

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SABIC INNOVATIVE PLASTICS US, LLC)	
)	
Petitioner,)	PCB 2004-115
)	
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY)	
)	
Respondent.)	

NOTICE OF FILING

To:

Don Brown, Clerk of the Board Illinois Pollution Control Board James R. Thompson Center, Suite 11-500 100 W. Randolph Street Chicago, IL 60601 don.brown@illinois.gov	Division of Legal Counsel Illinois Environmental Protection Agency 1021 N. Grand Avenue East P.O. Box 19276 Springfield, IL 62794 epa.dlc@illinois.gov
Nancy J. Tikalsky Office of Attorney General 69 W. Washington Street, Suite 1800 Chicago, IL 60602 ntikalsky@atg.state.il.us	

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Pollution Control Board the Joint Motion to Lift Stay of Uncontested CAAP Permit Conditions and Request for Remand to Respondent to Revise CAAPP Permit's Term of Duration, a copy of which is herewith served upon you.

Dated: April 6, 2020

SABIC INNOVATIVE PLASTICS US, LLC



By: _____
One Of Its Attorneys

Molly H. Snittjer
Nijman Franzetti LLP
10 South LaSalle Street Suite 3600
Chicago, IL 60603
(312) 868-0081
ms@nijmanfranzetti.com

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing, and Joint Motion to Lift Stay of Uncontested CAAP Permit Conditions and Request for Remand to Respondent to Revise CAAPP Permit's Term of Duration was electronically filed on April 6, 2020 with the following:

Don Brown, Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, IL 60601
don.brown@illinois.gov

and that a copy was emailed on April 6, 2020 to the parties listed above.



Dated: April 6, 2020

Molly H. Snittjer, on Behalf of SABIC
Innovative Plastics US, LLC

Molly H. Snittner
Nijman Franzetti LLP
10 S. LaSalle Street, Suite 3600
Chicago, IL 60603
(312) 868-0081
ms@nijmanfranzetti.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SABIC INNOVATIVE PLASTICS US LLC)	
)	
Petitioner,)	
)	
v.)	PCB 2004-115
ILLINOIS ENVIRONMENTAL)	(CAAPP Permit Appeal)
PROTECTION AGENCY,)	
)	
Respondent.)	

**JOINT MOTION TO LIFT STAY OF UNCONTESTED
CAAPP PERMIT CONDITIONS AND REQUEST FOR REMAND
TO RESPONDENT TO REVISE CAAPP PERMIT'S TERM OF DURATION**

NOW COMES Petitioner, SABIC INNOVATIVE PLASTICS US LLC, by and through its attorneys, and Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), *ex rel.* Kwame Raoul, Attorney General of the State of Illinois, and move the Illinois Pollution Control Board ("Board") to remand the Clean Air Act Permit Program ("CAAPP") permit that is the subject of this appeal ("CAAPP Permit") to the Illinois EPA, while maintaining jurisdiction over this cause. This action will allow the Illinois EPA to revise the CAAPP permit's term of duration and undertake permit modifications in accordance with the parties' negotiated settlement. In support of their motion, the parties state as follows:

1. The parties have been negotiating an agreement concerning the contested conditions of the CAAPP Permit.
2. While the parties have reached substantial agreement as to all contested conditions, these conditions require differing procedures in order to revise the CAAPP Permit and resolve the appeal of the initial CAAPP permit.
3. Unlike other recent CAAPP permit appeals, the Board did not issue a discretionary stay of the permit in this proceeding. Notwithstanding the absence of a

discretionary stay, the automatic stay provision of the Administrative Procedure Act, 5 *ILCS 100/10-65 (2004)*, that was in effect at the time of filing provided for an automatic stay of the CAAPP permit issued to the source. *See, Peoria Disposal Company v. Illinois EPA, PCB No. 14-28 (November 21, 2013)(Board noting that issuance of a discretionary stay was not necessary to effectuate the automatic stay provision); City of St. Charles v. Illinois EPA, PCB No. 88-148 (November 17, 1988)(Board stating that in applicable circumstances the entry of a stay order is unnecessary because the APA's provision is automatic).*

4. In order to facilitate modifications to the CAAPP permit for this source, the parties request that the Board, while maintaining jurisdiction of the proceeding, remand the permit back to Illinois EPA. On the same day that the Board remands the CAAPP Permit, the Illinois EPA will establish new effective and expiration dates reflecting the five-year tenure of the CAAPP permit. With the initial CAAPP permit in effect, the Illinois EPA can proceed to modify the permit by incorporating the revisions negotiated by the parties, which will similarly be issued on the same day of the Board's remand.

5. Contemporaneous with the issuance of a modified CAAPP permit, Petitioner will file with the Board a motion for voluntary dismissal of the Petition. The Petitioner will ask that the Board, at a subsequent meeting, grant dismissal of the cause and make it retroactive to the date of the Board's remand order.

6. The Board may wish to note that once the modified version of the CAAPP Permit incorporating the above-referenced negotiated changes is issued, the parties will continue working toward completion of a comprehensive update to the CAAPP Permit through the permit reopening process.

7. Once the reopened and updated CAAPP Permit is issued, the permit will be noticed for public comment and USEPA review.

WHEREFORE, the parties jointly and respectfully request that the Board remand the issued CAAPP permit to Illinois EPA while maintaining jurisdiction of the cause.

Respectfully submitted,

SABIC INNOVATIVE PLASTICS US LLC

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois
MATTHEW J. DUNN, Chief
Environmental Enforcement Division

By:  _____

One of Its Attorneys
Molly H. Snittjer
NIJMAN FRANZETTI LLP
10 S. LaSalle St., Suite 3600
Chicago, IL 60603
312.868.0081
ms@nijmanfranzetti.com

By: /s/ Nancy J. Tikalsky

Nancy J. Tikalsky
Assistant Attorney General
Environmental Enforcement Bureau
Office of the Attorney General
69 West Washington Street, Suite 1800
Chicago, IL 60602
312.814.8567
ntikalsky@atg.state.il.us
mcacaccio@atg.state.il.us

Dated: April 6, 2020