

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

NOV 27 2006

AMERICAN BOTTOM CONSERVANCY	)	STATE OF ILLINOIS
	)	Pollution Control Board
Petitioner,	)	
	)	
v.	)	PCB 06-171
	)	(3 <sup>rd</sup> Party NPDES Permit
	)	Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY and UNITED STATES STEEL	)	
CORPORATION – GRANITE CITY WORKS,	)	
	)	
Respondents.	)	

**ILLINOIS EPA'S RESPONSE TO AMERICAN BOTTOM CONSERVANCY'S  
REQUEST FOR ADMISSIONS, PRODUCTION OF DOCUMENTS, AND  
INTERROGATORIES**

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by one of its attorneys, Sanjay K. Sofat, Assistant Counsel and Special Assistant Attorney General, and pursuant to the Illinois Pollution Control Board ("Illinois PCB" or "Board") Regulations at 35 Ill. Adm. Code 101.614, 101.616, 101.618, 101.620, 105.202(a)-(b), and 105.204(b), the Illinois Code of Civil Procedures, the Illinois Supreme Court Rules, hereby responds to the American Bottom Conservancy's ("Petitioner" or "ABC") request to produce documents, request to admit, and interrogatories with regard to this proceeding and the issuance of NPDES permit IL0000329.

**GENERAL OBJECTIONS**

The Illinois EPA objects to each of the Petitioner's request to produce documents,

request to admit, interrogatories, definitions, and instructions to the extent that, individually or cumulatively, they purport to impose upon the Illinois EPA duties or obligations which exceed or are different from those imposed upon the Illinois EPA by the Illinois Environmental Protection Act, Illinois Administrative Code, and Illinois Code of Civil Procedure.

The Illinois EPA further objects to each of the Petitioner's request to produce documents, request to admit, interrogatories, definitions, and instructions to the extent that they call for attorney-client communications between or among Illinois EPA's counsel, attorney work product, or any other privileged matters.

**AGENCY'S RESPONSES TO AMERICAN BOTTOM CONSERVANCY'S  
REQUESTS FOR ADMISSION ARE IN BOLD LETTERS:**

The name of the Illinois EPA employee(s) responding to the question is provided at the end of response. A Verification from each of the respondents is enclosed.

ADMISSION NO. 1: Admit that on March 31, 2006, IEPA was aware that persons consume fish caught from Horseshoe Lake.

**Partially Admit. As Horseshoe Lake is a General Use waterbody under the Board regulations, it is protected for aquatic life use, including fish consumption.**

**However, neither the Permit Section nor the Standards Unit has specific knowledge that persons consume fish caught from Horseshoe Lake. Blaine Kinsley and Bob Mosher.**

ADMISSION NO. 2: Admit that on March 31, 2006, IEPA was aware that persons consume waterfowl that are taken at or near Horseshoe Lake.

**Partially Admit. As Horseshoe Lake is a General Use waterbody under the Board regulations, it is protected for wildlife life use. However, neither the Permit Section nor the Standards' Unit has specific knowledge that persons consume waterfowl that are taken at or near Horseshoe Lake. Blaine Kinsley and Bob Mosher.**

ADMISSION NO. 3: Admit that on March 31, 2006, IEPA was aware that a significant portion of Horseshoe Lake was included in a state park used by the public for recreational activities, including fishing, bird watching, hiking, hunting, and boating.

**Admit. Bob Mosher.**

ADMISSION NO. 4: Admit that on March 31, 2006, IEPA was aware that the organizations that submitted comment letters relating to the Permit had collectively at least several thousand members.

**Partially Admit. On January 17 and 18, 2006, the Agency received comment letters from Kathleen Logan-Smith and ABC. Neither the Permit Section nor Standards' Unit has specific knowledge that the above-mentioned organizations have at least several thousand members. Blaine Kinsley and Bob Mosher.**

ADMISSION NO. 5: Admit that on March 31, 2006, Horseshoe Lake was considered to be impaired under section 303(d) of the federal Clean Water Act due to excessive levels of zinc.

**Objection, this issue was not raised in the comment letters filed within the public comment period that ended on January 18, 2005. Thus, the question is outside the scope of the Board hearing.**

ADMISSION NO. 6: Admit that zinc concentrations in the bottom sediment of Horseshoe Lake are "highly elevated" (as stated in IEPA's September 2006 response to ABC's comments on the Stage 1 TMDL report for the Cahokia Canal/Horseshoe Lake watershed).

**Objection, this issue was not raised in the comment letters filed within the public comment period that ended on January 18, 2005. Thus, the question is outside the scope of the Board hearing. Further, the term "highly elevated" is ambiguous.**

ADMISSION NO. 7: Admit that the Permit allows for USS to discharge more than 4,000 pounds of zinc per year into Horseshoe Lake.

**Objection, this issue was not raised in the comment letters filed within the public comment period that ended on January 18, 2005. Thus, the question is outside the**

**scope of the Board hearing.**

ADMISSION NO. 8: Admit that USS discharges zinc into Horseshoe Lake.

**Objection, this issue was not raised in the comment letters filed within the public comment period that ended on January 18, 2005. Thus, the question is outside the scope of the Board hearing.**

ADMISSION NO. 9: Admit that the Permit allows for USS to discharge more than 2,000 pounds of lead per year into Horseshoe Lake.

**Partially Admit. The NPDES permit contains limits and monitoring for lead pursuant to the Federal Categorical regulatory requirements. Further, no reasonable potential exists to exceed water quality standards for lead. Blaine Kinsley and Bob Mosher.**

ADMISSION NO. 10: Admit that USS discharges lead into Horseshoe Lake.

**Partially Admit. The NPDES Permit IL0000329 allows USS to discharge only background concentrations of lead in the raw water. USS does not use lead in its process or as a raw material, thus USS, does not add to existing concentrations of lead in the intake water. Blaine Kinsley and Bob Mosher.**

**AGENCY'S RESPONSES TO AMERICAN BOTTOM CONSERVANCY'S  
REQUEST FOR PRODUCTION OF DOCUMENTS ARE IN BOLD LETTERS:**

The answers to ABC's request for production of documents are made by Blaine Kinsley, Unit Manager, Bureau of Water, Illinois EPA, in accordance with his Verification below. The objections to the request are made by the Illinois EPA's attorney, Sanjay K. Sofat.

REQUEST NO. 1: All documents evidencing a communication between IEPA and USS relating to the Permit during the period from December 19, 2004, through March 31, 2006. This request does not include documents included within the administrative record filed in this matter.

**See the Agency Record and Attachment I. Blaine Kinsley.**

**Objection: Section 40(e) of the Illinois Environmental Protection Act requires the Board to base its decision "exclusively on the record before the Agency." 415 ILCS 5/40(e) (2006).**

REQUEST NO. 2: All documents relating to correspondence dated October 3, 2005, and December 12, 2005, from the Washington University Interdisciplinary Environmental Clinic to IEPA. This request does not include documents included within the administrative record filed in this matter.

**See the Agency Record and Attachment I. Blaine Kinsley.**

**Objection: Section 40(e) of the Illinois Environmental Protection Act requires the**

**Board to base its decision “exclusively on the record before the Agency.” 415 ILCS 5/40(e) (2006).**

REQUEST NO. 3: All documents relating to IEPA's decision on the issue of whether to hold a public hearing for the Permit. This request does not cover documents included within the administrative record filed in this matter.

**See the Agency Record and Attachment I. Blaine Kinsley.**

**Objection: Section 40(e) of the Illinois Environmental Protection Act requires the Board to base its decision “exclusively on the record before the Agency.” 415 ILCS 5/40(e) (2006).**

REQUEST NO. 4: All documents relating to the Permit that were created between December 19, 2004 and March 31, 2006. This request does not cover documents included in the administrative record filed in this matter.

**See the Agency Record and Attachment I. Blaine Kinsley.**

**Objection: Section 40(e) of the Illinois Environmental Protection Act requires the Board to base its decision “exclusively on the record before the Agency.” 415 ILCS 5/40(e) (2006).**

REQUEST NO. 5: All documents IEPA uses as guidance when determining whether to hold a public hearing on a NPDES permit. This request includes generally applicable

policy guidance and memoranda, not factual information relating to any particular permit.

**See the Agency Record and Attachment I. Blaine Kinsley.**

**Objection: Section 40(e) of the Illinois Environmental Protection Act requires the Board to base its decision “exclusively on the record before the Agency.” 415 ILCS 5/40(e) (2006).**

REQUEST NO. 6: All documents created by IEPA explaining the reasons why IEPA decided not to hold a public hearing when such a hearing was requested in regard to any NPDES permit issued in the last three years.

**See the Agency Record and Attachment I. Blaine Kinsley.**

**Objection: Overly broad. Further, Section 40(e) of the Illinois Environmental Protection Act requires the Board to base its decision “exclusively on the record before the Agency.” 415 ILCS 5/40(e) (2006).**

REQUEST NO. 7: All documents that IEPA intends to use as an exhibit at the hearing in this matter. In lieu of producing documents already in the administrative record, IEPA may provide the page numbers in the record for such documents.

**See the Agency record, including pages 532-539, and Attachment I. Blaine Kinsley.**

REQUEST NO. 8: All documents identified, mentioned, or referred to in your answers



to American Bottom Conservancy's First Set of Interrogatories or relied upon by your attorneys in responding to those interrogatories. In lieu of producing documents already in the administrative record, IEPA may provide the page numbers in the record for such documents.

**See the Agency Record and Attachment I. Blaine Kinsley.**

**Objection: Section 40(e) of the Illinois Environmental Protection Act requires the Board to base its decision "exclusively on the record before the Agency." 415 ILCS 5/40(e) (2006).**

**AGENCY'S RESPONSES TO AMERICAN BOTTOM CONSERVANCY'S  
INTERROGATORIES ARE IN BOLD LETTERS**

The answers to the request to produce are made by Blaine Kinsley, Unit Manager, Bureau of Water, Illinois EPA, in accordance with his Verification below. The objections to the request to produce are made by the Illinois EPA's attorney, Sanjay K. Sofat.

**INTERROGATORY NO. 1: State with specificity the process IEPA undertakes when deciding whether to grant a public hearing on a NPDES permit.**

**A general outline of the process used to review a request for a public hearing is as follows:**

- 1. The NPDES permit is placed on public notice for a period of 30 days.**
- 2. The Agency receives comments on the NPDES permit from interested parties.**

- 3. Those comments are reviewed first by the review engineer assigned to that NPDES permit.**
- 4. If any of the comments are significant and require a change in the NPDES permit, those changes are incorporated into the permit.**
- 5. If there is also a request to hold a public hearing, the request is evaluated by the review engineer based on the factors listed in the answer to Interrogatory No. 2 below.**
- 6. The request to hold a hearing is then discussed with supervisory personnel based on interest and comments received during the comment period.**
- 7. A final recommendation to hold or not hold a hearing is prepared for the Director's review. Blaine Kinsley.**

**INTERROGATORY NO. 2: Identify all factors IEPA considers when deciding whether to grant a public hearing on a NPDES permit.**

**The Agency reviews all of the comments received during the public notice period and evaluates the request to hold or not hold a hearing on the following factors:**

- 1. A significant degree of public interest, whether it be in the form of letters from individuals, or letters from groups of interested citizens.**
- 2. Nature and extent of comments received during the public comment period.**
- 3. Relevance of the comments to activities authorized under the proposed permit.**

**Blaine Kinsley.**

INTERROGATORY NO. 3: Identify the persons who participated in the decision whether to grant a public hearing for the Permit.

**Beth Burkard, Blaine Kinsley, Al Keller, Toby Frevert, Marcia Willhite, Doug Scott. Blaine Kinsley**

INTERROGATORY NO. 4: Explain the rationale for why IEPA did not grant a public hearing for the Permit, including, but not limited to, the factors that were relevant in making this decision.

**ABC's comments received during the comment period were either non-significant in that the comments did not provide any additional information the Agency would have used in drafting the permit or that the comments were on non-NPDES permit related issues. The Agency thus concluded that ABC's comments did not amount to the significant degree of public interest in the proposed draft permit. Blaine Kinsley.**

INTERROGATORY NO. 5: State the number of public hearings held by IEPA on NPDES permits each year for the last three years.

<b>2003</b>	<b>6</b>
<b>2004</b>	<b>2</b>
<b>2005</b>	<b>7</b>

2006

1 as of October 26, 2006

INTERROGATORY NO. 6: State the number of requests for public hearings on NPDES permits that IEPA denied each year for the last three years.

**The Agency does not keep any record of the number of public hearings requests denied each year. However, a count for the years 2005 and 2006 is provided based on Mr. Keller's personal knowledge.**

2005

1

2006

3 as of October 30, 2006

INTERROGATORY NO. 7: Identify all persons within IEPA who participated in the issuance of the Permit between October 17, 2002 and March 31, 2006. Include the date range(s) that each person worked on the Permit.

<b>Ukanno Foxworth</b>	<b>October 2002 – February 2004</b>
<b>Beth Burkard</b>	<b>February 2004 – November 2005</b>
<b>Blaine Kinsley</b>	<b>November 2005 – March 2006</b>
<b>Al Keller</b>	<b>November 2005- March 2006</b>
<b>Toby Frevert</b>	<b>2006</b>
<b>Marcia Willhite</b>	<b>2006</b>
<b>Doug Scott</b>	<b>2006</b>

INTERROGATORY NO. 8: Identify any policy guide, internal memoranda, or other guidance IEPA uses when deciding whether to hold a public hearing on a NPDES permit.

**See the Board's regulations at 35 Ill. Adm. Code 309.115. Blaine Kinsley.**

INTERROGATORY NO. 9: Identify all documents in the administrative record filed in this matter that evidence IEPA's rationale for not granting a public hearing on the Permit.

**See the Agency Record and Attachment I. Blaine Kinsley.**

INTERROGATORY NO. 10: For each request in American Bottom Conservancy's First Request for Admissions that IEPA denies in whole or in part, state the facts that support such denial.

**See the Agency Record and Attachment I. Blaine Kinsley.**

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: 

Sanjay K. Sofat

Special Assistant Attorney General

Date: October 30, 2006

1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

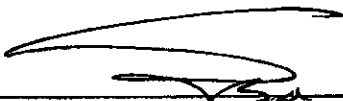
STATE OF ILLINOIS            )  
  )  
COUNTY OF SANGAMON        )            SS

**PROOF OF SERVICE**

I, the undersigned, on oath state that on 30<sup>th</sup> of October 2006, I have sent a copy of the **AGENCY'S RESPONSE TO AMERICAN BOTTOM CONSERVANCY'S REQUEST FOR ADMISSIONS, PRODUCTION OF DOCUMENTS, AND INTERROGATORIES** upon the following persons via electronic communication:

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

Carolyn S. Hesse  
Erika K. Powers  
David T. Ballard  
Barnes & Thornburg LLP  
One North Wacker Drive  
Suite 44000  
Chicago, IL 60606

  
\_\_\_\_\_  
Sanjay K. Sofat

THIS FILING PRINTED ON RECYCLED PAPER

STATE OF ILLINOIS )  
 )  
COUNTY OF SANGAMON )

SS

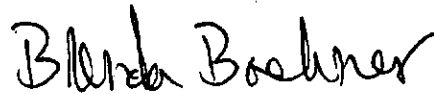
**VERIFICATION**

Alan Keller, being duly sworn, states that he is the Manager of Water Pollution Control Program, Illinois EPA; that he is duly authorized to provide the foregoing answers to request to produce documents, request to admit, and interrogatories on behalf of Illinois Environmental Protection Agency; and that he makes said answers based upon his personal knowledge, his review of documents that he reasonably believes to be accurate, and information provided to him by other section units that he reasonably believes to be accurate.



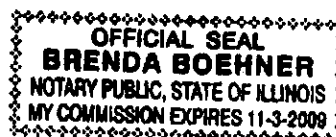
Alan Keller

Subscribed and sworn to before me, a notary public in and for said County and State, this 31<sup>st</sup> day of October 2006.



Notary Public

My Commission Expires:





STATE OF ILLINOIS            )  
  )  
COUNTY OF SANGAMON        )

SS

**VERIFICATION**

Blaine Kinsley, being duly sworn, states that he is the Industrial Unit Manager of Permit Section, Water Pollution Control Program, Illinois EPA; that he is duly authorized to provide the foregoing answers to request to produce documents, request to admit, and interrogatories on behalf of Illinois Environmental Protection Agency; and that he makes said answers based upon his personal knowledge, his review of documents that he reasonably believes to be accurate, and information provided to him by other section units that he reasonably believes to be accurate.

  
Blaine Kinsley

Subscribed and sworn to before me, a notary public in and for said County and State, this 31<sup>ST</sup> day of October 2006.

  
Notary Public

My Commission Expires:

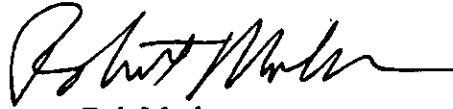


STATE OF ILLINOIS )  
 )  
COUNTY OF SANGAMON )

SS


**VERIFICATION**

Bob Mosher, being duly sworn, states that he is the Manager of the Water Quality Standards Section within Water Pollution Control Program, Illinois EPA; that he is duly authorized to provide the foregoing answers to request to produce documents, request to admit, and interrogatories on behalf of Illinois Environmental Protection Agency; and that he makes said answers based upon his personal knowledge, his review of documents that he reasonably believes to be accurate, and information provided to him by other section units that he reasonably believes to be accurate.



Bob Mosher

Subscribed and sworn to before me, a notary public in and for said County and State, this 31<sup>ST</sup> day of October 2006.



Notary Public

My Commission Expires:



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

NOV 27 2006

STATE OF ILLINOIS  
Pollution Control Board

AMERICAN BOTTOM CONSERVANCY )  
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 Petitioner, )  
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 v. )  
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 ILLINOIS ENVIRONMENTAL PROTECTION )  
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 Respondents. )

PCB 06-171  
(3<sup>rd</sup> Party NPDES Permit  
Appeal)

**ILLINOIS EPA'S AMENDED RESPONSE TO AMERICAN BOTTOM CONSERVANCY'S REQUEST FOR ADMISSIONS AND INTERROGATORIES**

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by one of its attorneys, Sanjay K. Sofat, Assistant Counsel and Special Assistant Attorney General, and pursuant to the Illinois Pollution Control Board ("Illinois PCB" or "Board") Regulations at 35 Ill. Adm. Code 101.614, 101.616, 101.618, 101.620, 105.202(a)-(b), and 105.204(b), the Illinois Code of Civil Procedures, the Illinois Supreme Court Rules, hereby provides amended responses to the American Bottom Conservancy's ("Petitioner" or "ABC") request to admit numbers 4, 5, 6, 7, 8, 9, and 10, and interrogatory number 10.

**GENERAL OBJECTIONS**

The Illinois EPA objects to each of the Petitioner's request to produce documents, request to admit, interrogatories, definitions, and instructions to the extent that, individually or cumulatively, they purport to impose upon the Illinois EPA duties or

obligations which exceed or are different from those imposed upon the Illinois EPA by the Illinois Environmental Protection Act, Illinois Administrative Code, and Illinois Code of Civil Procedure.

The Illinois EPA further objects to each of the Petitioner's request to produce documents, request to admit, interrogatories, definitions, and instructions to the extent that they call for attorney-client communications between or among Illinois EPA's counsel, attorney work product, or any other privileged matters.

**AGENCY'S RESPONSES TO AMERICAN BOTTOM CONSERVANCY'S  
REQUESTS FOR ADMISSION ARE IN BOLD LETTERS:**

The name of the Illinois EPA employee(s) responding to the question is provided at the end of response. A Verification from each of the respondents is enclosed.

ADMISSION NO. 4: Admit that on March 31, 2006, IEPA was aware that the organizations that submitted comment letters relating to the Permit had collectively at least several thousand members.

**The Agency objects to this admission on the grounds that it is vague, ambiguous, and overbroad. Subject to the above-mentioned general and specific objections, the Agency responds as follows: Partially Admit. On January 17, 2006, the Agency received a comment letter from Health & Environment Justice- St. Louis. On January 18, 2006, the Agency received a comment letter on behalf of American Bottom Conservancy, Health & Environmental Justice- St. Louis, Neighborhood**

**Law Office, Sierra Club, and Webster Groves Nature Study Society. Neither the Permit Section nor Standards' Unit has specific knowledge that the above-mentioned organizations have at least several thousand members. Blaine Kinsley and Bob Mosher.**

ADMISSION NO. 5: Admit that on March 31, 2006, Horseshoe Lake was considered to be impaired under section 303(d) of the federal Clean Water Act due to excessive levels of zinc.

**Admit. Bob Mosher.**

ADMISSION NO. 6: Admit that zinc concentrations in the bottom sediment of Horseshoe Lake are "highly elevated" (as stated in IEPA's September 2006 response to ABC's comments on the Stage 1 TMDL report for the Cahokia Canal/Horseshoe Lake watershed).

**Admit. Bob Mosher.**

ADMISSION NO. 7: Admit that the Permit allows for USS to discharge more than 4,000 pounds of zinc per year into Horseshoe Lake.

**Admit. Bob Mosher.**

ADMISSION NO. 8: Admit that USS discharges zinc into Horseshoe Lake.

**Admit. Bob Mosher.**

ADMISSION NO. 9: Admit that the Permit allows for USS to discharge more than 2,000 pounds of lead per year into Horseshoe Lake.

**The Agency objects to this admission on the grounds that it is vague, ambiguous, and misleading. Subject to the above-mentioned general and specific objections, the Agency responds as follows: Partially Admit. The NPDES permit allows USS to discharge more than 2,000 pounds of lead because lead is a parameter that must be regulated under Federal Categorical regulations whether or not a facility actually has lead in its manufacturing process. The permit limits for categorical steel mills are production based. Any increase in production would thus necessitate a corresponding increase in limits for all categorical parameters, including lead in this case. The NPDES Permit IL0000329 allows USS to discharge only background concentrations of lead in the raw water. USS does not use lead in its process or as a raw material, thus USS, does not add to existing concentrations of lead in the intake water. Bob Mosher.**

ADMISSION NO. 10: Admit that USS discharges lead into Horseshoe Lake.

**Admit. Bob Mosher.**

INTERROGATORY NO. 10: For each request in American Bottom Conservancy's First Request for Admissions that IEPA denies in whole or in part, state the facts that support such denial.

**See the Agency Record, including pages 136-155, and 293-316.**

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Sanjay K. Sofat  
Special Assistant Attorney General

Date: November 8, 2006

1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

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  )  
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SS

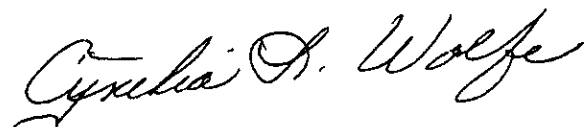
**VERIFICATION**

Bob Mosher, being duly sworn, states that he is the Manager of the Water Quality Standards Section within Water Pollution Control Program, Illinois EPA; that he is duly authorized to provide the foregoing amended answers to request to admit on behalf of Illinois Environmental Protection Agency; and that he makes said answers based upon his personal knowledge, his review of documents that he reasonably believes to be accurate, and information provided to him by other section units that he reasonably believes to be accurate.



Bob Mosher

Subscribed and sworn to before me, a notary public in and for said County and State, this 8th day of November 2006.



Notary Public

My Commission Expires: 3-21-07



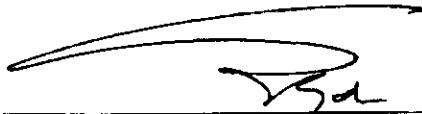
STATE OF ILLINOIS            )  
  )  
COUNTY OF SANGAMON        )            SS

**PROOF OF SERVICE**

I, the undersigned, on oath state that on 8<sup>th</sup> of November 2006, I have sent a copy of the **AGENCY'S AMENDED RESPONSE TO AMERICAN BOTTOM CONSERVANCY'S REQUEST FOR ADMISSIONS AND INTERROGATORIES** upon the following persons via electronic communication:

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

Carolyn S. Hesse  
Erika K. Powers  
David T. Ballard  
Barnes & Thornburg LLP  
One North Wacker Drive  
Suite 44000  
Chicago, IL 60606



Sanjay K. Sofat

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CLERK'S OFFICE

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Pollution Control Board

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**ILLINOIS EPA'S AMENDED RESPONSE TO AMERICAN BOTTOM CONSERVANCY'S REQUEST FOR ADMISSIONS AND INTERROGATORIES**

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**GENERAL OBJECTIONS**

The Illinois EPA objects to each of the Petitioner's request to produce documents, request to admit, interrogatories, definitions, and instructions to the extent that, individually or cumulatively, they purport to impose upon the Illinois EPA duties or obligations which exceed or are different from those imposed upon the Illinois EPA by

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The Illinois EPA further objects to each of the Petitioner's request to produce documents, request to admit, interrogatories, definitions, and instructions to the extent that they call for attorney-client communications between or among Illinois EPA's counsel, attorney work product, or any other privileged matters.

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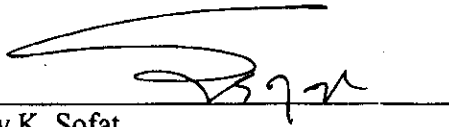
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**The Agency objects to this admission on the grounds that it is vague, ambiguous, and misleading. Subject to the above-mentioned general and specific objections, the Agency responds as follows: Partially Admit. The NPDES permit allows USS to discharge more than 2,000 pounds of lead because lead is a parameter that must be regulated under Federal Categorical regulations whether or not a facility actually has lead in its manufacturing process. The permit limits for categorical steel mills are production based. Any increase in production would thus necessitate a corresponding increase in limits for all categorical parameters, including lead in this**

**case. USS does not use lead in its process or as a raw material, thus USS, does not add to existing concentrations of lead in the intake water. Bob Mosher.**

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Sanjay K. Sofat  
Special Assistant Attorney General

Date: November 15, 2006

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Springfield, Illinois 62794-9276  
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STATE OF ILLINOIS            )  
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SS

**VERIFICATION**

Bob Mosher, being duly sworn, states that he is the Manager of the Water Quality Standards Section within Water Pollution Control Program, Illinois EPA; that he is duly authorized to provide the foregoing answers to request to produce documents, request to admit, and interrogatories on behalf of Illinois Environmental Protection Agency; and that he makes said answers based upon his personal knowledge, his review of documents that he reasonably believes to be accurate, and information provided to him by other section units that he reasonably believes to be accurate.



Bob Mosher

Subscribed and sworn to before me, a notary public in and for said County and State, this \_\_\_\_\_ day of November 2006.

Notary Public

My Commission Expires:

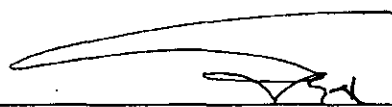
STATE OF ILLINOIS            )  
  )  
COUNTY OF SANGAMON        )            SS

**PROOF OF SERVICE**

I, the undersigned, on oath state that on 15<sup>th</sup> of November 2006, I have sent a copy of the **AGENCY'S AMENDED RESPONSE TO AMERICAN BOTTOM CONSERVANCY'S REQUEST FOR ADMISSIONS** upon the following persons via electronic communication:

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

Carolyn S. Hesse  
Erika K. Powers  
David T. Ballard  
Barnes & Thornburg LLP  
One North Wacker Drive  
Suite 44000  
Chicago, IL 60606

  
\_\_\_\_\_  
Sanjay K. Sofat