

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

UNITED STATES STEEL	)	
CORPORATION, a Delaware corporation	)	
	)	
Petitioner,	)	
v.	)	PCB 2013-053
	)	(CAAPP Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent	)	

**NOTICE OF FILING**

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the Motion of American Bottom Conservancy to Intervene in the above-referenced action, copies of which are hereby served upon you.

Respectfully submitted,

Dated: October 21, 2013

By: /s/ Maxine I. Lipeles  
Maxine I. Lipeles, Co-Director  
Interdisciplinary Environmental Clinic  
Washington University School of Law  
Campus Box 1120  
One Brookings Drive  
St. Louis, MO 63130-4899  
(314) 935-5837 (office); (314) 935-5171 (fax)  
[milipele@wulaw.wustl.edu](mailto:milipele@wulaw.wustl.edu)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**UNITED STATES STEEL CORPORATION,** )  
**a Delaware Corporation,** )

**Petitioner,** )

**vs.** )

**ILLINOIS ENVIRONMENTAL PROTECTION)**  
**AGENCY,** )

**Respondent.** )

**PCB 2013-053**  
**(CAAPP Permit Appeal)**

**MOTION OF AMERICAN BOTTOM CONSERVANCY TO INTERVENE**

Pursuant to Section 101.402 of Title 35 of the Illinois Administrative Code, American Bottom Conservancy (ABC) hereby moves to intervene as a Respondent in this proceeding. The grounds for this Motion to Intervene are as follows:

**BACKGROUND**

1. ABC is a grassroots organization based in the Metro-East St. Louis region with members residing and recreating in and around Granite City, where Petitioner United States Steel Corporation (U.S. Steel) operates Granite City Works (USS-GCW). ABC seeks to intervene in this action to protect air quality and human health in the Granite City and Metro-East areas. ABC is particularly concerned about air emissions from USS-GCW because the plant is located in a residential area and adjacent to a widely used state park.

2. In this proceeding, U.S. Steel challenges certain provisions of the Revised CAAPP Permit issued to it on March 4, 2013 by the Illinois Environmental Protection Agency (IEPA). The March 2013 Revised CAAPP Permit is the second major revision of the facility's CAAPP Permit first issued in 2009. ABC has actively participated in the permit proceedings throughout this process. Under the federal Clean Air Act and Illinois law, U.S. Steel is required to obtain a

comprehensive air pollution operating permit, known as a Title V or CAAPP Permit. IEPA is granted authority under Title V to issue a CAAPP permit to individual facilities as long as, among other things, the permit complies with the federal Clean Air Act. 415 ILCS 5/39.5. Once IEPA issues a Final CAAPP permit, a permit holder may seek review of the permit by the Illinois Pollution Control Board (Board) pursuant to Section 40.2 of the Illinois Environmental Protection Act and 35 Ill. Admin. Code Part 105 Subpart C of the Board's regulations

3. Under Section 101.402(a) of Title 35 of the Illinois Administrative Code, the Board has the discretion to permit any person to intervene in any adjudicatory proceedings, including appeals of CAAPP permits. The Board, in determining whether to grant a motion to intervene, considers the timeliness of the motion and whether intervention will unduly delay or materially prejudice the proceedings or otherwise interfere with an orderly or efficient proceeding. 35 Ill. Adm. Code § 101.402(b). If the person seeking intervention may be materially prejudiced absent intervention, or may be adversely affected by the final Board order in the proceeding, then the Board is to permit intervention. 35 Ill. Adm. Code § 101.402(d)(2)-(3).

**ABC SATISFIES THE BOARD'S INTERVENTION CRITERIA**

4. ABC has been actively involved and played a significant role regarding the review and revisions of the CAAPP Permit covering the USS-GCW, including the 2013 Revised Permit under review here. It represents interests not otherwise represented in this proceeding and will be prejudiced if it is not permitted to intervene.

**A. ABC Has Participated in Every Iteration of U.S. Steel's CAAPP Permit.**

5. U.S. Steel applied for a CAAPP Permit for its USS-GCW in 1996. IEPA issued a draft CAAPP Permit for the USS-GCW on October 6, 2008. ABC submitted extensive comments on that draft permit. IEPA issued the original Final CAAPP Permit on September 3, 2009.

6. After IEPA issued the 2009 CAAPP Permit, U.S. Steel filed a Petition for Review with the Board. (PCB 2010-023). ABC filed a Motion to Intervene and the Board granted ABC's motion, subject to the limitations that ABC is bound by all Hearing Officer and Board orders, that ABC does not control the statutory deadline by which the Board must decide the case, and that ABC can only address the issues raised by U.S. Steel in its appeal.

7. ABC also filed with the USEPA a Petition to Object to the 2009 CAAPP Permit. On January 31, 2011, the USEPA granted ABC's petition in part, objecting to various provisions in the 2009 CAAPP Permit.

8. In response to USEPA's objection to the 2009 CAAPP permit, IEPA issued a draft revised CAAPP Permit. ABC again made extensive comments, asserting that the draft revised permit did not resolve many of the concerns highlighted in USEPA's objection Order. On May 2, 2011, IEPA issued a Revised CAAPP Permit (First Revised CAAPP).

9. Although U.S. Steel did not appeal the 2011 First Revised CAAPP Permit, ABC filed with the USEPA a Petition to Object to the First Revised CAAPP Permit. USEPA granted ABC's Petition in part on December 3, 2011.

10. In response to this second USEPA objection, IEPA again revised the CAAPP Permit. IEPA issued a draft revised CAAPP in February 2013, and ABC submitted detailed comments on the draft in February 2013. In these comments, ABC expressed its frustration with IEPA's issuance of another draft revised CAAPP permit which still fails to meet the requirements of the federal Clean Air Act.

11. IEPA issued a second Revised CAAPP on March 4, 2013 (Second Revised CAAPP). On April 8, 2013, U.S. Steel commenced this proceeding with the Board.

**B. ABC Has Important and Unique Interests that Will Not Be Represented if it is not Allowed to Intervene.**

12. ABC's members are affected by air pollution emitted from the facility and have a substantial stake in the adequacy of the Permit. ABC and its members are concerned with air quality and human health in the Metro-East area. USS-GCW is the primary source of fine particle pollution in the region emits substantial amounts of many other pollutants that threaten human health and the environment and has a history of air pollution violations. The region is nonattainment for fine particulate matter (PM<sub>2.5</sub>) and ozone. More than fifty percent of the population surrounding the USS-GCW is minority and almost thirty percent live in poverty. The combination of poor air quality and at-risk individuals creates serious health threats for the communities surrounding the facility.

13. ABC has interests separate and distinct from those of IEPA, and would be materially prejudiced absent intervention. Since at least 2008, ABC has been actively engaged with IEPA and USEPA in attempting to ensure that the Permit complies with applicable requirements. As evidenced by the two objections issued by USEPA in response to ABC petitions, IEPA has repeatedly failed to issue a CAAPP Permit that complies with the federal Clean Air Act. IEPA cannot and should not be expected to advance the interests unique to ABC in this action. Intervention is necessary for ABC to protect its interests.

14. ABC has the technical capability to participate productively in negotiations, and has played an active role in the development of the CAAPP Permit. ABC has submitted detailed technical comments on every draft CAAPP Permit IEPA has issued, and accurately identified several provisions that were not in compliance with the federal Clean Air Act.

**C. ABC Satisfies the Other Requirements for Intervention.**

15. ABC's Motion to Intervene is timely filed and will not cause undue delay, materially prejudice the proceeding, or otherwise interfere with an orderly or efficient proceeding. ABC understands that U.S. Steel and IEPA have held one preliminary meeting thus far, and no further meetings are yet scheduled. To date, no hearing has been scheduled; no dispositive motions are pending; and no discovery orders have been issued. Apart from the Board granting U.S. Steel's unopposed motion to stay the contested provisions of the Second Revised CAAPP, U.S. Steel and IEPA have participated in telephone status conferences with the Hearing Officer and met on one occasion. No other significant developments have occurred and no follow-up meeting is yet planned. Accordingly, ABC's intervention would not interfere with or cause undue delay to the proceeding.

16. If granted leave to intervene in this proceeding, ABC understands that it will be bound by the Board and Hearing Officer orders already issued in this proceeding, that it would not control the decision deadline, and that it may not expand the scope of the issues.

17. IEPA does not object to ABC's motion. U.S. Steel has not indicated whether it objects to ABC's motion.

WHEREFORE, for the reasons set forth above, American Bottom Conservancy respectfully requests that the Board grant this Motion to Intervene.

Respectfully submitted,

/s/ Maxine I. Lipeles  
Maxine I. Lipeles, Co-Director  
Interdisciplinary Environmental Clinic  
Washington University School of Law  
One Brookings Drive; Campus Box 1120  
St. Louis, MO 63130-4899  
(314) 935-5837 (office); (314) 935-5171 (fax)  
[milipele@wulaw.wustl.edu](mailto:milipele@wulaw.wustl.edu)

Attorneys for American Bottom Conservancy

October 21, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on October 21, 2013, I served the attached Motion of American Bottom Conservancy to Intervene by e-mail to:

John Therriault, Clerk  
Illinois Pollution Control Board  
[John.Therriault@Illinois.Gov](mailto:John.Therriault@Illinois.Gov)  
[Via e-mail only]

and by placing copies in the U.S. Mail, postage prepaid, to:

Carol Webb, Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Post Office Box 19274  
Springfield, IL 62794-9274  
[Carol.Webb@Illinois.Gov](mailto:Carol.Webb@Illinois.Gov)

Katherine D. Hodge  
Hodge Dwyer & Driver  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, IL 62705-5776  
[khodge@hddattorneys.com](mailto:khodge@hddattorneys.com)

Amanda Kimmel  
Office of the Attorney General  
500 South Second Street  
Springfield, IL 62706  
[akimmel@atg.state.il.us](mailto:akimmel@atg.state.il.us)

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

/s/ Maxine I. Lipeles  
Maxine I. Lipeles

**CERTIFICATE OF SERVICE**

I hereby certify that on October 21, 2013, I served the attached Notice of Filing by e-mail

to:

John Therriault, Clerk  
Illinois Pollution Control Board  
[John.Therriault@Illinois.Gov](mailto:John.Therriault@Illinois.Gov)  
[Via e-mail only]

and by placing copies in the U.S. Mail, postage prepaid, to:

Carol Webb, Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Post Office Box 19274  
Springfield, IL 62794-9274  
[Carol.Webb@Illinois.Gov](mailto:Carol.Webb@Illinois.Gov)

Katherine D. Hodge  
Hodge Dwyer & Driver  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, IL 62705-5776  
[khodge@hddattorneys.com](mailto:khodge@hddattorneys.com)

Amanda Kimmel  
Office of the Attorney General  
500 South Second Street  
Springfield, IL 62706  
[akimmel@atg.state.il.us](mailto:akimmel@atg.state.il.us)

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

/s/ Maxine I. Lipeles  
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