


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 November 6, 2006, I filed with the Office of the Clerk of the Pollution Control Board Petitioner's Second 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 Carolyn.Hesse@btlaw.com.



 Edward J. Heisel
 Counsel for Petitioner

Interdisciplinary Environmental Clinic
 Washington University School of Law
 One Brookings Drive Campus Box 1120
 St. Louis, MO 63130-4899
 Phone: (314) 935-8760; Fax: (314) 935-5171
ejheisel@wulaw.wustl.edu

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.)	

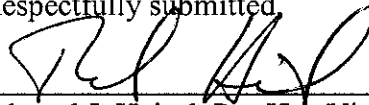
PETITIONER'S SECOND MOTION TO SUPPLEMENT THE RECORD

Petitioner American Bottom Conservancy (ABC) moves the Illinois Pollution Control Board (Board) to again supplement the incomplete record compiled by the Illinois Environmental Protection Agency (IEPA). In response to ABC's discovery requests, IEPA produced 37 pages of agency documents that were generated during the period that the agency was deliberating on whether to renew U.S. Steel's water pollution discharge permit. *See* Exh. A. Both IEPA and U.S. Steel have expressed their agreement that the record should be amended to include the 37 pages of documents produced by IEPA.

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

Dated: November 6, 2006

Respectfully submitted,



Edward J. Heisel, Pro Hac Vice
 Interdisciplinary Environmental Clinic
 Washington University School of Law
 One Brookings Drive Campus Box 1120
 St. Louis, MO 63130-4899
 Phone: (314) 935-8760; Fax: (314) 935-5171
ejheisel@wulaw.wustl.edu

CERTIFICATE OF SERVICE

I, Edward J. Heisel, certify that on November 6, 2006, I filed the Petitioner's Second 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 Carolyn Hesse, counsel for respondent United States Steel Corporation – Granite City Works, at Carolyn.Hesse@btlaw.com.



Edward J. Heisel

IEPA EXHIBITNo. AI

From: Blaine Kinsley
To: Carl, Cannon,
Date: 5/22/2003 8:01:41 AM
Subject: Re: USS & NSC Wastewaters

Thanks Carl,

I'm hoping that if the the permit is left the way it is, that the continued discharge of leachate and stormwater will not be an issue. I don't know why you couldn't monitor the leachate on your own, without modification, if the intent is solely to be able defend a hazardous waste determination for other wastestreams? Did you envision these internal monitoring points to have limits associated with them?

I'll let you know as soon as I know something.

Blaine

>>> "Cannon, Carl" <CCannon@nationalsteel.com> 05/22/03 06:59AM >>>

Blaine-

The initial discussions I had with Toby Frevert and Al Keller were directed at the issue we discussed yesterday. Specifically, I ask if USS would be able to accept NSC's landfill leachate and stormwaters. Their response to me was that as long as the leachate and stormwater were identified in the NPDES permit application (which they are), USS could accept the waters under the current permit. At that point the discussion was directed to the internal monitoring points that USS wanted to be incorporated into the permit.

I hope this helps with your discussion this morning.

Carl

EXH. A

IEPA EXHIBIT

From: Blaine Kinsley
To: Foxworth, Ukanno
Date: 5/22/2003 8:08:58 AM
Subject: Granite City Steel

No. A2

Ukanno,

Can you tell me the status of the renewal of this permit. I don't know if you knew, but US Steel has recently purchased this facility, as part of bankruptcy proceedings, except for the landfill and some of the property. However, there is an agreement that would allow the continued discharge of leachate to the treatment plant.

Blaine

IEPA EXHIBIT

From: Toby Frevert
To: Foxworth, Ukanno
Date: Mon, Jun 16, 2003 5:28 PM
Subject: U.S. Steel - Granite City Works

No. A3

Ukanno

Subsequent to National City Steel's bankruptcy, US Steel bought most of the facility but did not take over the portion of the property that contains two landfills. Their internal lawyers advised them to not accept the landfill leachate through their treatment process so they are coming on next Thursday June 26 to discuss an expedited NPDES permit request to cover that discharge separately. They will be here in the afternoon, I think 1:00 or 1:30. Hopefully you will be available to attend in the meeting with me.

Thanks,

Toby

CC: Kinsley, Blaine

IEPA EXHIBIT

No. A4

From: Toby Frevert
To: Foxworth, Ukanno
Date: Fri, Jun 20, 2003 8:40 AM
Subject: Granite City Steel meeting

Carl Cannon called and asked that we move the meeting next Thursday frm afternoon to morning. They will be here at 8:30 am.

IEPA EXHIBIT

No. A5

From: Al Keller
To: Garretson, Mike
Date: Wed, Jan 19, 2005 11:01 AM
Subject: Fwd: NPDES IL 0000329, Notice No. BMB:04090101.bah

Mike, we may need some input by CAS on this letter. Is this facility under some VN or enforcement letter?

Al

>>> "Kathy Andria" <abc@prairienet.org> 01/18/05 4:37 PM >>>

Attached is letter from American Bottom Conservancy, Health & Environmental Justice--St. Louis, Neighborhood Law Office, Sierra Club and Webster Groves Nature Study Society requesting a public hearing for the above-entitled NPDES permit for U.S. Steel.

Kathy Andria
American Bottom Conservancy
614 N. 7th
East St. Louis, IL 62201-1372
(618) 875-9960
Fax (618) 271-0835
abc@prairienet.org

IEPA EXHIBIT

From: Beth Burkard
To: Kinsley, Blaine
Date: 2/23/2005 2:55:00 PM
Subject: Granite City Steel

No. A6

Blaine:

Regarding the Public Hearing request, should I be trying to assemble a meeting? If so, with whom? Also, are there any other public hearings or meetings that I could attend so I can know what to expect if/when there is one for Granite City Steel?

Thanks! -beth m burkard

IEPA EXHIBITNo. A7

From: "Sarah Rubenstein" <swrubenstein@wulaw.wustl.edu>
To: <jbrunsvold@dnrmail.state.il.us>, <henry.timothy@epa.gov>, <swenson.peter@epa.gov>, <traub.jc-lynn@epa.gov>, <walts.alan@epa.gov>, <beth.burkhard@epa.state.il.us>, <ken.page@epa.state.il.us>, <marcia.willhite@epa.state.il.us>, <ron.burke@epa.state.il.us>
Date: 12/9/2005 1:09:54 PM
Subject: Comments to U.S. Steel draft NPDES permit

Attached please find the comments of American Bottom Conservancy to U.S. Steel Granite City Works draft NPDES permit No. IL0000329, public notice No. BMB:04090101.bah. Please direct any questions or comments to Maxine Lipeles, Director, Interdisciplinary Environmental Clinic, (314) 935-5837, or milipele@wulaw.wustl.edu.

Sarah Rubenstein
Clinic Attorney
Interdisciplinary Environmental Clinic
Washington University School of Law
Campus Box 1120
One Brookings Drive
St. Louis, MO 63130
314-935-6426
314-935-5171 (fax)
swrubenstein@wulaw.wustl.edu

CC: <ka.abc@prairienet.org>

IEPA EXHIBITNo. AS

From: Marcia Willhite
To: Keller, Al; Kinsley, Blaine
Date: 12/9/2005 1:15:50 PM
Subject: Fwd: Comments to U.S. Steel draft NPDES permit

Not sure who is the project engineer for this.

>>> "Sarah Rubenstein" <swrubenstein@wulaw.wustl.edu> 12/9/2005 1:08 PM >>>

Attached please find the comments of American Bottom Conservancy to U.S. Steel Granite City Works draft NPDES permit No. IL0000329, public notice No. BMB:04090101.bah. Please direct any questions or comments to Maxine Lipeles, Director, Interdisciplinary Environmental Clinic, (314) 935-5837, or milipele@wulaw.wustl.edu.

Sarah Rubenstein
Clinic Attorney
Interdisciplinary Environmental Clinic
Washington University School of Law
Campus Box 1120
One Brookings Drive
St. Louis, MO 63130
314-935-6426
314-935-5171 (fax)
swrubenstein@wulaw.wustl.edu

Marcia T. Willhite
Chief
Bureau of Water
IL Environmental Protection Agency
Marcia.Willhite@epa.state.il.us
Phone: 217/782-1654
Fax: 217/782-5549

IEPA EXHIBITNo. A9

From: Al Keller
To: Page, Ken
Date: Wed, Dec 14, 2005 1:13 PM
Subject: Fwd: Re: Granite City Steele

Ken, can you meet at 3 tomorrow?

>>> Blaine Kinsley 12/14/2005 11:58 AM >>>
I can't meet tomorrow until at least 3 pm.

>>> Al Keller 12/14/05 11:37 AM >>>
Blaine is out this pm. Let's plan to meet tomorrow at 10:30 if you are available.

>>> Ken Page 12/14/2005 10:58 AM >>>
Al,

I would like to meet with you and the people involved in the NPDES permit for Granite City Steele. I would like to discuss their draft NPDES permit and the comments received from Washington University and American Bottom Conservancy. Thank you.

Ken Page.

CC: Kinsley, Blaine

IEPA EXHIBIT

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

No. A10

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397

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

ROD R. BLAGOIEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

Memorandum**Date:** February 8, 2006**To:** Marcia Willhite**From:** Toby Frevert *TF/srk***Subject:** U.S. Steel-Granite City Works (NPDES Permit No. IL0000329)

This memo serves to recommend that the United States Steel, Granite City Works, (USSGCW) NPDES permit (No. IL0000329) be issued without any further delay. The reasons for this recommendation are that the issues raised by environmental groups regarding permit limits and past violations are easily answered, and the overall concerns for Horseshoe Lake have been and continue to be addressed in 303(d) discussions and hearings that have opportunity for public participation. The comments do not provide any additional information the Agency would use for inclusion in the reissued permit.

The Agency received a comment letter from the American Bottoms Conservancy (ABC) et al before the close of the Public Notice period, and continues to receive comments from The ABC (Kathy Andria) and its associates at the Washington University Civil Justice/Interdisciplinary Environmental Clinic. Since only comments received prior to the close of Public Notice can be considered in determining the merits for granting of Public Hearing, the discussion herein will focus on those points. However, it should be noted that responses to all comments and questions will be generated and disseminated to the interested parties.

The concerns expressed by ABC in its letter to Marcia Willhite, dated January 18, 2005 center on USSGCW's discharge to Horseshoe Lake. Specifically, the comments cite impairments to the lake as detailed in the 303(d) report and couple the impairments with the observation that Horseshoe Lake provides some sustenance to low income persons in the area who consume fish from the lake. The comments also take issue with the Draft NPDES permit in that it allows for an increase in the loading of lead and ammonia to the lake. With regard to the lead concern, it should be noted that lead is not listed as an impairment of Horseshoe Lake. The listed fish consumption concern is due to PCB's. In Addition, USSGCW does not use lead in its processes or as a raw material. A lead limit appears in the NPDES permit solely due to Federal Categorical regulatory requirements that would apply to any steel mill in that category. The permit limits for categorical steel mills are production based. Therefore, any increase in production would necessitate a corresponding increase in limits for all categorical parameters (including lead in this case). This creates a paper increase, which is confusing to citizens, and advocacy groups. With regard to ammonia, the difference in the limits in the draft permit and the current permit reflects a revision in the water quality criteria used to develop standards. The same flow was used to calculate the limits in both the current permit and the draft. Back-sliding of the limits is not an issue due to the compliance history of the facility. In addition, the comment letter discusses potential violations of the current permit. The Agency is aware of the issues and has taken action to resolve them.

As a final note, it should be mentioned that the American Bottoms Conservancy did participate in a recent hearing regarding 303(d) listed water bodies and did make specific comments regarding Horseshoe Lake.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
 ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
 BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
 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

IEPA EXHIBIT

No. A11

From: Blaine Kinsley
To: Elzinga, Sherrie
Date: 2/24/2006 1:06:01 PM
Subject: Re: Granite City Steel

Hello Sherrie,

Last time I saw it was in Toby's office with a note from Marcia.

Blaine

>>> Sherrie Elzinga 02/24/06 12:00 PM >>>

Blaine:

Any movement on Granite City Steel? Sherrie

IEPA EXHIBITNo. A12

From: Marcia Willhite
To: Scott, Doug
Date: 2/27/2006 3:20:05 PM
Subject: NPDES permit for U.S. Steel-Granite City

Doug, we received a hearing request on the renewal of this permit last year. Regrettably, due to staff losses, a year has passed since we public noticed the permit. Yet this request is still outstanding. We would like to move forward to issue the permit and recommend that a meeting with the environmental group be held instead of a public hearing.

American Bottoms Conservancy (Kathy Andria, principal) requested the hearing due to concerns about increased loading of pollutants to Horseshoe Lake. There will be no actual increase in loading--the limits in the draft renewal permit are different than the previous permit for reasons that are easily explained.

Since hearings are held at the discretion of the Director, I'm asking if you would be comfortable with us denying the hearing request, but having a meeting and issuing the permit as quickly as possible.

Marcia T. Willhite
Chief
Bureau of Water
IL Environmental Protection Agency
Marcia.Willhite@epa.state.il.us
Phone: 217/782-1654
Fax: 217/782-5549

CC: Elzinga, Sherrie; Frevert, Toby; Killian, Bernie

IEPA EXHIBIT

No. A 13

From: Blaine Kinsley
To: Willhite, Marcia
Date: 3/3/2006 1:14:05 PM
Subject: Re: U.S. Steel-Granite City

Thanks. Will do.

>>> Marcia Willhite 03/03/06 12:41 PM >>>

Doug directed us to move ahead on issuing the permit. Blaine, follow Toby's approach of contacting Kathy Andria and offering to meet.

Marcia T. Willhite
Chief
Bureau of Water
IL Environmental Protection Agency
Marcia.Willhite@epa.state.il.us
Phone: 217/782-1654
Fax: 217/782-5549

IEPA EXHIBIT

No. A14

From: Toby Frevert
To: Elzinga, Sherrie
Date: Fri, Mar 3, 2006 2:49 PM
Subject: Granite City Stel Permit

Sherrie,
I tried to call Helen Hawkins but only got a voice mail message. I will try again in an hour and leave a message if I do not get a live person then.
Toby

IEPA EXHIBIT

From: Blaine Kinsley
To: Elzinga, Sherrie; Frevert, Toby; Keller, Al; Willhite, Marcia
Date: Thu, Mar 9, 2006 2:58 PM
Subject: Granite City Steel meeting

No. A15

There will be a meeting at the Agency on March 15th with Kathy Andria to discuss Horseshoe Lake, Frank Holten State Park and issues regarding the Granite City Steel NPDES permit. I called Helen Hawkins (Madison County Board Member) and invited her to the meeting, but she had to decline due to other commitments. I agreed to send her a summary of the meeting and she said she was confident that we would work things out.

Please let me know if there is something else that needs to be done in this matter.

Blaine

IEPA EXHIBIT

From: Sanjay Sofat
To: Keller, Al; Kinsley, Blaine
Date: Thu, Mar 9, 2006 3:23 PM
Subject: Fwd:

No. 116

Al + Blaine:

I received the attached email from Jermy who is working for ABC on this permit. Please take a look.

This e-mail, and any documents attached or included hereto, is a confidential attorney-client, attorney work product and/or pre-decisional FOIA-exempt document intended solely for the use of the individual to whom it is addressed, and should be handled accordingly.

If you are not the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please notify:

Sanjay Sofat
 Assistant Counsel
 Illinois EPA
 1021 N. Grand Ave. East
 P.O. Box 19276
 Springfield, IL 62794-9276
 (217) 782-5544
 (217) 782-9807 (Fax)
 E-mail address: Sanjay.Sofat@epa.state.il.us

>>> "Jeremy Herwitt" <jhherwitt@wulaw.wustl.edu> 3/9/2006 3:25 PM >>>
 Dear Sanjay,

Thank you for returning my call yesterday. To summarize briefly, the Interdisciplinary Environmental Clinic at Washington University represents the American Bottoms Conservancy ("ABC"). ABC is concerned with draft NPDES permit No. IL0000329 for U.S. Steel - Granite City Works.

We understand that currently this permit is pending final approval with the director. ABC's primary concern at this time is that the final permit will issue without the opportunity for a public hearing. ABC has submitted several requests to IEPA to grant a public hearing on this permit that have not yet been honored as of this date. Furthermore, a number of other citizen groups have signed on to comments submitted by ABC relating to the public hearing request. Based on IEPA regulations, specifically Section 309.115(a)(1) of Title 35, Subtitle C, Chapter I, we feel that there has been a sufficiently demonstrated public interest to warrant a hearing on this matter.

ABC kindly requests that your office grant a public hearing prior to the issuance of a final permit. I have attached the comments recently submitted by ABC on the draft 303(d) Integrated Report, as well as two sets of comments submitted by ABC on the draft NPDES permit, for your additional consideration. We hope these comments will provide further insight to our position on U.S. Steel and Horseshoe Lake, the affected water body. Your attention to these concerns is greatly appreciated. Please do not hesitate to contact me if you require additional

information or have further questions. Thank you.

Regards,

Jeremy Herwitt

Jeremy Herwitt
Washington University School of Law
(314) 239-9466
<<mailto:JHHerwitt@wulaw.wustl.edu>> JHHerwitt@wulaw.wustl.edu

IEPA EXHIBITNo. A17

From: "Peter Goode" <pwgoode@wulaw.wustl.edu>
 To: "Blaine Kinsley" <Blaine.Kinsley@epa.state.il.us>
 Date: 3/10/2006 2:38:15 PM
 Subject: Re: Fwd: U.S. Steel - Granite City Works NPDES Permit

Blaine,
 No, I will not be able to make the meeting on the 15th. I think we will have one of our student consultants at the meeting.
 Thanks,
 Peter

Peter Goode, P.E.
 Environmental Engineer
 Interdisciplinary Environmental Clinic
 Washington University in St. Louis
 314-935-4507
 pwgoode@wulaw.wustl.edu

>>> "Blaine Kinsley" <Blaine.Kinsley@epa.state.il.us> 3/10/2006 2:19:24 PM >>>
 Peter,

Thanks for the update. I did get copies of this information from Sanjay. Will you be coming to the meeting here on the 15th?

Blaine

>>> "Peter Goode" <pwgoode@wulaw.wustl.edu> 03/10/06 8:13 AM >>>
 Blaine,
 Just wanted to let you know that we that we have been pursuing the public hearing issue on Granite City Steel with Sanjay. Below is an email from one of our student attorneys to him.
 Thanks,
 Peter

Peter Goode, P.E.
 Environmental Engineer
 Interdisciplinary Environmental Clinic
 Washington University in St. Louis
 314-935-4507
 pwgoode@wulaw.wustl.edu

>>> "Jeremy Herwitt" <jhherwitt@wulaw.wustl.edu> 3/9/2006 6:13 PM >>>
 I apologize if you received this message twice. I was unsure that it went through the first time.

PRIVILEGED AND CONFIDENTIAL ATTORNEY WORK PRODUCT

Dear Sanjay,

Thank you for returning my call yesterday. To summarize briefly, the Interdisciplinary Environmental Clinic at Washington University represents the American Bottoms Conservancy ("ABC"). ABC is concerned with draft NPDES permit No. IL0000329 for U.S. Steel - Granite City

Works.

We understand that currently this permit is pending final approval with the director. ABC's primary concern at this time is that the final permit will issue without the opportunity for a public hearing. ABC has submitted several requests to IEPA to grant a public hearing on this permit that have not yet been honored as of this date. Furthermore, a number of other citizen groups have signed on to comments submitted by ABC relating to the public hearing request. Based on IEPA regulations, specifically Section 309.115(a)(1) of Title 35, Subtitle C, Chapter I, we feel that there has been a sufficiently demonstrated public interest to warrant a hearing on this matter.

ABC kindly requests that your office grant a public hearing prior to the issuance of a final permit. I have attached the comments recently submitted by ABC on the draft 303(d) Integrated Report, as well as two sets of comments submitted by ABC on the draft NPDES permit, for your additional consideration. We hope these comments will provide further insight to our position on U.S. Steel and Horseshoe Lake, the affected water body. Your attention to these concerns is greatly appreciated. Please do not hesitate to contact me if you require additional information or have further questions. Thank you.

Regards,

Jeremy Herwitt

Jeremy Herwitt
Washington University School of Law
(314) 239-9466
<mailto:JHHerwitt@wulaw.wustl.edu> JHHerwitt@wulaw.wustl.edu

IEPA EXHIBITNo. A18

From: Ken Page
 To: Kathy Andria
 Date: Tue, Mar 14, 2006 3:18 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 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
>

IEPA EXHIBIT

No. A19

From: Ken Page
 To: Al Keller; Bruce Yurdin; Ron Burke; Thomas Hornshaw
 Date: Tue, Mar 14, 2006 3:21 PM
 Subject: Fwd: Re: Horseshoe Lake EJ meeting

Please be advised that Kathy Andria has canceled the meeting at the last minute (not uncommon for her). I guess they are upset with the Agency's decision on the NDPES permit. I will note that the Environmental Justice Officer extended a meeting with her to discuss her EJ issues regarding Horseshoe Lake. Thanks to each of you for the support.

KPage.

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

> 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
>

IEPA EXHIBITNo. A 20

From: Al Keller
To: Kinsley, Blaine
Date: Tue, Mar 14, 2006 4:01 PM
Subject: Fwd: Re: Horseshoe Lake EJ meeting

fyi, we need to send the letters to this group

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

IEPA EXHIBITNo. A21

From: "Peter Goode" <pwgoode@wulaw.wustl.edu>
 To: "Blaine Kinsley" <Blaine.Kinsley@epa.state.il.us>
 Date: 3/20/2006 10:02:18 AM
 Subject: Re: Granite City Steel Permit

Thanks, Blaine. I appreciate it.
 Peter

Peter Goode, P.E.
 Environmental Engineer
 Interdisciplinary Environmental Clinic
 Washington University in St. Louis
 314-935-4507
 pwgoode@wulaw.wustl.edu

>>> "Blaine Kinsley" <Blaine.Kinsley@epa.state.il.us> 3/20/2006 9:53 AM
 >>>
 Peter,

I was waiting to send it to you at the same time as the response to the December letter. It's just taking me a little longer than I anticipated. I'm hoping to have the response done today, but if for some reason I don't, I'll send the permit anyway. Sorry for the delay.

Blaine

>>> "Peter Goode" <pwgoode@wulaw.wustl.edu> 03/20/06 9:38 AM >>>
 Blaine,
 Any chance you could send me the permit today?
 Thanks for your help.
 Peter

Peter Goode, P.E.
 Environmental Engineer
 Interdisciplinary Environmental Clinic
 Washington University in St. Louis
 314-935-4507
 pwgoode@wulaw.wustl.edu

>>> "Blaine Kinsley" <Blaine.Kinsley@epa.state.il.us> 3/14/2006 10:26 AM >>>
 Sure. I'm also drafting up a response letter that I hope to have done today.

Blaine

>>> "Peter Goode" <pwgoode@wulaw.wustl.edu> 03/13/06 10:15 AM >>>
 Blaine,
 I understand that the final NPDES Permit for Granite City Steel was issued last week. Could you email me a copy of the final permit?
 Thanks,
 Peter

Peter Goode, P.E.
Environmental Engineer
Interdisciplinary Environmental Clinic
Washington University in St. Louis
314-935-4507
pwgoode@wulaw.wustl.edu

IEPA EXHIBITNo. A22

From: Al Keller
To: Kinsley, Blaine; Sofat, Sanjay
Date: Fri, Mar 24, 2006 3:29 PM
Subject: Fwd: Re: NPDES Permit for US Steel - Granite City Works

The responses have been sent today.

>>> Sanjay Sofat 3/24/2006 2:40 PM >>>
FYI

This e-mail, and any documents attached or included hereto, is a confidential attorney-client, attorney work product and/or pre-decisional FOIA-exempt document intended solely for the use of the individual to whom it is addressed, and should be handled accordingly.

If you are not the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please notify:

Sanjay Sofat
Assistant Counsel
Illinois EPA
1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
(217) 782-9807 (Fax)
E-mail address: Sanjay.Sofat@epa.state.il.us

>>> "Maxine Lipeles" <milipele@wulaw.wustl.edu> 3/24/2006 2:39 PM >>>

Sanjay,
Thanks for your attempt to get us more info. I just sent the attached letter. Please stay in touch.
Maxine

Maxine I. Lipeles
Director, Interdisciplinary Environmental Clinic
Washington University in St. Louis
Campus Box 1120
One Brookings Drive
St. Louis, MO 63130-4899
(314) 935-5837 (phone)
(314) 935-5171 (fax)
milipele@wulaw.wustl.edu

>>> "Sanjay Sofat" <Sanjay.Sofat@epa.state.il.us> 03/23/06 6:35 PM >>>

Dear Ms. Maxine,

Sorry, I could not get back to you earlier. I couldn't find out much other than that Blaine Kinsley is working on the ABC's comments and is expected to have them finished soon. Today Blaine was in Chicago on a work related matter, he will be in his office tomorrow.

Thank you

Sanjay

This e-mail, and any documents attached or included hereto, is a confidential attorney-client, attorney work product and/or pre-decisional FOIA-exempt document intended solely for the use of the individual to whom it is addressed, and should be handled accordingly.

If you are not the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please notify:

Sanjay Sofat
Assistant Counsel
Illinois EPA
1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
(217) 782-9807 (Fax)
E-mail address: Sanjay.Sofat@epa.state.il.us

>>> "Maxine Lipeles" <mlipele@wulaw.wustl.edu> 03/20/06 5:20 PM >>>
Dear Mr. Sofat:

The reason for this e-mail is to inquire as to the final date on which the above-referenced NPDES permit has been or will be issued. Here is the basis of our confusion:

By e-mail dated Friday, March 10, 2006, you kindly notified Jeremy Herwitt of our Interdisciplinary Environmental Clinic, representing American Bottom Conservancy (ABC), that you had learned that the IEPA granted the above-referenced permit on March 8, 2006. You provided that answer in response to Jeremy's inquiry as to whether the IEPA would be holding a public hearing, as had been requested, prior to permit issuance.

On Monday, March 13, Peter Goode of our Clinic contacted 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 to Mr. Goode 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.

We would appreciate it if the IEPA could clarify when is the "final agency action" regarding the issuance of the above-referenced permit for purposes of triggering the appeal clock. Further, we would suggest that in this case the final agency action should not be until the public, particularly those members of the public who commented on the permit, receives both the permit AND the IEPA's Response to Comments.

Thank you for your assistance.

Sincerely yours,
Maxine Lipeles

Maxine I. Lipeles
Director, Interdisciplinary Environmental Clinic
Washington University in St. Louis
Campus Box 1120
One Brookings Drive
St. Louis, MO 63130-4899
(314) 935-5837 (phone)
(314) 935-5171 (fax)
milipele@wulaw.wustl.edu

IEPA EXHIBITNo. A23

From: Marcia Willhite
To: Frevert, Toby; Tonsor, Connie
Date: Tue, Mar 28, 2006 10:52 AM
Subject: Re: Granite City Steel Permit - Wash U School of Law letter

Let's do the latter. IF DLC can find a way they feel comfortable with to take the procedural issue off the table, I suspect that is what Doug would advise, anyway.

Marcia T. Willhite
Chief
Bureau of Water
IL Environmental Protection Agency
Marcia.Wilhite@epa.state.il.us
Phone: 217/782-1654
Fax: 217/782-5549

>>> Toby Frevert 3/28/2006 10:23 AM >>>

I spoke with Maxine Lipeles (Wash U. School of law) this morning regarding her letter to Director Scott asking that we "re-issue" this permit because the response letter to Kathy Andrea's comments were not issued until several days after the actual permit issuance date. She was very concerned that the delay puts her and her client at a disadvantage because it cuts into the 35 day time allowance for filing an appeal.

Since she has not received our response letter to Kathy yet, I committed to faxing it and told her I would consult our attorneys regarding options to address her concern over the time lapse between permit issuance and response issuance.

It was clearly obvious to me that she had no intention to drop this issue. I suggest we find a way to give her a full 35 days for review and possible appeal. She also mentioned addition concerns she has over the permit that were not raise during the comment period but submitted under separate letter several months after close of the comment period. Response to that letter is still under preparation.

My suspicion is that it is very likely they will find something to appeal but I would like to take the procedural issue off the table. We should be able to defend our actions on the substantive issues so lets find a way to take the procedural complaint off the table.

Connie,

I want to contact the steel company, get their concurrence to either an extension of the allowed time period or somehow actually reissue the permit so the 35 day allowance gets re-started. I want to give her an answer ASAP, so please let me know what you think.

Marcia,

Do we need to consult the front office and get their Ok or merely handle this and notify them of our actions?

Toby

CC: Keller, Al; Kinsley, Blaine; Sofat, Sanjay

IEPA EXHIBITNo. A24

From: PJ Gebhardt
To: Kinsley, Blaine
Date: 3/29/2006 3:07:09 PM
Subject: U.S. Steel Corp-Granite City Works IL0000329

Hi Blaine,

Is there any way you can fix the language in Special Condition #7 to state the due date for the monthly DMR reports? Currently, the only due dates listed in Special Condition #7 are for the one semi annual parameter (Tetrachloroethylene). I told Victoria to talk to you about this. She did not know if this was going to be changed or not. Thanks.

Victoria & Mike,

I have this permit at my desk. We are to wait for the reissued permit before going any further on it. Blaine will check with Toby about the dates we have in PCS. Thanks.

CC: Garretson, Mike; McKinnon, Victoria

IEPA EXHIBITNo. A25

From: Blaine Kinsley
To: Frevert, Toby; Keller, Al
Date: 3/29/2006 3:11:47 PM
Subject: Granite City Steel

I left a message for Carl Cannon regarding our earlier meeting about revoking and reissuing the NPDES permit and the reasons for that action.

I also spoke to compliance about the PCS issue. What I was told was that they had started working with some of the outfalls, but that nothing had been finalized in PCS as yet. I told PJ that the effective date would remain the same as the permit issued March 8, but that the issue date would change. Did you want CAS to hold off of any further work on entering the permit into PCS?

Blaine

CC: Garretson, Mike; Gebhardt, PJ

IEPA EXHIBITNo. A26

From: Toby Frevert
To: Kinsley, Blaine
Date: Wed, Mar 29, 2006 3:38 PM
Subject: Re: Granite City Steel

It is probably wise to ask them to set it aside for a day or two. I hope we can get this resolved this week. Proceed with finalizing the other response letter and whatever cover letter is necessary to reissue under a new date (hopefully 3-31).

Thanks,
Toby

>>> Blaine Kinsley 03/29/06 3:11 PM >>>

I left a message for Carl Cannon regarding our earlier meeting about revoking and reissuing the NPDES permit and the reasons for that action.

I also spoke to compliance about the PCS issue. What I was told was that they had started working with some of the outfalls, but that nothing had been finalized in PCS as yet. I told PJ that the effective date would remain the same as the permit issued March 8, but that the issue date would change. Did you want CAS to hold off of any further work on entering the permit into PCS?

Blaine

IEPA EXHIBIT

No. A27

From: Blaine Kinsley
To: Garretson, Mike; Gebhardt, PJ
Date: 3/29/2006 3:55:10 PM
Subject: Fwd: Re: Granite City Steel

As I suspected, Toby wants to hold off on any more work on the permit for at least the rest of the week.

IEPA EXHIBIT

No. A 28

From: Blaine Kinsley
To: Frevert, Toby, Tonsor, Connie
Date: 3/30/2006 3:54:51 PM
Subject: Granite City Steel

here's the letter

IEPA EXHIBITNo. A29

From: Blaine Kinsley
 To: Cox, Karen
 Date: 3/31/2006 11:57:20 AM
 Subject: Re: Granite City Steel - Response to Wash. U. School of Law

Karen,

Here is the language that Toby drafted for the Director. I will get you the original letter and tracking sheet after lunch.

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 in our Division of water Pollution Control. His telephone number is 217-558-2012.

Sincerely,
 Doug Scott

>>> Toby Frevert 03/31/06 10:21 AM >>>

Blaine,

Please fill in the details as needed and get to Karen along with original letter and tracking sheet so Karen can finalize.

Thanks,
 Toby

Dear Ms. Lipeles,

Thank you for the letter regarding the recent re-issuance of the NPDES permit (IL00.....) 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 several days 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 # IL00..... 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 in our Division of water Pollution Control. His telephone number is 217-558-2012.

*Sincerely,
Doug Scott*

CC: Frevert, Toby