL0000329
Response to Comments

Dear Ms. Rubenstein:

Thanks for your letter dated December 9, 2005, which lists various concerns regarding the NPDES permit referenced above. Although the comment letter cannot be entered into the official permit record due to the fact that the letter was received after the close of the comment period, the Illinois EPA (Agency) offers the following responses for your consideration. The comments are summarized using the numbering system utilized in the comment letter followed by the Agency response.

1.1 Effluent Limits Inadequate and inaccurate

Sulfate, barium, boron, fecal coliform, manganese, color, and phosphorus (T) should be limited in the permit because they are listed in the application and there are criteria and standards established for them.

Response: The memo authored by Bob Mosher, dated July 6, 2003, found no reasonable potential to exceed standards for barium, boron, or manganese. The comment letter does not specify which outfall the commenter is referring to, but it is assumed to be outfall 001 tributary to Horseshoe Lake. The sulfate water quality standard for general use waters is 500 mg/l. This would be applied, if necessary at outfall 001. The application states that the maximum concentration at outfall 001 is 130 mg/l. This does not warrant limitation in the permit. Color is a narrative standard and has not been a problem at this facility. The phosphorus concentration listed in the application for outfall 001 is 0.24 mg/l as a daily maximum, which is less than 1/3 of the effluent standard found in 35 Ill. Adm. Code 304.123. Likewise, the application lists a fecal coliform concentration of 32 mg/l, which is less than 1/10 of the fecal coliform standard.

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ELGIN - 595 South State, Elgin, IL 60123 (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5461
BUREAU OF LAKE - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-3800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

PRINTED ON RECYCLED PAPER

EXH. A

- 1.2 Limit for cyanide should be changed to 0.0052 mg/l instead of 0.01 mg/l. Average daily load limits should be recalculated using average flows.

Response: This is a significant figures issue in the drafting of the permit. The load limits for cyanide were calculated using 0.002 mg/l and 0.0052 mg/l respectively. Therefore, the permit is restrictive due to the specified load limits. It should be noted that the maximum daily limit was rounded down. Regarding the use of DMF to calculate load limits, DMF is used to calculate both average and maximum load limits for the assignment of state regulation based mass limits. This procedure for calculating limits is also appropriate because the concentration standards are established by regulation and not calculated from production and flow.

- 1.3 Improper granting of exemptions and variances from applicable effluent standards

Response: Central Treatment Exemption (CTE): In the October 17, 2002 (volume 67, No. 201) Federal Register the USEPA left in place the Central Treatment Exemption because it believed that the one facility with an exemption for zinc (USS-GCW) would still meet the cost model criteria to come into compliance with 40 CFR 420 standards. The Agency has no reason to differ with the USEPA conclusion. Furthermore, at the time of the referenced federal register USEPA had not received any comments in support of removing the exemption. Therefore, the Agency has chosen to allow USS-GCW to continue the CTE for zinc.

301(g) variance: The NPDES permit does allow the continuance of the 301(g) variance for ammonia. As such, the permittee is not required to meet the ammonia effluent standards in 40 CFR420. Instead, USS-GCW must meet applicable water quality standards and be protective of public water supplies, aquatic life and shall not pose an unacceptable risk to human health or the environment. To meet that goal the Agency has assigned state water quality based effluent limits in USS-GCW's NPDES permit. These standards are protective of aquatic life, human health and the environment.

- 1.4 Implementation of compliance schedules for cyanide and possibly total suspended solids, ammonia, iron and oil & grease.

Response: Compliance schedules are not warranted for cyanide or any of the other parameters mentioned. Specifically for cyanide, it appears that potential concern over cyanide at USS-GCW is attributable to unreliable sample data due to previous test methods used to analyze the samples. This problem is not uncommon for these types of discharges as cyanide analytical methods are confounded by interferences from other substances causing false detections. Therefore, the permit specifies the use of a potentially more reliable method for cyanide. Regarding compliance schedules for the

other parameters, the Agency is precluded from issuing compliance schedules in NPDES permits for parameters with existing standards that have been limited in previous permits. If there are compliance problems with any parameter they are dealt with on a case-by-case basis. If the same problem persists the Agency may take enforcement action to seek a remedy to a particular situation. The Agency has taken action in the past and will do so in the future should the need arise.

- 2.0 Monitoring should be overly protective given the compliance history of USS-GCW. Specifically, suggests periodic monitoring at outfall 001 naphthaline, benzo a pyrene, and tetrachloroethylene.

Response: The parameters suggested for monitoring at outfall 001 are required to be monitored at the internal outfall because there are different limits pertaining to the individual processes employed by USS-GCW. Monitoring data for these outfalls indicates that the facility is well within compliance limits for those parameters. When the concentrations of these parameters are calculated at the outfall to Horseshoe Lake they are in the 1/10 of one part per billion range. Therefore, we see no reason to require additional monitoring for these parameters at outfall 001.

Regarding composite sampling explanations, the Agency included specific monitoring requirements in the permit for cyanide monitoring because of particular holding time requirements for compositing these samples. Other composite samples which do not require special handling are not explained in the permit. As you are aware, the USS-GCW facility has been in existence for many years. The Agency has inspected the facility many times and as part of those inspections has reviewed sampling procedures and checked sampling equipment for proper maintenance.

- 3.0 Questions compliance history of the Granite City Works.

Response: As pointed out in the comment letter, the Agency has taken action in the past to correct or investigate any violations or apparent violations. The Agency will continue to do so in the future if the need arises. However, the Agency has concluded that the NPDES permit issued March 31, 2006 is protective of water quality, as discussed above, with adequate monitoring to determine compliance.

- 4.0 Protection of Horseshoe Lake

- 4.1-4.3 Anti backsliding, anti-degradation, and 303(d) concerns. The permit allows for increases in loading for lead, zinc and ammonia.

Response: In the case of lead and zinc, the need for limits in the permit is based on Federal Categorical requirements. The Agency must include limits in the permit

regardless of the reasonable potential of any one parameter to exceed a water quality standard. Lead is not used as a raw material or as an additive in the processes at the USS-GCW facility. This categorical requirement leads to confusion over paper increases in actual loading. In addition, anti-backsliding regulations make allowance for increases in production. Regarding ammonia, the permit reflects revised ammonia water quality standards which were not in place at the time of the last renewal.

The Illinois EPA does not agree that the comments reflect an accurate representation of Clean Water Act 303(d) requirements. We do agree that parameters listed as causes of impairment of the receiving water must not be allowed to increase as a result of higher load limits in a permit. However, the US Steel permit does not allow these increases. Of the causes of impairment to Horseshoe Lake listed in the 2004 303(d) List, phosphorus, pH, TSS, excess algae growth, non-native aquatic life, heptachlor, PCBs and zinc, only zinc is regulated by the NPDES permit in a manner that is pertinent to an evaluation of an increase in loading. The other parameters are either not regulated in the permit because they are not present in sufficient quantity to have a reasonable potential to exceed water quality standards (phosphorus, heptachlor, PCBs) or are regulated in the permit at fixed levels (TSS, pH).

The 30 day average zinc load limit is based on the 30 day average concentration limit for zinc. This limit is in turn based on the chronic water quality standard for dissolved zinc. The total zinc concentration limit (federal regulations require permits to regulate total rather than dissolved metals) was obtained by application of USEPA's metals translator methodology. The metals translator is a site-specifically derived value based on the total to dissolved metal ratio of the effluent. In this case a 30 day average total zinc concentration limit of 0.17 mg/L is equivalent to 0.0586 mg/L dissolved zinc, the chronic water quality standard. The 30 day average load limit for zinc of 12 pounds per day is calculated from the 0.17 mg/L concentration limit. This limit is actually lower than the 15.05 pounds per day limit in the previous permit. On average, loading of zinc will therefore be reduced by the draft permit. While the daily maximum amount of zinc loading is somewhat higher in the draft permit, this loading is not permitted to be sustained for very long because the 30 day average would otherwise soon be exceeded. Federal categorical limits drive the daily maximum load limit because it was determined that no reasonable potential to exceed the acute water quality standard exists. We thereby conclude that the zinc limits in the draft permit do not represent an increase in loading and are consistent with Section 303(d) of the Clean Water Act.

Ammonia is also mentioned in the comment. Since ammonia is not listed as a cause of impairment of Horseshoe Lake in the Illinois 303(d) list, there is no issue of the permit allowing further impact. The proposed limits represent the water quality standards for ammonia with a slight exception. The concentration limits in the draft permit for Spring/Fall, Summer and Winter seasons are based on the water quality standard with no

provision for mixing. The month of March is singled out because under previous water quality standards, March was a winter month, but with changes adopted in 2002, it is now a spring month. Dischargers therefore often had a limit of 4.0 mg/L in March. Because March is often a cold month, and treatment processes that remove ammonia do not work as well in cold weather, many facilities have requested the 4.0 mg/L limit for March. The Illinois EPA may grant this provided sufficient mixing exists in the receiving water. March is a month of high precipitation and better than average mixing potential. The difference between the water quality standard of 2.8 for Spring/Fall and 4.0 is relatively small. Allowed mixing has been granted for the month of March, thereby allowing the 4.0 mg/L limit. Load limits are calculated from these concentration limits. The comment apparently refers to the granting of allowed mixing in March as a "treatment exemption" when in fact it is a function of water quality standards.

- 4.4 Heavy actual use of Horseshoe Lake mandates a more stringent draft permit.

Response: The Agency acknowledges the many uses of Horseshoe Lake by Illinois residents. The Agency has taken note of comments made at public hearings and directly to the Agency by the American Bottoms Conservancy and others regarding 303(d) concerns. Horseshoe Lake is regulated as a General Use water, and as such, the water quality criteria used to derive permit limits are deemed protective.

- 5.0 The draft permit fails to adequately address stormwater.

Response: As was correctly pointed out in comments, USS-GCW treats stormwater that is exposed to industrial activity. Therefore, the Agency considers treatment a best management practice for stormwater and does not require additional permits. Regarding upset conditions and treatment plant bypasses, the standard conditions of the permit address this issue.

- 6.0 Landfill outfall should not be included in the draft permit.

Response: The Agency does not agree with the comment that internal outfall C01 "Landfill Leachate" is unprecedented and ill advised. As you are aware, United States Steel Corporation purchased most of the assets of National Steel. Under National Steel's NPDES permit the landfill discharged leachate to the treatment plant which is now owned by USS-GCW. In addition, there are many landfills in the state that discharge leachate to publicly owned treatment works (POTW's). These POTW's do not own the landfills, yet they do have control over how the leachate is treated. The landfill in question in this case no longer receives waste. The leachate that is generated from the landfill is of consistent quality and the Agency sees no reason to discontinue the existing discharge. Furthermore, the internal outfall to the treatment plant owned and operated by

6

USS-GCW is considered favorable to hauling the leachate off-site. The Agency does have the ability to inspect the landfill even though it is not owned by USS-GCW. Therefore, it makes no sense to the Agency to draft a separate NPDES permit for the discharge of the landfill leachate from the landfill owned by National Steel.

This response constitutes final action by the Agency on your comments. The Agency thanks you for your interest in the NPDES permitting process. Should you have any comments or questions regarding this response please contact Blaino Kinsley of my staff at the indicated address or telephone number.

Sincerely,



Alan Keller, P.E.
Manager, Permit Section
Division of Water Pollution Control

Cc: Records
Collinsville FOS
American Bottoms Conservancy
US Steel - Granite City Works



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-3397

APR - 5 2006

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

Dear Ms. Lipeles:

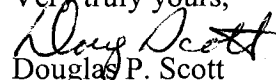
Thank you for the letter regarding the recent re-issuance of the NPDES permit (IL0000329) for the U.S. Steel facility in Granite City. Due to internal workload and operational complications, issuance of response to public comments for this permit was delayed two weeks beyond the issuance date for the permit. This is a departure from our normal operating practices and as you correctly pointed out, is contrary to state and federal procedural requirements for the NPDES program.

The Agency has subsequently provided full response to all timely filed comments and transmitted them to the interested parties. To remedy this departure from applicable procedures, we reissued the permit on March 31, 2006. All comments on the record were answered prior to that date and the official date of issuance for permit # IL0000329 for purposes of establishing the 35-day third party appeal timeframe is March 31, 2006.

Once again thank you for calling this matter to my attention and I trust our action has honored your request.

Should you have any additional questions or comments, please feel free to contact Toby Frevert, Manager, Division of Water Pollution Control. His telephone number is 217-558-2012.

Very truly yours,


Douglas P. Scott
Director

DPS/TF/J/Docs/Lipeles ltr US Steel Permit.doc.

VIA ELECTRONIC MAIL, FACSIMILE AND U.S. MAIL

March 7, 2006

Doug Scott, Director
Illinois Environmental Protection Agency

Re: NPDES Permit IL0000329 Granite City Works – Request for Public Hearing

Dear Director Scott:

The American Bottom Conservancy (“ABC”) understands that NPDES Permit No. IL0000329 for United States Steel Corporation – Granite City Works (“GCW”) is under your final consideration at this time. We are writing to address our concern that a public hearing may not be conducted before a final permit is issued. ABC has repeatedly requested that a public hearing be granted regarding this draft permit. IEPA has not responded to these requests.

On January 18, 2005 (during the draft permit comment period), ABC, Sierra Club, Prairie Rivers Network, Health & Environmental Justice – St. Louis, Neighborhood Law Office, and Webster Groves Nature Study Society submitted comments on the permit draft and stated their desire that IEPA hold a public hearing. Additionally, requests were reiterated in the NPDES comment letter submitted on behalf of ABC on December 9, 2005. If these requests are ignored, IEPA will violate the public hearing provisions of its regulations based on the significant public interest currently at stake. Section 309.115(a)(1) of Title 35, Subtitle C, Chapter I states that a public hearing should be held when “there exists a significant degree of public interest in the proposed permit or group of permits (instances of doubt shall be resolved in favor of holding the hearing), to warrant the holding of such a hearing.” We believe that the substantial membership of these concerned groups adequately demonstrates this requisite “significant degree of public interest.”

GCW is the sole point source discharger of wastewater into Horseshoe Lake. Furthermore, Horseshoe Lake is a valuable resource to many local residents who use the lake as a food source and for recreation. Many of these individuals lack the resources to protect it through forms of legal action other than a public hearing. A public hearing would provide all citizens an opportunity to voice concerns regarding GCW activities affecting Horseshoe Lake.

Horseshoe Lake’s current listing on Illinois 303(d) list of impaired waters, and the Illinois Department of Public Health’s Fish Advisory for Channel Catfish and Carp, further indicate the importance of holding a public hearing.

ABC is again requesting that the IEPA hold a public hearing on the draft permit for GCW. We greatly appreciate your consideration of our request. If you have any questions, please contact me at (618) 567-0233.

Sincerely,

Kathy Andria
American Bottom Conservancy

CC: Marcia Willhite, Bureau of Water Chief

EXH. C

From: "Ken Page" <Ken.Page@epa.state.il.us>
To: <abc@prairienet.org>
Date: 3/14/2006 3:17:51 PM
Subject: Re: Horseshoe Lake EJ meeting

Kathy,

As discussed this was an EJ meeting to discuss the subsistence fishing issues at Horseshoe Lake that you raised. I will inform everyone of your decision. Thank you.

Kenneth L. Page, Manager
Office of Compliance Assistance and Environmental Justice
Illinois EPA
1021 N. Grand Ave. East
P.O.Box 19276
Springfield, Illinois 62794-9276
217-524-1284

>>> "Kathy Andria" <abc@prairienet.org> 3/14/2006 1:24 PM >>>
Ken: I regret to say we will be unable to come to Springfield for this meeting. Some of the people from the community were unable to attend on such short notice because of scheduling conflicts. Others felt the meeting should be held locally so that more people from the community could attend. They also thought the Agency should hold a public hearing on the Granite City Steel NPDES discharge permit into Horseshoe Lake and that this meeting could be viewed as an attempt to circumvent that. We are unsure as to the status of the NPDES and our repeated requests for a public hearing.

Could you help to clarify the purpose of the meeting you are proposing?
I do appreciate the Agency's desire to address subsistence fishing at Horseshoe Lake and Frank Holten State Park. But, as you are well aware, we need to be inclusive of those most affected. Thank you. Kathy

> Ken Page, Bruce Yurdin, Al Keller and Tom Hornshaw. Maybe Ron Burke and other staff from bureau of water. Thanks.

>
> KPage.

>
>

>>>> "Kathy Andria" <abc@prairienet.org> 3/7/2006 10:47 AM >>>
> Thanks, Ken, for scheduling the meeting. I have forwarded it on to

EXH. D

others

> working on this issue. Who all from the Agency will be at the meeting?

> I

> would also like to include Frank Holten State Park in the discussion.

Kathy

>> Kathy,

>> The Agency has scheduled the Environmental Justice meeting for

>> Wednesday, March 15th at 10:00 am here at Headquarters in

> Springfield.

>> We will discuss subsistence fishing at Horseshoe Lake. Hopefully

> this

>> time works for you. This is the time that I could bring the key

> people

>> in the Agency together. Please let me know if there are any

> problems.

>> Thank you.

>> Kenneth L. Page, Manager

>> Office of Compliance Assistance and Environmental Justice

>> Illinois EPA

>> 1021 N. Grand Ave. East

>> P.O.Box 19276

>> Springfield, Illinois 62794-9276

>> 217-524-1284

>

 Washington University in St. Louis

SCHOOL OF LAW

Civil Justice Clinic
Interdisciplinary Environmental Clinic

March 24, 2006

Mr. Douglas P. Scott
Director
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Via Fax: (217) 782-9039

Re: NPDES Permit for US Steel - Granite City Works – Permit No. IL0000329

Dear Mr. Scott:

I write to bring to your attention some procedural irregularities regarding the issuance of the above-referenced NPDES permit.

American Bottom Conservancy (“ABC”), whom we represent, submitted two sets of comments on the draft permit. One set was submitted by ABC when the initial public notice was issued. The second set was submitted by our Interdisciplinary Environmental Clinic in December 2005, after we began working with ABC on this matter.

On March 8, 2006, the Clinic contacted Mr. Sanjay Sofat, IEPA attorney, to reiterate ABC’s request that the Illinois Environmental Protection Agency (“IEPA”) grant a public hearing before making a final decision on the permit. On Friday, March 10, 2006, Mr. Sofat informed the Clinic that the IEPA had issued the permit on March 8, 2006. On Monday, March 13, the Clinic contacted Mr. Blaine Kinsley, the permit writer, to ask for a copy of the permit. On Monday, March 20, Mr. Kinsley faxed us a (barely-legible) copy of the permit. He also indicated that the IEPA has not yet completed its Response to Comments.

The permit states that it was issued on March 8, 2006. However, although ABC submitted two sets of comments on the draft permit, ABC did not receive the permit until March 20, 2006. Moreover, even at this point we do not have - and do not know when we will have - the Response to Comments, without which it is difficult to evaluate the merits of a possible appeal. That is why the U.S. EPA’s regulations require that the agency issue its response to comments “when the final permit is issued.” 40 C.F.R. §§ 124.17 and 123.25(a)(31).

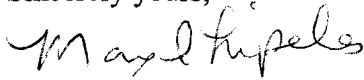
We request that IEPA complete its response to comments and then re-issue the permit, at that time, together with the response to comments. We further request that IEPA provide immediate notice of the permit issuance to ABC, as well as other members of the public who commented on the draft permit. If we had not inquired about the (lack of) public hearing, it is questionable whether ABC would have learned of the permit’s issuance on March 8, 2006.

EXH. E

Mr. Douglas P. Scott
March 24, 2006
Page 2 of 2

Thank you for your prompt attention to this urgent matter.

Sincerely yours,



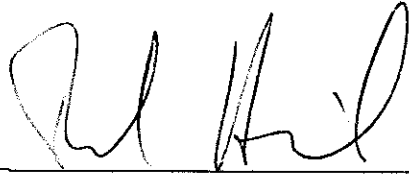
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milipele@wulaw.wustl.edu

cc: Ms. Marcia Willhite, IEPA Bureau of Water
Mr. Robert A. Messina, IEPA Chief Legal Counsel
Ms. Kathy Andria, American Bottom Conservancy

(217) 782-5549 - fax
(217) 782-9807 - fax

CERTIFICATE OF SERVICE

I, Edward J. Heisel, certify that I filed the Petitioner's Motion to Supplement the Record electronically with the Clerk of the Pollution Control Board and with Carol Webb, Hearing Officer, at webbc@ipcb.state.il.us. In addition, I served copies of the foregoing electronically upon Sanjay K. Sofat, counsel for respondent Illinois Environmental Protection Agency, at Sanjay.Sofat@epa.state.il.us, and Erika K. Powers, counsel for respondent United States Steel Corporation – Granite City Works, at epowers@btlaw.com.



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