

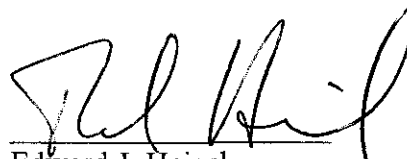
**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

AMERICAN BOTTOM CONSERVANCY, )  
 )  
 Petitioner, )  
 ) Case No. PCB 2006-171  
 ) (3<sup>rd</sup> 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 the American Bottoms Conservancy's Motion to Compel Discovery Responses from IEPA.

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](mailto: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](mailto:Sanjay.Sofat@epa.state.il.us), and Carolyn Hesse, counsel for respondent United States Steel Corporation – Granite City Works, at [Carolyn.Hesse@BTLaw.com](mailto:Carolyn.Hesse@BTLaw.com).



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

**BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS**

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

**AMERICAN BOTTOM CONSERVANCY'S MOTION TO COMPEL  
DISCOVERY RESPONSES FROM IEPA**

Petitioner American Bottom Conservancy (ABC) hereby moves to compel discovery responses from the Illinois Environmental Protection Agency (IEPA). ABC propounded discovery on IEPA on October 23, 2006. IEPA objected and/or provided incomplete responses to a number of ABC's discovery requests on October 30, 2006. Exh. A.<sup>1</sup> ABC attempted to resolve this dispute through email correspondence dated November 2, 2006, which identified ABC's specific concerns and requested that IEPA provide complete responses to its discovery. Exh. B. IEPA has committed to providing unspecified "amended" responses to ABC's discovery, but not until after the agreed upon discovery motion deadline of November 6, 2006. Exh. C. ABC must therefore file this motion to protect its right to seek complete responses from IEPA.

---

<sup>1</sup> All exhibits to this motion are attached to the Declaration of Edward J. Heisel.

ABC hereby seeks an order from the Hearing Officer pursuant to 35 Ill. Adm. Code § 101.610(g) compelling complete responses to the discovery requests identified below.

**I. IEPA Provided an Incomplete Response to Request to Admit No. 4.**

ABC's Request to Admit No. 4 stated as follows:

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.

IEPA's response to this request was as follows:

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.

Exh. A.

IEPA appears to have misread the question or the comment letters that were submitted in that it identifies only ABC and Kathleen Logan Smith as submitting comments. In fact, the comment letters submitted were on behalf of ABC, the Sierra Club, Health & Environmental Justice-St. Louis, the Webster Groves Nature Study Society, and the Neighborhood Law Office. *See* AR 532-36. ABC seeks an order from the Hearing Officer compelling IEPA to provide a complete answer to ABC's Request to Admit No. 4.

**II. IEPA Objected and Provided No Responses to Requests to Admit Nos. 5, 6, 7 and 8 Relating to U.S. Steel's Discharge of Zinc into Horseshoe Lake.**

ABC asked IEPA to admit a number of facts relating to U.S. Steel's discharge of zinc into Horseshoe Lake and the impairment of the Lake due to already excessive levels of zinc in its bottom sediment. *See* Exh. A (requests to admit nos. 5 through 8). IEPA

objected to each of these requests on the ground that "this issue was not raised in the comment letters filed within the public comment period". *Id.* (IEPA's responses).

In fact, ABC and other organizations clearly raised the issue of the "impairment" of Horseshoe Lake in their joint comment letter. AR 533. Horseshoe Lake was considered impaired due to excessive levels of several pollutants, including zinc, in both the 2004 and 2006 list of impaired waters prepared by IEPA. Exhs. D and E (excerpts of 2004 and 2006 list of impaired waters showing zinc to be among the pollutants causing the impairments). The joint comment letter thus raised the issue of U.S. Steel's discharge of zinc into Horseshoe Lake by expressing concern over the proposed addition of pollutants into the Lake for which it was already considered impaired.

To the extent that IEPA will argue that the joint comment letter did not identify zinc specifically, the blame lies squarely with IEPA's failure to provide an accurate public notice for the U.S. Steel permit. IEPA erroneously failed to identify zinc as one of the pollutants impairing Horseshoe Lake in the public notice for the U.S. Steel permit. AR 497. ABC should not be penalized for failing to specifically identify zinc in its comment letter when IEPA led the public astray by erroneously omitting that pollutant from the list of those impairing Horseshoe Lake. Regardless of this error by IEPA, ABC's identification of the impairment of the Lake was sufficient to raise a concern about U.S. Steel's discharge of zinc because zinc was one of the pollutants causing the impairment.

The scope of discovery is broad. Any "relevant information and information calculated to lead to relevant information" is discoverable. 35 Ill. Adm. Code § 101.616. ABC's requests for admission relating to IEPA's permitting U.S. Steel to discharge zinc

into a lake that is already impaired due to excess levels of that pollutant is clearly relevant to whether sufficient public interest existed to warrant a public hearing.

**III. IEPA Provided Incomplete Responses to Requests to Admit Nos. 9 and 10 Relating to U.S. Steel's Discharge of Lead into Horseshoe Lake.**

ABC asked IEPA to admit simple facts relating to U.S. Steel's discharge of lead into Horseshoe Lake. *See* Exh. A (requests to admit nos. 9 and 10). Request to Admit

No. 9 stated:

Admit that the Permit allows for USS to discharge more than 2,000 pounds of lead per year into Horseshoe Lake.

IEPA stated in response:

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.

Exh. A.

IEPA's response to Request to Admit No. 9 is vague and non-responsive. This Request asked IEPA to admit a simple fact – how much lead the permit allows U.S. Steel to discharge into Horseshoe Lake each year. It is impossible to determine from IEPA's response whether it admits that U.S. Steel is allowed to discharge more than 2,000 pounds of lead into the Lake each year. ABC therefore seeks an order from the Hearing Officer requiring IEPA to provide a clear and complete response to Request to Admit No. 9.

ABC's Request to Admit No. 10 stated:

Admit that USS discharges lead into Horseshoe Lake.

IEPA's response stated:

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.

Exh. A.

Again, IEPA provides a vague and incomplete answer to a simple question. IEPA attempts to confuse the issue by making assertions about what the permit allows and where lead might come from. It is impossible to determine whether IEPA admits that U.S. Steel discharges lead into Horseshoe Lake. ABC therefore seeks an order from the Hearing Officer requiring IEPA to provide a clear and complete response to Request to Admit No. 10.

**IV. IEPA Failed to Provide a Meaningful Response to Interrogatory No. 10.**

ABC asked IEPA to state all facts that support its denial of any of ABC's requests to admit. In response, IEPA stated: "See the Agency Record and Attachment I."<sup>2</sup> Exh. A.

Supreme Court Rule 213(e) does allow a party to respond to an interrogatory by producing documents that would answer the question. However, Rule 213(e) does not permit a party to simply identify mass amounts of documents, some of which might be responsive to the interrogatory. The administrative record in this matter and the documents produced by IEPA contain approximately 700 pages. It is not sufficient to send ABC on a scavenger hunt through the record to determine which specific documents might support IEPA's denial of various requests to admit.

ABC seeks an order from the Hearing Officer requiring IEPA to either provide a written response to Interrogatory No. 10 or to identify specific documents from which

---

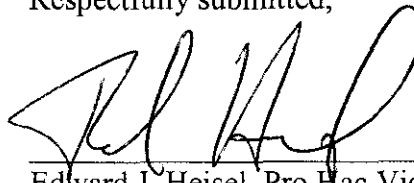
<sup>2</sup> Attachment I is a compilation of documents IEPA produced in response to ABC's requests for production of documents.

ABC could glean a response. ABC seeks such a response with regard to requests to admit 4, 5, 6, 7, 8, 9 and 10.

**V. Conclusion**

For the reasons provided above, ABC requests that the Hearing Officer issue an order compelling IEPA to provide further responses to ABC's discovery requests identified above.

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  
314.935.8760

*Counsel for American Bottom Conservancy*

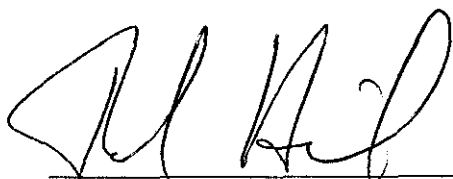
**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on this 6th day of November 2006, one copy of the foregoing was sent via electronic communication to the following:

Sanjay K. Sofat  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
sanjay.sofat@epa.state.il.us

Carolyn S. Hesse  
Barnes & Thornburg L.L.P.  
One North Wacker Drive  
Suite 4400  
Chicago, IL 60606  
carolyn.hesse@btlaw.com

Carol Webb, Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, IL 62794-9274  
webbc@ipcb.state.il.us



Edward J. Heisel



**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

**DECLARATION OF EDWARD J. HEISEL**

1. My name is Edward J. Heisel.
2. I am an attorney in this matter for Petitioner American Bottom Conservancy.
3. I am employed by the Washington University School of Law in its Interdisciplinary Environmental Clinic.
4. I am over the age of 18 and am competent to testify as to the matters set forth herein and would so testify if called upon to do so.
5. I have personal knowledge of all of the matters set forth herein, except statements of my understanding based upon information and belief, which matters I believe to be true.
6. This declaration and the attached documents are submitted in support of American Bottom Conservancy's Motion to Compel Discovery Responses from IEPA.
7. Attached hereto as **Exhibit A** is a true and correct copy of Illinois EPA's Response to American Bottom Conservancy's Request for Admissions, Production of Documents, and Interrogatories.

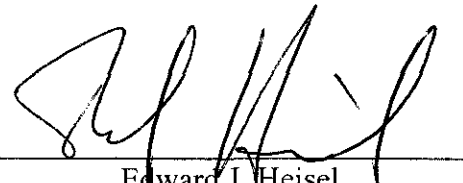
8. Attached hereto as **Exhibit B** is a true and correct copy of an email I transmitted to opposing counsel on November 2, 2006, relating to IEPA's failure to completely respond to ABC's discovery requests.

9. Attached hereto as **Exhibit C** is a true and correct copy of an email transmitted to me by counsel for IEPA on November 3, 2006, relating to IEPA's discovery responses.

10. Attached hereto as **Exhibit D** is a true and correct copy of excerpts from the Illinois 2004 Section 303(d) List, which I downloaded from IEPA's website.

11. Attached hereto as **Exhibit E** is a true and correct copy of excerpts from the Illinois Integrated Water Quality Report and Section 303(d) List – 2006, which I downloaded from IEPA's website.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 6, 2006.



Edward J. Heisel

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

AMERICAN BOTTOM CONSERVANCY	)	
	)	
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

**VERIFICATION**

Blaine Kinsley, being duly sworn, states that he is the Unit 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.

Blaine Kinsley

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

Notary Public

My Commission Expires:

STATE OF ILLINOIS            )  
  )  
COUNTY OF SANGAMON        )

SS

**VERIFICATION**

Al 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.

Al Keller

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

Notary Public

My Commission Expires:


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

 You forwarded this message on 11/2/2006 4:17 PM.

**Edward J. Heisel**

**From:** Edward J. Heisel **Sent:** Thu 11/2/2006 4:14 PM  
**To:** 'Sanjay Sofat'; 'Carolyn Hesse'; David Ballard; Erika Powers  
**Cc:** Elizabeth Mushill  
**Subject:** ABC v IEPA - Letter to IEPA re Discovery Responses  
**Attachments:**

Sanjay (and Carolyn for purposes of the last item) –

This is an attempt to resolve various concerns we have with IEPA's responses to ABC's discovery and over the completeness of the administrative record in this matter. I am hopeful that we can informally resolve these issues. The summaries of the propounded discovery given below are not intended to limit their scope, but are given only to reference the relevant issue.

Request to Admit 4: This request asked IEPA to admit that the organizations that submitted comments on the permit had collectively "several thousand members." IEPA stated "partially admit" in its response and then identifies only some of the groups that submitted comments. IEPA appears to have misread the question or the comments that were submitted in that it identifies only ABC and Kathleen Logan Smith as submitting comments. In fact, the comment letters submitted were on behalf of ABC, the Sierra Club, Health & Environmental Justice-St. Louis, the Webster Groves Nature Study Society, and the Neighborhood Law Office. ABC asks that IEPA provide a complete answer to this request.

Request to Admit 5: This request asked IEPA to admit that Horseshoe Lake was listed as impaired for zinc at the time the permit was issued. IEPA objected on the ground that the "issue was not raised in the comment letters filed within the public comment period". Contrary to this assertion, ABC did raise as an issue the impairment of Horseshoe Lake in each of its comment letters, including the one submitted on January 18, 2005. Zinc was identified as a cause of impairment for Horseshoe Lake in both the 2004 and 2006 303(d) lists. ABC asserts that the impairment of Horseshoe Lake by zinc is relevant to determining whether there was sufficient public interest to warrant a public hearing. ABC therefore asks IEPA to provide a response to this request.

Request to Admit 6: This request asked IEPA to admit that zinc concentrations in the bottom sediment of Horseshoe Lake are "highly elevated" as IEPA has stated in other contexts. IEPA objected to this request. ABC asserts that this request is relevant for the same reasons identified for Request to Admit 5 above. ABC therefore asks IEPA to provide a response to this request.

Request to Admit 7: This request asked IEPA to admit that the permit allows U.S. Steel to discharge more than 4,000 pounds of zinc into Horseshoe Lake each year. IEPA objected to this request. ABC asserts that this is relevant for the same reasons identified for Request to Admit 5 above. ABC therefore asks IEPA to provide a response to this request.

Request to Admit 8: This request asks IEPA to admit that U.S. Steel actually discharges zinc into Horseshoe Lake, a fact that IEPA should know due to various reporting requirements. IEPA objected to this request. ABC asserts that this is relevant for the same reasons identified for Request to Admit 5 above. ABC therefore asks IEPA to provide a response to this request.

EXH. B

Request to Admit 9. This request asks IEPA to admit that the permit allows U.S. Steel to discharge more than 2,000 pounds of lead into Horseshoe Lake each year. IEPA's response stated "partially admit" and then provided the purported rationale for the permit limits for lead. ABC does not feel that IEPA provided a complete response to this simple question. The permit either does or does not allow U.S. Steel to discharge more than 2,000 pounds of lead into Horseshoe Lake each year. It is thus unclear what "partially admit" means in this context. ABC seeks a complete response to this request.

Request to Admit 10. This request asks IEPA to admit that U.S. Steel discharges lead into Horseshoe Lake. IEPA's response, again, was "partially admit", along with a purported explanation of where the lead in U.S. Steel's discharge comes from. ABC does not feel that IEPA provided a complete response to this simple question. U.S. Steel either does or does not discharge lead into Horseshoe Lake and IEPA should have the knowledge to answer this question based upon various reporting requirements. \_

Interrogatory No. 10. This interrogatory asks IEPA to provide the facts to support any partial or complete denial of a request to admit. IEPA's response to this interrogatory simply cited the administrative record and documents it produced in response to other discovery requests. Citing to over 600 pages of documents in a general way is not a sufficient answer to this interrogatory. ABC seeks a complete response to this interrogatory with regard to requests to admit 4, 5, 6, 7, 8, 9 and 10.

Completeness of the Record. In response to ABC's document requests, IEPA produced 37 pages of documents that were generated prior to issuance of the permit. The documents relate to the permit and should have been included in the administrative record. ABC seeks agreement from the parties that these documents should be included within the administrative record.

ABC intends to file a motion to compel on these subjects if we are not able to work out a resolution on or before Monday, Nov. 6<sup>th</sup>.

Please let me know at your earliest convenience whether IEPA will provide complete responses to ABC's discovery.

Thank you,

Ted Heisel

Edward J. Heisel

Clinic Attorney

Washington University School of Law

Interdisciplinary Environmental Clinic

Campus Box 1120

Anheuser-Busch Hall

One Brookings Drive

St. Louis, MO 63130-4899

314.935.8760

314.935.5171 (fax)

314.401.6218 (cell)

[ejheisel@wulaw.wustl.edu](mailto:ejheisel@wulaw.wustl.edu)

**Edward J. Heisel**

**From:** Sanjay Sofat [Sanjay.Sofat@epa.state.il.us] **Sent:** Fri 11/3/2006 1:39 PM  
**To:** CAROLYN.HESSE@BTLaw.com; David.Ballard@BTLaw.com; erika.powers@BTLaw.com; Edward J. Heisel  
**Cc:** Elizabeth Mushill  
**Subject:** Re: ABC v IEPA - Letter to IEPA re Discovery Responses  
**Attachments:**

Ted,

The Agency will file its amended response on November 8, 2006.

The Agency agrees with amending the record suggestion.

Thank you,

Sanjay K. Sofat

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

>>> "Edward J. Heisel" <ejheisel@wulaw.wustl.edu> 11/2/2006 4:14 PM

>>>

Sanjay (and Carolyn for purposes of the last item) -

This is an attempt to resolve various concerns we have with IEPA's responses to ABC's discovery and over the completeness of the administrative record in this matter. I am hopeful that we can informally resolve these issues. The summaries of the propounded discovery given below are not intended to limit their scope, but are given only to reference the relevant issue.

Request to Admit 4: This request asked IEPA to admit that the

EXH. C



organizations that submitted comments on the permit had collectively "several thousand members." IEPA stated "partially admit" in its response and then identifies only some of the groups that submitted comments. IEPA appears to have misread the question or the comments that were submitted in that it identifies only ABC and Kathleen Logan Smith as submitting comments. In fact, the comment letters submitted were on behalf of ABC, the Sierra Club, Health & Environmental Justice-St. Louis, the Webster Groves Nature Study Society, and the Neighborhood Law Office. ABC asks that IEPA provide a complete answer to this request.

Request to Admit 5: This request asked IEPA to admit that Horseshoe Lake was listed as impaired for zinc at the time the permit was issued.

IEPA objected on the ground that the "issue was not raised in the comment letters filed within the public comment period". Contrary to this assertion, ABC did raise as an issue the impairment of Horseshoe Lake in each of its comment letters, including the one submitted on January 18, 2005. Zinc was identified as a cause of impairment for Horseshoe Lake in both the 2004 and 2006 303(d) lists. ABC asserts that the impairment of Horseshoe Lake by zinc is relevant to determining whether there was sufficient public interest to warrant a public hearing. ABC therefore asks IEPA to provide a response to this request.

Request to Admit 6. This request asked IEPA to admit that zinc concentrations in the bottom sediment of Horseshoe Lake are "highly elevated" as IEPA has stated in other contexts. IEPA objected to this request. ABC asserts that this request is relevant for the same reasons identified for Request to Admit 5 above. ABC therefore asks IEPA to provide a response to this request.

Request to Admit 7. This request asked IEPA to admit that the permit allows U.S. Steel to discharge more than 4,000 pounds of zinc into Horseshoe Lake each year. IEPA objected to this request. ABC asserts that this is relevant for the same reasons identified for Request to Admit 5 above. ABC therefore asks IEPA to provide a response to this request.

Request to Admit 8. This request asks IEPA to admit that U.S. Steel actually discharges zinc into Horseshoe Lake, a fact that IEPA should know due to various reporting requirements. IEPA objected to this request. ABC asserts that this is relevant for the same reasons identified for Request to Admit 5 above. ABC therefore asks IEPA to

provide a response to this request.

Request to Admit 9. This request asks IEPA to admit that the permit allows U.S. Steel to discharge more than 2,000 pounds of lead into Horseshoe Lake each year. IEPA's response stated "partially admit" and then provided the purported rationale for the permit limits for lead. ABC does not feel that IEPA provided a complete response to this simple question. The permit either does or does not allow U.S. Steel to discharge more than 2,000 pounds of lead into Horseshoe Lake each year. It is thus unclear what "partially admit" means in this context. ABC seeks a complete response to this request.

Request to Admit 10. This request asks IEPA to admit that U.S. Steel discharges lead into Horseshoe Lake. IEPA's response, again, was "partially admit", along with a purported explanation of where the lead in U.S. Steel's discharge comes from. ABC does not feel that IEPA provided a complete response to this simple question. U.S. Steel either does or does not discharge lead into Horseshoe Lake and IEPA should have the knowledge to answer this question based upon various reporting requirements.

Interrogatory No. 10. This interrogatory asks IEPA to provide the facts to support any partial or complete denial of a request to admit. IEPA's response to this interrogatory simply cited the administrative record and documents it produced in response to other discovery requests. Citing to over 600 pages of documents in a general way is not a sufficient answer to this interrogatory. ABC seeks a complete response to this interrogatory with regard to requests to admit 4, 5, 6, 7, 8, 9 and 10.

Completeness of the Record. In response to ABC's document requests, IEPA produced 37 pages of documents that were generated prior to issuance of the permit. The documents relate to the permit and should have been included in the administrative record. ABC seeks agreement from the parties that these documents should be included within the administrative record.

ABC intends to file a motion to compel on these subjects if we are not able to work out a resolution on or before Monday, Nov. 6th.

Please let me know at your earliest convenience whether IEPA will provide complete responses to ABC's discovery.

Thank you,

Ted Heisel

Edward J. Heisel

Clinic Attorney

Washington University School of Law

Interdisciplinary Environmental Clinic

Campus Box 1120

Anheuser-Busch Hall

One Brookings Drive

St. Louis, MO 63130-4899

314.935.8760

314.935.5171 (fax)

314.401.6218 (cell)

[ejheisel@wulaw.wustl.edu](mailto:ejheisel@wulaw.wustl.edu)



Illinois  
Environmental  
Protection Agency

Bureau of Water  
1021 North Grand Avenue East  
Springfield, IL 62794--9276

November 2004

---

IEPA/BOW/04-005

---

## Illinois 2004 Section 303(d) List



*Walnut Point Lake*

Illinois Environmental Protection Agency  
Bureau of Water  
Watershed Management Section  
Planning Unit  
[www.epa.state.il.us/water/tmdl](http://www.epa.state.il.us/water/tmdl)

EXH. D

Appendix A  
Illinois 2004 Section 303(d) Listed Waters



## WATER BODY SPECIFIC INFORMATION

Definitions of Abbreviations Used in the List of Impaired Waters

The following is provided as an explanation of information found in Appendix A.

- 1) **Hydrologic Unit Code** – Code that identifies the watershed (or portion of watershed) in which each assessed stream segment or lake occurs.
- 2) **Segment ID** - Alphanumeric identification code for each assessed segment.
- 3) **Segment Name** – Code that identifies each assessed stream segment or lake.
- 4) **Miles/Acres** - Length of the river or stream in river miles or surface area of the lake, in acres.
- 5) **Assessment Level** - Assessments are divided into two categories types, *monitored* and *evaluated*. Refer to Section II (B) (1) for more information.

M = “Monitored waters” are those water bodies for which the assessment is based on current site-specific ambient and/or intensive data (i.e., data no more than five years old).

E = “Evaluated waters” are those water bodies for which the assessment is based on information other than current site-specific ambient or intensive data.

- 6) **Assessment Program** - These numeric codes indicate the program or method of data collection utilized to make the assessments.

130 = Land use info and location of potential sources of impairment (used only with other codes).

140 = Incidence of spills and/ or fish kills

150 = Monitoring data >5 but ≤15 years old.

155 = Ambient Lake Monitoring Program chemical/physical data >5 but ≤15 years old.

156 = Lake Water Quality Assessment Program chemical/physical data >5 but ≤15 years

157 = Federal/Illinois Clean Lakes Program intensive data >5 but ≤15 years old.

170 = Professional judgment (used only with other codes)

190 = Biological/habitat data extrapolated from an upstream or downstream water body.

191 = Physical/chemical, data extrapolated from an upstream or downstream water body.

200 = Physical/chemical monitoring

205 = Ambient Lake Monitoring Program chemical/physical data ≤5 years old.

208 = Lake Michigan Monitoring Program chemical/physical data ≤ 5 years old.

230 = Physical/chemical Ambient Water Quality Monitoring Network data (segment contains station) ≤5 years old.

- 250 = Chemical monitoring of sediments
- 260 = Fish-tissue analysis data.
- 300 = Facility-Related Stream Survey  $\leq 5$  years old.
- 320 = Benthic macroinvertebrate surveys
- 330 = Fish Surveys
- 420 = Water column survey (e.g., fecal coliform bacteria) data  $\leq 5$  years old.
- 700 = Intensive Basin Survey data  $\leq 5$  years old.
- 717 = Federal/Illinois Clean Lakes Program intensive data  $\leq 5$  years old.
- 800 = Assessments based on data from other sources.
- 813 = Volunteer Lake Monitoring Program - Secchi data  $\leq 5$  years old.
- 814 = Volunteer Lake Monitoring Program - Secchi and water quality data  $\leq 5$  years old.
- 860 = Other Agencies/Organizations provided monitoring data
- 868 = Monitoring data  $> 5$  but  $\leq 15$  years old, collected by non-IEPA persons or programs.
- 869 = Monitoring data  $\leq 5$  years old, collected by non-IEPA persons or programs.

- 7) **Year 303(d) Listed** – Year in which the water body segment was first listed.
- 8) **Designated Uses** - Use Support and Designated Uses are identified by the following numeric codes:

*Use Support* is identified by a letter code attached to the corresponding designated use code.

- F = Full
- P = Partial Support
- N = Nonsupport
- X = Indicates that a particular designated use was not assessed

*Designated Uses* are identified by the following numbers:

- 1 = Overall Use
- 20 = Aquatic Life
- 21 = Fish Consumption
- 42 = Primary Contact (swimming)
- 44 = Secondary Contact (recreation)
- 46 = Secondary Contact and Indigenous Aquatic Life
- 50 = Public Water Supply



9) **Potential Causes of Impairment** - Each potential cause is identified by one of the following codes (listed in numeric order).

0 = impairment unknown	332 = ethylene dibromide	510 = arsenic
<u>Priority organics (numeric standard)</u>	333 = glyphosate	520 = cadmium
300 = unspecified priority organic	334 = heptachlor	530 = copper
301 = 1,1,1-trichloroethane	335 = heptachlor epoxide	541 = chromium, total
302 = 1,1,2-trichloroethane	336 = hexachlorobenzene	542 = chromium, hexavalent
303 = 1,2,4-trichlorobenzene	337 = hexachlorocyclopentadiene	543 = chromium, trivalent
304 = 1,2-dibromo-3-chloropropane	338 = lindane	550 = lead
305 = 1,2-dichloroethane	339 = methoxychlor	560 = mercury
306 = 1,2-dichloropropane	341 = ortho-dichlorobenzene	570 = selenium
307 = 2,4,5-TP (silvex)	342 = oxamyl (Vydate)	580 = zinc
308 = 2,4-D	343 = parathion	590 = antimony
309 = aldicarb	344 = para-dichlorobenzene	591 = barium
310 = aldicarb sulfone	345 = pentachlorophenol (PCP)	592 = beryllium
311 = aldicarb sulfoxide	346 = phenols	593 = boron
312 = aldrin	347 = picloram	594 = iron
314 = benzene	348 = simazine	595 = manganese
315 = benzo[a]pyrene (PAHs)	349 = styrene	596 = nickel
316 = carbofuran	350 = tetrachloroethylene	597 = silver
317 = carbon tetrachloride	351 = toluene	598 = thallium
318 = chlordane	352 = toxaphene	<u>Conventional Pollutants and Stressors</u>
319 = chlorobenzene (mono)	353 = trans-1,2-dichloroethylene	600 = ammonia (unionized ammonia)
320 = cis-1,2-dichloroethylene	354 = trichloroethylene	610 = ammonia nitrogen (total ammonia)
321 = dalapon	355 = Vinyl chloride	700 = chlorine
322 = DDT	356 = vinylidene chloride	720 = cyanide (as free cyanide)
323 = DEHP (di-sec octyl phthalate)	357 = xylene(s)	750 = sulfates
324 = di(2-ethylhexyl)adipate	358 = 2,4-dimethylphenol	800 = fluoride
325 = dichloromethane (methylene chloride)	359 = 2,4-dinitrophenol	810 = asbestos
326 = dieldrin	360 = hexachloroethane	900 = unspecified nutrient
327 = dinoseb	<u>Priority organics (numeric standard)</u>	910 = total phosphorus (numeric standard)
328 = diquat	410 = PCBs	925 = total nitrogen as N
329 = endothall	420 = dioxin (including 2,3,7,8-TCDD)	930 = nitrate nitrogen
330 = endrin	<u>Metals (numeric standard)</u>	940 = nitrite nitrogen
331 = ethylbenzene	500 = unspecified metal	

950 = nitrate/nitrite (nitrate + nitrite as N)	fish/shellfish/zooplankton	<u>Priority organics (statistical guideline)</u>
1000 = pH		9410 = PCBs
1100 = sedimentation/siltation	<u>Pesticides</u>	<u>Metals (statistical guideline)</u>
1220 = dissolved oxygen	3100 = atrazine	9510 = arsenic
1300 = salinity/TDS/chlorides	3200 = cyanazine	9520 = cadmium
1320 = total dissolved solids (TDS)	3300 = alachlor	9530 = copper
1330 = chlorides	3400 = metolachlor	9541 = chromium (total)
1400 = water temperature	3500 = metribuzin	9550 = lead
1500 = other flow regime alterations	3600 = trifluralin	9560 = mercury
1510 = fish barriers (fish passage)	3700 = butylate	9580 = zinc
1610 = habitat assessment (streams)		9591 = barium
1620 = habitat assessment (lakes)	<u>Priority organics (statistical guideline)</u>	9594 = iron
1700 = total fecal coliform bacteria	9312 = aldrin	9595 = manganese
1710 = total fecal coliform bacteria	9313 = alpha-BHC	9596 = nickel
1720 = Escherichia coli	9318 = chlordane	9597 = silver
1730 = fish kills	9322 = DDT	
1900 = oil and grease	9326 = dieldrin	<u>Conventional Pollutants and Stressors</u>
2100 = total suspended solids (TSS)	9330 = endrin	(statistical guideline)
2200 = aquatic plants (native)	9334 = heptachlor	9910 = total phosphorus
2210 = excess algal growth	9335 = heptachlor epoxide	
2500 = turbidity	9336 = hexachlorobenzene	
2600 = exotic species	9338 = lindane	
2610 = non-native aquatic plants	9339 = methoxychlor	
2620 = non-native	9340 = mirex	
	9352 = toxaphene	

10) **Potential Sources of Impairment** - Indicates the potential sources that contribute to the potential causes listed above.

#### POINT SOURCES

100 : industrial point sources  
 200 : municipal point sources  
 210 : major municipal point sources  
 400 : combined sewer overflows

500 : collection system failure  
 800 : wildcat sewer  
 900 : domestic wastewater lagoons

## NONPOINT SOURCES

1000	<u>Agriculture</u>	7100	: channelization
	1050 : Crop Related Sources	7200	: dredging
	1100 : non-irrigated crop production	7300	: dam construction
	1200 : irrigated crop production	7350	: upstream impoundment
	1300 : specialty crop production	7400	: flow regulation/modification
	1350 : Grazing Related Sources	7500	: bridge construction
	1400 : pasture land	7550	<u>Habitat Modification</u>
	1600 : feedlots - all types	7600	: removal of riparian vegetation
	1700 : aquaculture	7700	: streambank mod./destabilization
	1800 : animal holding/management areas	7800	: draining/filling of wetlands
	1900 : manure lagoons	7900	<u>Marinas and Recreational Boating</u>
2000	<u>Silviculture</u>	8000	<u>Other</u>
3000	<u>Construction</u>		8100 : Atmospheric Deposition
	3100 : highway/road/bridge		8200 : Waste Storage/Storage Tank Leaks
	3200 : land development		8300 : Highway Maintenance and Runoff
4000	<u>Urban Runoff/Storm Sewers</u>		8400 : Spills (Accidental)
5000	<u>Resource Extraction</u>		8500 : Contaminated Sediments
	5100 : surface mining		8540 : Sediment Resuspended
	5200 : subsurface mining		8600 : Natural Sources
	5400 : dredge mining		8700 : Recreation and Tourism Activities
	5500 : petroleum activities		8900 : Salt Storage Sites
	5600 : mill tailings		8910 : Groundwater Loading
	5700 : mine tailings		8920 : Groundwater Withdrawal
	5800 : acid mine drainage		8930 : Waterfowl
	5900 : abandoned mining		8940 : Lake Fertilization
6000	<u>Land Disposal</u>		8950 : Other
	(runoff/leachate from permitted areas)		8951 : Herbicide/Algicide Application
	6100 : sludge		8960 : Forest/Grassland/Parkland
	6200 : wastewater	9000	<u>Source Unknown</u>
	6300 : landfills		
	6350 : inappropriate disposal/wildcat dumping		
	6400 : industrial land treatment		
	6500 : on-site wastewater systems (septic tanks, etc.)		
	6600 : hazardous waste		
	6700 : septage disposal		
7000	<u>Hydrologic/Habitat Modification</u>		

<i>Segment ID</i>	<i>Segment Name</i>	<i>Miles/ Acres</i>	<i>Assessment Level</i>	<i>Assessment Program</i>	<i>Year 303(d) Listed</i>	<i>Designated Uses</i>	<i>Potential Causes</i>	<i>Potential Sources</i>
-------------------	---------------------	-------------------------	-----------------------------	-------------------------------	-------------------------------	------------------------	-------------------------	--------------------------

**Hydrologic Unit Code: 0713001201****Map 18****High Priority**

DA 04*	Macoupin Cr.	1.52	M	230, 260	1998	20-P, 21-F, 42-N	595, 1100, 1220, 1710, 9910	1000, 5000, 7000, 9000
DA 05	Macoupin Cr.	43.89	M	260, 300, 700	1998	20-P, 21-F	595, 925, 1220, 1500, 9910	200, 1000, 1050, 1100, 5000, 7000, 7400, 7550
DAZN	Briar Cr.	3.98	M	300	2002	20-P	1220, 1610, 9910	200, 7000, 7100, 7550, 7600
RDG	CARLINVILLE	168.	M	205, 270, 275	1996	1-P, 20-F, 21-X, 42-P, 44-P, 50-P	595, 910, 2100, 2210, 9910	1000, 1050, 1100, 7550, 7700, 8700, 8960, 9000
RDH	BEAVER DAM	56.5	M	205, 260	1998	1-P, 20-F, 21-F, 42-P, 44-P, 50-X	910, 2210, 9910	1000, 1050, 1100, 8960
SDT	GILLESPIE OLD	71.	M	205, 260, 270, 275	2002	1-P, 20-F, 21-F, 42-P, 44-P, 50-P	595, 910, 2100, 2210, 9910	1000, 1050, 1100, 7550, 7700, 8960, 9000
SDU	GILLESPIE NEW	207.	M	205, 260, 270, 275	2002	1-F, 20-F, 21-F, 42-P, 44-P, 50-F	910, 2100, 2210, 9910	1000, 1050, 1100, 7550, 7700, 8700, 8960

**Hydrologic Unit Code: 0714010105****Map 27****High Priority**

J 36*	Mississippi R.	17.03	M	230, 260, 275	1992	20-F, 21-P, 50-P	595, 9410	9000
JN 02*	Cahokia Canal	6.4	M	230, 700	1994	20-P, 21-F, 42-P	595, 925, 1100, 1220, 1610, 1710, 9910	1000, 1050, 1100, 3000, 3200, 4000, 7000, 7100, 9000
JO	Chain o Rocks Canal	8.87	E(7)	191	2002	20-P, 21-P	300, 1100, 1600, 2100	9000
RJC	HORSESHOE (MADISON)	2107.	M	205, 260	1998	1-N, 20-P, 21-P, 42-N, 44-N, 50-X	910, 1000, 2100, 2210, 2620, 9334, 9410, 9580, 9910	100, 1000, 1050, 1100, 4000, 8500, 8950, 9000
RJI	LONG	95.	M	205, 260	2004	1-F, 20-F, 21-F, 42-F, 44-P, 50-X	910, 1620, 2100, 2210	4000, 8951

**Hydrologic Unit Code: 0714010106****Map 27****High Priority**

J 36*	Mississippi R.	6.31	M	230, 260, 275	1992	20-F, 21-P, 50-P	595, 9410	9000
JMA 01	Cahokia Canal No.1	4.12	M	260, 700	2002	20-P, 21-F	1100, 1610	1000, 1050, 1100, 7000, 7100, 7550, 7600
JMAA01	Prairie Du Pont Cr.	14.34	M	260, 700	2002	20-P, 21-F	1220, 9910	200, 1000, 1050, 1100, 1600, 4000
JMAABA-C	Stookey Cr.	1.11	M	300	2002	20-P	925, 1610, 9910	200, 1000, 1050, 1100, 4000, 7550, 7700
JMAC02*	Harding Ditch	8.18	M	230, 700	1994	20-F, 42-N	1710	9000
RJK	FRANK HOLTEN 1	97.	M	205, 260	1998	1-P, 20-F, 21-P, 42-N, 44-P, 50-X	910, 2100, 2210, 9410, 9910	4000, 6000, 6500, 8700, 9000
RJL	FRANK HOLTEN 2	40.	M	205, 260	1998	1-P, 20-F, 21-P, 42-N, 44-P, 50-X	910, 2100, 2210, 9410, 9910	4000, 6000, 6500, 8700, 9000
RJM	FRANK HOLTEN 3	80.	M	205, 260	1998	1-N, 20-P, 21-P, 42-N, 44-N, 50-X	910, 1220, 2100, 2210, 2620, 9410, 9910	4000, 6000, 6500, 8950, 9000

**Hydrologic Unit Code: 0512011408****Map 31****High Priority**

C 09*	Little Wabash R.	20.36	M	230, 260, 275, 700	1998	20-P, 21-F, 42-F, 50-P	595, 597, 1000, 1100, 1220, 2100, 3100, 9910	1000, 1100, 9000
C 19*	Little Wabash R.	29.46	M	230, 260, 270, 275, 700	1998	20-P, 21-F, 42-P, 50-P	595, 1000, 1100, 1220, 1510, 1710, 2100, 3100, 9910	1000, 1050, 1100, 7000, 7300, 9000

**ILLINOIS INTEGRATED WATER QUALITY REPORT  
AND SECTION 303(d) LIST - 2006**

**Clean Water Act Sections 303(d), 305(b) and 314**

**Water Resource Assessment Information  
and Listing of Impaired Waters**

**April 2006**

**Illinois Environmental Protection Agency  
Bureau of Water**

EXH. E



**Appendix A. Illinois' 2006 303(d) List.**

Priority	No. of Causes <sup>1</sup>	10-Digit HUC	Segment ID	Segment Name	Miles/Acres	Impaired Designated Use	Potential Cause	TMDL Ongoing	Potential Source
High	15	0714020409	IL_O-03	Kaskaskia R.	15.25	Aquatic Life	Impairment Unknown		
High	15	0714020409	IL_O-03	Kaskaskia R.	15.25	Public Water Supplies	Manganese		Source Unknown
High	15	0714020409	IL_O-20	Kaskaskia R.	22.3	Primary Contact Recreation	Fecal Coliform		Source Unknown
High	15	0714020409	IL_O-20	Kaskaskia R.	22.3	Public Water Supplies	Manganese		Source Unknown
High	15	0714020409	IL_O-30	Kaskaskia R.	13.32	Aquatic Life	Oxygen, Dissolved		Source Unknown
High	15	0714020409	IL_O-30	Kaskaskia R.	13.32	Aquatic Life	pH		Source Unknown
High	15	0714020409	IL_O-30	Kaskaskia R.	13.32	Aquatic Life	Phosphorus (Total)		Crop Production (Crop Land or Dry Land)
High	15	0714020409	IL_O-30	Kaskaskia R.	13.32	Aquatic Life	Sedimentation/Siltation		Crop Production (Crop Land or Dry Land)
High	15	0714020409	IL_O-30	Kaskaskia R.	13.32	Aquatic Life	Total Suspended Solids		Crop Production (Crop Land or Dry Land)
High	15	0714020409	IL_O-30	Kaskaskia R.	13.32	Primary Contact Recreation	Fecal Coliform		Source Unknown
High	15	0714020409	IL_O-30	Kaskaskia R.	13.32	Public Water Supplies	Manganese		Source Unknown
High	15	0714020409	IL_O-97	Kaskaskia R.	8.89	Aquatic Life	Impairment Unknown		
High	15	0714020409	IL_O-97	Kaskaskia R.	8.89	Public Water Supplies	Manganese		Source Unknown
High	15	0714020409	IL_SOL	SLM SIDECHANNEL RESERV.	7	Public Water Supplies	Atrazine		Source Unknown, Crop Production (Crop Land or Dry Land)
High	15	0714020409	IL_SOL	SLM SIDECHANNEL RESERV.	7	Public Water Supplies	Manganese		Source Unknown
High	7	0714020403	IL_OE-02	Mud Cr.	34.29	Aquatic Life	Manganese		Source Unknown
High	7	0714020403	IL_OE-02	Mud Cr.	34.29	Aquatic Life	Oxygen, Dissolved		Animal Feeding Operations (NPS)
High	7	0714020403	IL_OE-02	Mud Cr.	34.29	Aquatic Life	Phosphorus (Total)		Animal Feeding Operations (NPS), Crop Production (Crop Land or Dry Land)
High	7	0714020403	IL_OE-02	Mud Cr.	34.29	Aquatic Life	Sedimentation/Siltation		Animal Feeding Operations (NPS), Crop Production (Crop Land or Dry Land)
High	7	0714020403	IL_ROV	COULTERVILLE	23.6	Aesthetic Quality	Phosphorus (Total)		Crop Production (Crop Land or Dry Land)
High	7	0714020403	IL_ROV	COULTERVILLE	23.6	Public Water Supplies	Atrazine		Crop Production (Crop Land or Dry Land)
High	7	0714020403	IL_ROV	COULTERVILLE	23.6	Public Water Supplies	Manganese		Source Unknown
High	4	0713000206	IL_DS-06	Vermilion R.	14.14	Primary Contact Recreation	Fecal Coliform		Source Unknown
High	4	0713000206	IL_DS-06	Vermilion R.	14.14	Public Water Supplies	Nitrogen, Nitrate		Source Unknown
High	4	0713000206	IL_DS-14	Vermilion R.	17.33	Public Water Supplies	Nitrogen, Nitrate		Source Unknown
High	4	0713000206	IL_DS-LC	North Creek	5.43	Aquatic Life	Oxygen, Dissolved		Urban Runoff/Storm Sewers, Combined Sewer Overflows, Source Unknown
High	4	0713000208	IL_DS-10	Vermilion R.	15.44	Public Water Supplies	Nitrogen, Nitrate		Source Unknown

Priority	No. of Causes <sup>1</sup>	10-Digit HUC	Segment ID	Segment Name	Miles/ Acres	Impaired Designated Use	Potential Cause	TMDL Ongoing	Potential Source
Medium	11	0713000804	IL_E-26	Sangamon R.	10.63	Aquatic Life	Nitrogen (Total)		On-site Treatment Systems (Septic Systems and Similar Decentralized Systems), Urban Runoff/Storm Sewers, Municipal Point Source Discharges, Crop Production (Crop Land or Dry Land)
Medium	11	0713000804	IL_E-26	Sangamon R.	10.63	Aquatic Life	Phosphorus (Total)		On-site Treatment Systems (Septic Systems and Similar Decentralized Systems), Municipal Point Source Discharges, Highway/Road/Bridge Runoff (Non-construction Related), Runoff from Forest/Grassland/Parkland, Urban Runoff/Storm Sewers, Dam or Impoundment
Medium	11	0713000804	IL_E-26	Sangamon R.	10.63	Aquatic Life	Silver		Source Unknown
Medium	11	0713000804	IL_E-26	Sangamon R.	10.63	Aquatic Life	Total Dissolved Solids		Municipal Point Source Discharges, Highway/Road/Bridge Runoff (Non-construction Related), Industrial Point Source Discharge, Urban Runoff/Storm Sewers
Medium	11	0713000804	IL_E-26	Sangamon R.	10.63	Aquatic Life	Total Suspended Solids		Channelization, Streambank Modifications/destabilization, Urban Runoff/Storm Sewers, Crop Production (Crop Land or Dry Land)
Medium	11	0713000804	IL_E-26	Sangamon R.	10.63	Fish Consumption	Polychlorinated biphenyls		Source Unknown
Medium	11	0713000804	IL_E-26	Sangamon R.	10.63	Primary Contact Recreation	Fecal Coliform		Source Unknown
Medium	11	0713000804	IL_EZJ	Town Branch	4.11	Aquatic Life	Oxygen, Dissolved		Municipal Point Source Discharges
Medium	11	0713000804	IL_EZJ	Town Branch	4.11	Aquatic Life	Phosphorus (Total)		Municipal Point Source Discharges, Livestock (Grazing or Feeding Operations)
Medium	11	0714010105	IL_JN-02	Cahokia Canal	11.87	Aquatic Life	Manganese		Source Unknown
Medium	11	0714010105	IL_JN-02	Cahokia Canal	11.87	Aquatic Life	Nitrogen (Total)		Urban Runoff/Storm Sewers, Crop Production (Crop Land or Dry Land)
Medium	11	0714010105	IL_JN-02	Cahokia Canal	11.87	Aquatic Life	Oxygen, Dissolved	Yes	Urban Runoff/Storm Sewers
Medium	11	0714010105	IL_JN-02	Cahokia Canal	11.87	Aquatic Life	Phosphorus (Total)		Crop Production (Crop Land or Dry Land), Urban Runoff/Storm Sewers
Medium	11	0714010105	IL_JN-02	Cahokia Canal	11.87	Aquatic Life	Sedimentation/Siltation		Crop Production (Crop Land or Dry Land), Urban Runoff/Storm Sewers, Site Clearance (Land Development or Redevelopment)
Medium	11	0714010105	IL_JO	Chain o Rocks Canal	8.87	Fish Consumption	Polychlorinated biphenyls		Source Unknown
Medium	11	0714010105	IL_JO	Chain o Rocks Canal	8.87	Public Water Supplies	Manganese		Source Unknown
Medium	11	0714010105	IL_RJC	HORSESHOE (MADISON)	2107	Aesthetic Quality	Phosphorus (Total)	Yes	Crop Production (Crop Land or Dry Land), Urban Runoff/Storm Sewers

Priority	No. of Causes <sup>1</sup>	10-Digit HUC	Segment ID	Segment Name	Miles/ Acres	Impaired Designated Use	Potential Cause	TMDL Ongoing	Potential Source
Medium	11	0714010105	IL_RJC	HORSESHOE (MADISON)	2107	Aesthetic Quality	Total Suspended Solids		Crop Production (Crop Land or Dry Land)
Medium	11	0714010105	IL_RJC	HORSESHOE (MADISON)	2107	Aquatic Life	Heptachlor		Contaminated Sediments
Medium	11	0714010105	IL_RJC	HORSESHOE (MADISON)	2107	Aquatic Life	pH	Yes	Urban Runoff/Storm Sewers, Crop Production (Crop Land or Dry Land)
Medium	11	0714010105	IL_RJC	HORSESHOE (MADISON)	2107	Aquatic Life	Phosphorus (Total)	Yes	Crop Production (Crop Land or Dry Land), Urban Runoff/Storm Sewers
Medium	11	0714010105	IL_RJC	HORSESHOE (MADISON)	2107	Aquatic Life	Total Suspended Solids		Crop Production (Crop Land or Dry Land)
Medium	11	0714010105	IL_RJC	HORSESHOE (MADISON)	2107	Aquatic Life	Zinc		Industrial Point Source Discharge, Contaminated Sediments
Medium	11	0714010105	IL_RJC	HORSESHOE (MADISON)	2107	Fish Consumption	Polychlorinated biphenyls		Source Unknown
Medium	11	0714010106	IL_JMA-01	Cahokia Canal No.1	4.12	Aquatic Life	Sedimentation/Siltation		Crop Production (Crop Land or Dry Land), Channelization, Loss of Riparian Habitat
Medium	11	0714010106	IL_JMAA-01	Prairie Du Pont Cr.	14.34	Aquatic Life	Oxygen, Dissolved	Yes	Urban Runoff/Storm Sewers, Municipal Point Source Discharges, Animal Feeding Operations (NPS)
Medium	11	0714010106	IL_JMAA-01	Prairie Du Pont Cr.	14.34	Aquatic Life	Phosphorus (Total)		Urban Runoff/Storm Sewers, Crop Production (Crop Land or Dry Land), Animal Feeding Operations (NPS), Municipal Point Source Discharges
Medium	11	0714010106	IL_JMAABA-C1	Stookey Cr.	1.11	Aquatic Life	Nitrogen (Total)		Urban Runoff/Storm Sewers, Crop Production (Crop Land or Dry Land), Municipal Point Source Discharges
Medium	11	0714010106	IL_JMAABA-C1	Stookey Cr.	1.11	Aquatic Life	Phosphorus (Total)		Crop Production (Crop Land or Dry Land), Urban Runoff/Storm Sewers, Municipal Point Source Discharges
Medium	11	0714010106	IL_JMAC-02	Harding Ditch	10.57	Primary Contact Recreation	Fecal Coliform	Yes	Source Unknown
Medium	11	0714010106	IL_RJK	FRANK HOLTEN 1	97	Aesthetic Quality	Phosphorus (Total)	Yes	On-site Treatment Systems (Septic Systems and Similar Decentralized Systems), Urban Runoff/Storm Sewers, Other Recreational Pollution Sources
Medium	11	0714010106	IL_RJK	FRANK HOLTEN 1	97	Aesthetic Quality	Total Suspended Solids		Urban Runoff/Storm Sewers, On-site Treatment Systems (Septic Systems and Similar Decentralized Systems)
Medium	11	0714010106	IL_RJK	FRANK HOLTEN 1	97	Fish Consumption	Polychlorinated biphenyls		Source Unknown
Medium	11	0714010106	IL_RJL	FRANK HOLTEN 2	40	Aesthetic Quality	Phosphorus (Total)	Yes	Other Recreational Pollution Sources, On-site Treatment Systems (Septic Systems and Similar Decentralized Systems), Urban Runoff/Storm Sewers