

BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.

In the matter of:	)	
	)	
VEOLIA ES TECHNICAL	)	Appeal No. CAA 17-02
SOLUTIONS, LLC	)	
	)	
Permit No. V-IL-1716300103-2014-10	)	

**INTERESTED PARTY AMERICAN BOTTOM CONSERVANCY’S  
REQUEST FOR PERMISSION TO PARTICIPATE IN UPCOMING MEDIATION**

Interested Party American Bottom Conservancy (ABC)<sup>1</sup> requests permission to participate in the upcoming mediation currently scheduled in this matter pursuant to the Environmental Appeals Board’s Alternative Dispute Resolution program. ABC, whose members are residents of the airshed in which Veolia ES Technical Services, LLC (Veolia) operates its Sauget, Illinois facility, has a substantial interest in ensuring that Permit No. V-IL-1716300103-2014-10 remains protective of public health and the environment and that the interests of residents in the environmental justice community surrounding the facility are represented.

1. ABC is a grassroots environmental organization based in Illinois’ Metro East region, with members residing in the communities surrounding Sauget, including East St. Louis, Granite City, and Cahokia, Illinois and St. Louis, Missouri. ABC works to promote environmental justice and protect its members and neighbors from air, water and land pollution.

2. ABC has a long history of advocacy in connection with the Sauget facility and its Title V permit, testifying and commenting on the draft permit during the public notice period in

---

<sup>1</sup> See Interested Parties Letter, EPA-R05-OAR-2014-0276 (Jan. 17, 2017).

2014.<sup>2</sup> In 2003, after Illinois Environmental Protection Agency (IEPA), issued the first Title V permit to the facility's then-owner, ABC filed a Petition to Object with EPA, and later a lawsuit to compel an answer to the Petition. In compliance with the Consent Decree settling the suit, EPA granted the Petition in part and directed IEPA to issue a new permit in line with ABC's objections. IEPA did not do so. ABC filed suit again, this time to compel EPA to issue a Title V permit under 40 CFR part 71.<sup>3</sup> U.S. EPA Region 5 eventually issued the final Title V Permit in 2008.<sup>4</sup> Permit No. V-IL-1716300103-2014-10, the subject of this appeal, is the renewal of the 2008 permit

3. East St. Louis is an environmental justice location. Ninety-eight percent of East St. Louis residents are African-American and 44 percent lived below the federal poverty level as of 2010. Close to two-thirds of all persons living within three miles of Veolia's Sauget facility are minorities (more than double the national distribution of 27.6 percent) and one-third live below the federal poverty level (almost three times the national average of 12.4 percent).<sup>5</sup>

4. Residents of the Metro East Illinois Region have borne more than their share of negative environmental impacts from the heavy industry located in the area. Sauget and Cahokia are currently home to two Superfund sites collectively containing 11 waste disposal facilities and 3.5 miles of Dead Creek, and Sauget is also the location of an EPA RCRA corrective action site undergoing remediation to remove PCBs, benzene, chlorobenzenes, lead, and mercury. East St. Louis, Granite City, and Fairmont City contain at least seven former or current Superfund sites.

---

<sup>2</sup> See EPA-R05-OAR-2014-0106 (Dec. 19, 2014). Its comments are acknowledged in the Region's Response to Comments, EPA-R05-OAR-2014-0274 at 48, 49, 123, 148, (Jan. 17, 2017).

<sup>3</sup> EPA Response to Comments, at 149-50 & n. 58 (Jan 17, 2017)(describing history)

<sup>4</sup> See EPA-R05-OAR-2014-0262.

<sup>5</sup> EPA-R05-OAR-2014-0119, EPA-R05-OAR-2014-207.

5. Although this matter is currently stayed by Board Order until May 15, 2017, ABC, as an Interested Party, requests permission to participate in the upcoming mediation in order to ensure that its members' interests and the interests of the Metro East Illinois environmental justice community are adequately protected. The stay and referral to ADR took place on March 15, three weeks ago. Allowing ABC to participate in the ADR process will not cause delay or otherwise interfere with the Board's schedule.

6. ABC supports Permit No. V-IL-1716300103-2014-10 as it is currently written, including the provisions of the Permit challenged in Veolia's Petition. Therefore, because it is possible that the appeal will be resolved during the ADR process and that EPA will commit to making significant alterations to the Permit, ABC requests permission to participate in the mediation before Judge Avila.



---

Elizabeth J. Hubertz  
Assistant Director and Lecturer in Law  
Interdisciplinary Environmental Clinic  
Washington University School of Law  
Campus Box 1120  
St. Louis, MO 63130  
Phone: 314.935.8760  
Fax: 314.935.5171  
Email: [ejhubertz@wustl.edu](mailto:ejhubertz@wustl.edu)

Attorney for Interested Party American  
Bottom Conservancy

## **CERTIFICATE OF SERVICE**

I hereby certify, pursuant to the Rules of the Environmental Appeals Board of the U.S. Environmental Protection Agency, that on April 4, 2017, the foregoing was filed electronically with the Clerk of the Environmental Appeals Board using the EAB eFiling System, as authorized in the August 12, 2013, Standing Order titled Revised Order Authorizing Electronic Filing Procedures Before The Environmental Appeals Board Not Governed By 40 C.F.R. Part 22. I also certify that a copy of the foregoing was served on the parties indicated below by first-class mail:

Joseph M. Kellmeyer  
Thompson Coburn LLP  
One US Bank Plaza  
St. Louis, MO 63101  
Counsel for Veolia ES Technical Solutions, LLC

Catherine Garypie  
Gary Steinbauer  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard (C-14J)  
Chicago, IL 60604-3507  
Counsel for U.S. Environmental Protection Agency

John T. Krallman  
Office of General Counsel  
U.S. Environmental Protection Agency  
WJC North, MC 2344A  
1200 Pennsylvania, Ave., NW  
Washington, D.C. 20460  
Counsel for U.S. Environmental Protection Agency



---

Elizabeth J. Hubertz