

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

UNITED STATES STEEL	)	
CORPORATION, a Delaware corporation	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 10-23
	)	(CAAPP Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent,	)	
	)	
AMERICAN BOTTOM CONSERVANCY,	)	
	)	
Intervenor.	)	

**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)**

Carol Webb, Esq.  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Post Office Box 19274  
Springfield, Illinois 62794-9274  
**(VIA FIRST CLASS MAIL)**

**(SEE PERSONS ON ATTACHED SERVICE LIST)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a copy of American Bottom Conservancy's INTERVENOR'S OPPOSITION TO AMENDED MOTION TO STAY THE PROCEEDING, a copy of which is hereby served upon you.

Respectfully submitted,



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Counsel for American Bottom Conservancy

Dated: November 18, 2011

**CERTIFICATE OF SERVICE**

I, Maxine I. Lipeles, hereby certify that on November 18, 2011, I served the Intervenor's Opposition to Amended Motion to Stay the Proceeding by email (and, where noted, first-class mail) on the following persons:

Mr. John Therriault, Assistant Clerk  
Illinois Pollution Control Board  
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Maxine I. Lipeles

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**INTERVENOR'S OPPOSITION TO AMENDED MOTION TO STAY THE PROCEEDING**

Intervenor American Bottom Conservancy (ABC), by and through its undersigned attorneys, hereby submits the following Opposition to United States Steel Corporation's (U.S. Steel) Amended Motion to Stay the Proceeding.

1. On November 4, 2011, U.S. Steel filed an Amended Motion to Stay the Proceeding (Amended Motion). In its Amended Motion, U.S. Steel claimed that it is not seeking an advisory opinion from the Illinois Pollution Control Board (Board), but rather that it solely desires an indeterminate stay of this appeal until the United States Environmental Protection Agency (USEPA), at some uncertain point in the future, takes final action on ABC's Petition to Object.

2. A stay of this proceeding is not justified as U.S. Steel has, once again, failed to meet its burden under 34 Ill. Admin. Code § 101.514 for the issuance of a stay. Section 101.514 requires that U.S. Steel clearly detail why a stay is needed.

3. U.S. Steel vaguely asserts that it wants to see what action USEPA will take in response to ABC's Petition. However, it has failed to state, much less in the detail required by section 101.514, how any action of EPA could have any effect on the original CAAPP Permit that is the subject of this appeal. As ABC and the Illinois Environmental Protection Agency (IEPA) previously demonstrated in their Joint Opposition to Motion to Stay the Proceeding and Joint Motion to Dismiss the Appeal of September 20 and October 21, 2011, the original permit that is the subject of this appeal is dead and has been superseded by the revised CAAPP Permit that U.S. Steel currently operates under. There is nothing that the USEPA could do to revive the original CAAPP Permit. Because the original CAAPP Permit is no longer legally valid, it can present only moot questions and any decision by the Board in this case would be an advisory opinion. Thus, a stay of the proceeding is not justified and U.S. Steel's appeal should be dismissed, as ABC and IEPA have previously requested.

4. While U.S. Steel may be content to keep filing motions and continue discussions of moot issues, it is a waste of the State's and ABC's time and resources to keep this appeal alive. Despite U.S. Steel's claims to the contrary, staying, rather than dismissing the pending appeal of the Original CAAPP Permit, will harm the IEPA, the Board, the public, and ABC. The IEPA and the Board (as well as the taxpayers of the state of Illinois) have been and will continue to be forced to waste time and resources dealing with moot issues in a time of significant budget deficits and spending cuts. ABC's time and resources also have and will be wasted, as it is forced to deal with irrelevant motions and status conferences.

WHEREFORE, for the reasons set forth above, ABC respectfully requests that the Illinois Pollution Control Board deny U.S. Steel's Amended Motion to Stay Proceeding and dismiss U.S. Steel's CAAPP Permit Appeal.

Respectfully submitted,

A handwritten signature in cursive script that reads "Maxine I. Lipeles".

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Counsel for American Bottom Conservancy

Dated: November 18, 2011