

ILLINOIS POLLUTION CONTROL BOARD
October 20, 2011

UNITED STATES STEEL)	
CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 12-54
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On October 5, 2011, United States Steel Corporation (U.S. Steel) timely filed a petition asking the Board to review an August 31, 2011 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2010); 35 Ill. Adm. Code 101.300(b), 105.206. The determination concerns the issuance of a construction permit for an emission control system for U.S. Steel's basic oxygen process (BOP) furnaces at the company's integrated steel mill plant (Facility) in Granite City, Madison County (Facility I.D. No. 119813AAI). For the reasons below, the Board accepts the petition for review.

Under the Environmental Protection Act (415 ILCS 5 (2010)), the Agency is the permitting authority, responsible for administering Illinois' regulatory programs to protect the environment. If the Agency denies a permit or grants one with conditions, the permit applicant may appeal the Agency's decision to the Board. *See* 415 ILCS 5/4, 5, 40(a)(1) (2010); 35 Ill. Adm. Code 105.Subpart D. In this case, the Agency granted a construction permit with certain conditions for emission control systems on U.S. Steel's BOP furnaces at the company's Granite City steel mill in Madison County. U.S. Steel appeals on numerous grounds, including that 1) the conditions of the Agency's construction permit and revised CAAPP permit are in conflict and must be resolved to determine enforceability, 2) Condition 4(c) of the construction permit is premised on an inaccurate account of actual operations at the Facility, 3.) Condition 5(a) of the construction permit is unrelated to project authorized by the permit, 4.) Condition 6(a) is ambiguous and requires clarification, 5) Condition 6(a)(iii) is beyond the scope of the approved project, 6) Condition 9(b)(v) is ambiguous and beyond the scope of the approved project, and 7) Condition 10 is inconsistent with the CAAPP permit. U.S. Steel's petition meets the content requirements of 35 Ill. Adm. Code 105.210.

The Board accepts the petition for hearing. U.S. Steel has the burden of proof. 415 ILCS 5/40(a)(1) (2010); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its permit decision. *See* 35 Ill. Adm. Code 105.214(a). Accordingly, though the Board hearing affords a permit applicant the opportunity to challenge the Agency's reasons for denying or conditionally granting the permit,

information developed after the Agency's decision typically is not admitted at hearing or considered by the Board. *See Alton Packaging Corp. v. PCB*, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5th Dist. 1987); *Community Landfill Co. & City of Morris v. IEPA*, PCB 01-170 (Dec. 6, 2001), *aff'd sub nom. Community Landfill Co. & City of Morris v. PCB & IEPA*, 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3rd Dist. 2002).

Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2010)), which only U.S. Steel may extend by waiver (*see* 35 Ill. Adm. Code 101.308). Currently, the decision deadline is February 2, 2012, which is the 120th day after the Board received the petition. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for February 2, 2012.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by November 4, 2011, which is 30 days after the Board received U.S. Steel's petition. *See* 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. *See* 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 20, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board