

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
 PROPOSED SITE-SPECIFIC RULE)
 AMENDMENT APPLICABLE TO SAINT-)) No. R11-17
 GOBAIN CONTAINERS, INC. AT 35)
 ILL. ADM. CODE 217.152(b))

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STATE OF ILLINOIS
Pollution Control Board

TRANSCRIPT FROM THE PROCEEDINGS taken
 before the HEARING OFFICER TIMOTHY FOX by ADRIENNE M.
 LIGHTFOOT, CSR, a notary public within and for the
 County of Cook and State of Illinois, at Room 11-500 of
 the Illinois Pollution Control Board, Chicago,
 Illinois, on the 17th day of February, 2011, A.D., at
 2:00 O'Clock p.m.

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MARKED

ADMITTED

Hearing Exhibit No. 1	8	8
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1 HEARING OFFICER FOX: Good afternoon
2 everyone, and welcome to this Illinois Pollution
3 Control Board Hearing. My name is Tim Fox, and I'm the
4 Hearing Officer for this rulemaking entitled, quote,
5 "Proposed Site Specific Rules Amendment," applicable to
6 Saint-Gobain Containers, Incorporated. At 35 Illinois
7 Administrative Code, 217.152(b).

8 Also present from the Board today are at
9 my right, my immediate right, Board Member Andrea S.
10 Moore, the lead board member in this rulemaking. To my
11 left, the Board's Acting Chairman, Dr. G. Tanner
12 Girard. And at his left, Board Member Thomas E.
13 Johnson. At Member Moore's right are two other Board
14 members, Gary Blankenship, and at his right, Carrie
15 Zalewski. Also present at my immediate left is Anand
16 Rao of the Board's technical staff.

17 The Board's docket number for this
18 rulemaking is R11-17. Saint-Gobain Containers, Inc. or
19 SGCI filed this rulemaking proposal on November 24,
20 2010.

21 In an order dated December 2, 2010 the
22 Board accepted SGCI's proposal for hearing and granted
23 their motion for waiver of the 200-signature
24 requirement. Although the Board denied the motion for

1 expedited review of the proposal, it did direct the
2 Board's clerk to submit the proposal to first notice
3 publication without commenting on the substantive
4 merits of the proposal. That appeared in the Illinois
5 Register on December 27, 2010 at 34 Illinois Register
6 19830.

7 On December 10, 2010, the Hearing
8 Officer ordered, scheduled a hearing for February 3,
9 2011. And that order also set a deadline of
10 January 20th to pre-filed testimony for the hearing.
11 Pursuant to that order, SGCI, on January 20th did
12 pre-file testimony of Mr. Ty Sibbitt, who is present
13 with us here today. I note for the record that no
14 other participant has pre-filed testimony for this
15 hearing.

16 On February 2, 2011, blizzard conditions
17 severely impeded travel and caused State offices
18 including the Board's offices to close for the day.
19 Accordingly although the Hearing Officer convened this
20 hearing as scheduled on February 3rd, it was continued
21 on the record to this date and time without accepting
22 any testimony or public comment. For the record, the
23 Board did receive the transcript of the beginning of
24 this hearing occurring on February 3rd on February 7th.

1 And that transcript is available through the Board's
2 clerk's office online or COOL.

3 This proceeding is governed by the
4 Board's procedural rules under Section 104.426. All
5 the information that is relevant and that is not
6 repetitious or privileged will be admitted into the
7 record. Please note that any questions by the Board
8 members or staff are intended solely to develop a clear
9 and complete record and do not reflect any prejudgment
10 of the proposal. Having discussed the procedural issue
11 of our order of hearing with the participants before we
12 began, but we will begin with Mr. Sibbitt's pre-filed
13 testimony on behalf of SGCI. And he's indicated that
14 rather than repeat that testimony, he'll rely on the
15 fact that it is admitted as if read into the record and
16 proceed to questions.

17 We will then proceed to those questions
18 as he has indicated his willingness to appeal that any
19 other participants might have on the basis of that
20 pre-filed testimony. And in addition, Ms. Roccaforte,
21 who is present on the part of the Illinois
22 Environmental Protection Agency has indicated that she
23 may have brief remarks to offer as well on the proposal
24 by SGCI for the site specific amendment.

1 After that, we can turn to any others
2 who did not pre-file testimony, but who would like to
3 testify here today. At Mr. Sibbitt's elbow on the
4 witness' table, we do have a sheet on which anyone may
5 indicate that they would like to testify today even if
6 they did not pre-file any testimony.

7 Finally, for the court reporter, of
8 course, I don't think we'll have any trouble making one
9 another heard here. If you'll speak as clearly as
10 possible and avoid speaking at the same time as any
11 other person, I'm sure she would appreciate that
12 consideration.

13 Before we get underway, are there any
14 questions about the procedures or order of proceeding?
15 Very good. Why don't we then -- Ms. Driver -- begin
16 with the presentation on behalf of SGCI.

17 MS. DRIVER: Thank you. And thank you to the
18 Board for your time today and for accommodating the
19 very quick continuance of the hearing on the record.
20 We have handed the court reporter a copy of
21 Mr. Sibbitt's pre-filed testimony, which we would just
22 like to have entered as an exhibit in this hearing.
23 And as stated by the Hearing Officer, we plan to --
24 instead of having Mr. Sibbitt read that testimony, it

1 is in the record and just go straight to questioning at
2 this time.

3 HEARING OFFICER FOX: Very good. Why don't
4 we proceed first, Ms. Driver, with the pre-filed
5 testimony you've submitted. Should I construe that as
6 a motion to admit that as a hearing exhibit?

7 MS. DRIVER: Yes.

8 HEARING OFFICER FOX: Very good. Is there
9 any objection to admitting Mr. Sibbitt's pre-filed
10 testimony as Hearing Exhibit Number 1? Neither seeing
11 or hearing any, it will be marked and admitted into the
12 record as Hearing Exhibit Number 1. Ms. Driver, thank
13 you for providing that.

14 (Document marked as Hearing Exhibit
15 Number 1 for identification,
16 02/17/11.)

17 (Hearing Exhibit Number 1 admitted
18 accordingly.)

19 HEARING OFFICER FOX: I think we come to the
20 point then at which we could swear Mr. Sibbitt and
21 prepare him to take any questions, if the court
22 reporter, whenever she's ready, will do so.

23 (Mr. SIBBITT sworn.)

24 HEARING OFFICER FOX: Mr. Sibbitt, again, as

1 we've noted, the Board's procedural rules have your
2 pre-filed testimony admitted as if read. And if you're
3 prepared to go to questions at this point, we can do
4 that.

5 MR. SIBBITT: I am. First of all, I would
6 like to thank the Board for an hearing opportunity.
7 And as indicated, I will do my best to answer any
8 questions I can. My role with Saint-Gobain as Senior
9 Counsel, I'm familiar with the original rule that was
10 passed as well as our consent decree, which I know was
11 part of the testimony. So thereby, I can hopefully
12 speak to any of that. If there is anything I can't,
13 obviously, we'll provide follow-up testimony.

14 HEARING OFFICER FOX: Very good. Thank you,
15 Mr. Sibbitt. All right. If anyone has any questions,
16 if you would, please, before posing your first
17 question, just indicate your full name for the benefit
18 of the record and any entity that you might represent,
19 that will be great. Are there any questions that
20 anyone would wish to pose to Mr. Sibbitt? Neither
21 seeing nor hearing any from the audience, do any
22 members of the Board or the Board staff wish to pose
23 any questions? Neither seeing nor hearing any from the
24 Board either -- Gina, we can give you one more chance

1 if you'd like to.

2 MS. ROCCAFORTE: I have no questions. I
3 would just like to state that the agency supports
4 Saint-Gobain's proposal.

5 HEARING OFFICER FOX: Very good. That
6 prevents me from needing to recognize you unless you'd
7 like to make a further statement on the issue of the
8 proposal.

9 THE WITNESS: That's it.

10 HEARING OFFICER FOX: Great. Very good. I
11 think we have Mr. Sibbitt exhausted all of the
12 questions that -- it is exhausting that everyone was
13 rushing to pose to you. Why don't we, at this point,
14 having heard from Mr. Roccaforte as well, go off the
15 record and speak about a couple of procedural issues.

16 (WHEREUPON, a discussion was had
17 off the record.)

18 HEARING OFFICER FOX: Why don't we go back on
19 the record if we could, please. First, in coming back
20 on the record, we would want briefly the issue of the
21 Economic Impact Study since 1998, Section 27(b) of the
22 Environmental Protection Act has required the Board to
23 request that the department now known as the Department
24 of Commerce and Economic Opportunity conduct an

1 economic impact study of proposed rules before the
2 Board adopts them. The Board must then either make the
3 economic impact study itself or the department's
4 explanation for not conducting one available to the
5 public at least 20 days before a public hearing.

6 In a letter dated December 3, 2010, the
7 Board requested that the department conduct such an
8 economic impact study on this proposal and ask DCEO to
9 indicate whether it would do so by January 3, 2011. To
10 date, the Board has received nothing from the
11 department responding to that request. And I would ask
12 simply whether there is anyone who would like to
13 testify regarding the request from the Board to DCEO
14 and the lack of a response to that. Neither seeing nor
15 hearing any, we will move on.

16 In going off the record a moment ago,
17 the participants discussed the procedural issue of
18 firing post-hearing comments, Section 102.108(b) of the
19 Board's procedural rules allow persons to file written
20 comments within 14 days after the Board receives the
21 transcript unless the Hearing Officer or Board
22 specifies. Otherwise, the board does expect to receive
23 the transcript of this hearing on or before Friday,
24 February 25, 2011. And we'll post that to its website

1 through COOL as soon as we receive it.

2 Before it takes substantive action on
3 this proposal, the Board will google in a comment
4 period, and a deadline for filing those comments will
5 be Friday, March 4, 2011. The mailbox rule at Section
6 101.300 of the Board's rules will not apply so that
7 those post-hearing comments must be received in our
8 clerk's office on or before the close of business on
9 Friday, March 4th. And I will issue a Hearing Officer
10 order reflecting that date for the sake of clarity.

11 In addition, any person may file written
12 public comments with the clerk. They may do so
13 electronically, but do need to file those on all
14 persons that are listed on the service list, the most
15 current version of which is available through our
16 clerk's office.

17 If anyone has questions about the
18 procedural aspects of this rulemaking, my own contact
19 information is listed on the Board's website. Do we
20 have any questions at all before we adjourn? Very
21 good. Neither seeing nor hearing any, we are
22 adjourned. And I thank all of you for your time and
23 travel to this hearing date.

24 (WHEREUPON, the hearing adjourned.)

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)
4

5 I, ADRIENNE M. LIGHTFOOT, CSR, do hereby
6 state that I am a court reporter doing business in the
7 City of Chicago, County of Cook, and State of Illinois;
8 that I reported by means of machine shorthand the
9 proceedings held in the foregoing cause, and that the
10 foregoing is a true and correct transcript of my
11 shorthand notes so taken as aforesaid.

12
13

14 Adrienne Lightfoot

15 Adrienne M. Lightfoot, CSR

16 Notary Public, Cook County, Illinois

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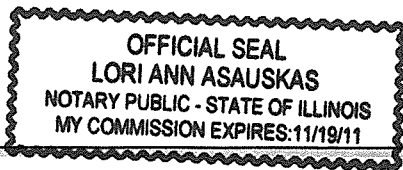
18 SUBSCRIBED AND SWORN TO
19 before me this 28th day
20 of February, A.D., 2011.

21
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23 Notary Public

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED SITE-SPECIFIC NO_x)
RULE AMENDMENT APPLICABLE) R11-17
TO SAINT-GOBAIN CONTAINERS, INC.) (Site-Specific Rule – Air)
AT 35 ILL. ADM. CODE 217.152(b))

NOTICE OF FILING

TO: Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the PRE-FILED TESTIMONY OF TY SIBBITT ON BEHALF OF SAINT-GOBAIN CONTAINERS, INC., a copy of which is herewith served upon you.

Respectfully submitted,

SAINT-GOBAIN CONTAINERS, INC.,
Petitioner,

Date: January 20, 2011

By: /s/N. LaDonna Driver
One of Its Attorneys

N. LaDonna Driver
Matthew C. Read
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705
(217) 523-4900

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED SITE-SPECIFIC NO_x)
RULE AMENDMENT APPLICABLE) R11- 17
TO SAINT-GOBAIN CONTAINERS, INC.) (Site-Specific Rule – Air)
AT 35 ILL. ADM. CODE 217.152(b))

**PRE-FILED TESTIMONY OF TY SIBBITT
ON BEHALF OF SAINT-GOBAIN CONTAINERS, INC.**

NOW COMES Saint-Gobain Containers, Inc. ("Saint-Gobain"), by and through its attorneys, HODGE DWYER & DRIVER, pursuant to the Hearing Officer's December 10, 2010 Order, and submits the following Pre-Filed Testimony of Ty Sibbitt for presentation at the February 3, 2011 hearing scheduled in the above-reference matter.

Testimony of Ty Sibbitt

Good afternoon. My name is Ty Sibbitt, and I am Senior Counsel at Saint-Gobain. I thank you, on behalf of Saint-Gobain, for your very prompt consideration of our petition in this proceeding.

My testimony today will provide some background information for the regulatory amendment that we seek in this site-specific rulemaking. I will also discuss the environmental benefits that will flow from this regulatory amendment.

Saint-Gobain owns and operates a glass manufacturing facility in Dolton, Illinois. At the Dolton facility, natural gas-fired glass melting furnaces continuously process raw materials to make molten glass. This molten glass is used to make glass containers.

In August of 2009, the Board promulgated NO_x emission regulations that apply to glass melting furnaces, including those at the Dolton facility. These regulations imposed a general NO_x emission limitation on glass melting furnaces of five pounds per ton of

glass produced, with a general compliance date of January 1, 2012. I participated in the NOx rulemaking on behalf of Saint-Gobain for its Dolton plant.

In November of 2008, Saint-Gobain filed a comment in the NOx rulemaking requesting an extended compliance date where there is an enforceable agreement to install controls that can achieve NOx emission rates significantly below the 5.0 lb/ton regulatory limit. At that time, I was working on behalf of Saint-Gobain to develop a global consent decree with USEPA, Illinois and several other states and local entities. As I will explain in more detail later in my testimony, the framework of the global consent decree included a requirement that control technology would be installed at the Dolton facility by the end of 2014 that would reduce NOx emissions substantially below the 5 lb/ton regulatory limit.

In December of 2008, I testified at a public hearing in the NOx rulemaking. I explained that the global consent decree discussions contemplated that selective catalytic reduction technology and continuous emission monitoring systems would be installed by the end of 2014 at the Dolton facility.

With agreement from Illinois EPA, the Board added a December 31, 2014 compliance date to the NOx regulations for glass furnaces that are required to meet NOx emissions limits that are less than 30 percent of the 5.0 lb/ton limit, if the emissions are required to be measured by CEMS and the requirements are included in a legally enforceable order on or before December 31, 2009. The Board completed the NOx rulemaking in August of 2009. At that time, the parties believed that the global consent decree would be entered by December 31, 2009.

Unfortunately, the global consent decree took much longer to finalize than anyone anticipated. Saint-Gobain was the first company in the glass manufacturing sector to undergo development of a global consent decree with USEPA. Further, ten states and two local environmental agencies were parties to the global consent decree. These discussions and the ultimate agreement covered more than thirty glass melting furnaces at 15 facilities owned and operated by Saint-Gobain.

In addition to emissions limitations for NO_x, the agreement also covered emissions of sulfur dioxide, particulate matter and sulfuric acid mist and numerous control and monitoring technologies for these pollutants. It therefore took a considerable amount of time to work through the intricacies of production, emission control and emission monitoring issues that must form the basis of these types of agreements. In addition, even though the applicable emission limits for each pollutant had been agreed upon by all parties, extended negotiations occurred over several months regarding the precise wording of the global consent decree's provisions. This document spans over more than 150 pages and ten legal jurisdictions, so arriving at a final version that all parties would agree to was a significant effort.

Most of the parties, including Saint-Gobain, executed signatures on the global consent decree in November of 2009. A few states, including Illinois, executed signatures on the global consent decree in December of 2009. In the latter months of 2009, it became clear that the global consent decree would not be entered by December 31, 2009 and Saint-Gobain spoke with Illinois EPA about this issue. Illinois EPA recognized the problem and agreed to support Saint-Gobain in this proceeding. On

behalf of Saint-Gobain, I again want to express our appreciation for Illinois EPA's cooperation and support in this regard.

The final state participants executed signatures on the global consent decree in 2010. The United States completed execution of the global consent decree in January of 2010. The United States filed the case and lodged the proposed global consent decree in January of 2010. Following a public comment period, the court entered the global consent decree on May 7, 2010.

While the global consent decree was entered past the expected timeframe, Saint-Gobain's alternative compliance approach under the NOx regulations should be preserved. The global consent decree requires that after December 31, 2014, selective catalytic reduction must control NOx emissions from all three furnaces at the Dolton facility. The global consent decree further requires that such control technology must be designed for at least 90 percent NOx removal efficiency, emitting NOx at an average rate of not more than 1.3 pounds per ton of glass produced.

The global consent decree's emission rate requirement is less than 30% of that in the NOx regulations. Further, the global consent decree requires continuous NOx emission monitoring. So, aside from the effective date of the global consent decree, the requirements for the alternative compliance date of December 31, 2014, have been met. Saint-Gobain is therefore asking that the Board change the December 31, 2009 consent decree deadline to May 7, 2010.

Saint-Gobain's request in this proceeding will allow it to comply with the Board's NOx regulations by installing a control technology that is far more effective at controlling NOx emissions than would be contemplated by the 5.0 lb/ton limit in the NOx

regulations. This will avoid having to install less effective NOx emission controls by January 1, 2012 at a very significant cost to Saint-Gobain, before removing those emission controls to install selective catalytic reduction technology by December 31, 2014.

As contemplated by the alternative compliance approach in the underlying NOx rulemaking, long-term NOx emission reductions that will occur from the approach requested here will far outweigh any short-term benefit of complying with the general emission limitations in the NOx rulemaking by the general compliance date. The date change requested here will allow Saint-Gobain to receive the benefit of an alternative compliance date for the installation of pollution control and monitoring equipment, which the Board has already deemed appropriate. We therefore request your prompt approval of the minor amendment we seek in this proceeding.

Again, I thank you for your attention to this very important request and for the opportunity to present my testimony today. I will be happy to answer any questions you may have concerning this matter.

Respectfully submitted,

By: /s/N. LaDonna Driver
One of its Attorneys

Date: January 20, 2011

N. LaDonna Driver
Matthew C. Read
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

SGCO:005/Filings/Pre-Filed Testimony Sibbitt

CERTIFICATE OF SERVICE

I, N. LaDonna Driver, the undersigned, certify that I have served the attached
PRE-FILED TESTIMONY OF TY SIBBITT ON BEHALF OF SAINT-GOBAIN
CONTAINERS, INC., upon:

Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

via electronic mail on January 20, 2011; and upon:

Gina Roccaforte, Esq.
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-92

Matthew Dunn, Esq.
Division Chief of Environmental
Enforcement
Office of the Attorney General
69 West Washington Street, 18th Floor
Chicago, Illinois 60602

Virginia Yang, Esq.
Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702

Alec M. Davis, Esq.
Illinois Environmental Regulatory
Group
215 East Adams Street
Springfield, Illinois 62701

by depositing said documents in the United States Mail, postage prepaid, in Springfield,
Illinois on January 20, 2011.

By: /s/N. LaDonna Driver
N. LaDonna Driver