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24TH JUDICIAL DISTRICT COURT

PARISH OF JEFFERSON

835

STATE OF LOUISIANA

CORNERSTONE CHEMICAL COMPANY

SUIT NO.: 793-948

VERSUS

SECTION: L

THE PARISH OF JEFFERSON AND THE
JEFFERSON PARISH COUNCIL

PETITION FOR TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION
AND PERMANENT INJUNCTION

The Plaintiff, Cornerstone Chemical Company, ("Cornerstone" or "Plaintiff"), seeks a temporary restraining order, preliminary injunction, and a permanent injunction immediately (a) restraining, enjoining and prohibiting Jefferson Parish by and through the Jefferson Parish council from taking any action to allow Ordinance 25763 adopted by the council on April 3, 2019, that purports to rescind "the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500," from taking effect; (b) restraining, enjoining and prohibiting Jefferson Parish by and through the Jefferson Parish council from taking any action to enforce Ordinance 25763 adopted by the council on April 3, 2019, that purports to rescind "the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500"; (c) restraining, enjoining and prohibiting Ordinance No. 25763 adopted by the Jefferson Parish Council on April 3, 2019, that purports to rescind "the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500" from becoming effective; and (d) restraining, enjoining and prohibiting Jefferson Parish by and through the Jefferson Parish council from taking any action to amend or rescind Ordinance No. 25500 that authorized a Special Permitted Use for Cornerstone related to its Fortier Manufacturing Complex.

Cornerstone is entitled to relief for the following reasons:

PARTIES

1. Cornerstone Chemical Company is a corporation duly organized under the laws of the State of Delaware and duly qualified to do and doing business in the State of Louisiana. Cornerstone maintains its principal place of business office in Metairie, and operates a chemical manufacturing facility in Waggaman, Jefferson Parish Louisiana.

2. Defendant Parish of Jefferson is a political subdivision of the State of Louisiana with the power to sue and be sued pursuant to the laws of the State of Louisiana. The Parish of Jefferson may be served through the Parish Attorney at 200 Derbigny Street, Suite 5200, Gretna, Louisiana.

3. The Jefferson Parish Council is the legislative body of the Parish of Jefferson, responsible for passing ordinances, including ordinances to issue or amend Special Permitted Uses pursuant to Chapter 40, Zoning, of the Jefferson Parish Code of Ordinances, Article XXXI, Industrial District, M-2, Section 40-582(31), Permitted Uses and Article XL Special Permitted Uses.

THE CORNERSTONE FACILITY AND HISTORIC OPERATIONS

4. Cornerstone, or its predecessors, has operated a chemical manufacturing facility located on approximately 800 acres on Lot 1, Cornerstone Subdivision, at 10800 River Road, Waggaman, Jefferson Parish, Louisiana, since 1953. This facility is known as the Fortier Manufacturing Complex.

5. Beginning in 1953 and continuously until the present, the Fortier Manufacturing Complex has safely manufactured and handled ammonia, hydrocyanic acid, sulfuric acid, and acrylonitrile.

6. Since 1953, facilities at the Fortier Manufacturing Complex have been expanded at various times to increase the efficiency and production capacity for sulfuric acid, acrylonitrile, ammonia, and hydrocyanic acid.

7. These products are used every day for application in the automotive and aerospace industry, water treatment, coatings and laminates, and the pulp and paper industry, including making carbon fibers for Boeing, Airbus and U.S. Military airplanes.

8. The Fortier Manufacturing Complex has been zoned as M-2, Industrial District since 1966. The M-2 classification allows the processing, refining or bulk storage of flammable and combustible liquids as a Special Permitted Use under Section 40-582(31) of the Jefferson Parish Code of Ordinances.

9. In 2013, the Jefferson Parish Council approved the Special Permitted Use for the processing, refining, and bulk storage of flammable and combustible liquids along with an ammonia manufacturing facility and a storage tank under Docket No. FL-1-13, Ordinance No. 24498.

10. Also, the Jefferson Parish Council, on October 16, 2013, upon motion by Mr. Spears, unanimously approved an amendment to the Special Permitted Use to increase the size of an ammonia storage tank under Docket No. FL-4-13, Ordinance No. 24596.

11. On March 16, 2016, the Jefferson Parish Council, upon motion by Mr. Spears, unanimously approved an amendment to the Special Permitted Use for the replacement of existing caustic tanks and the addition of new urea solution storage tanks under Docket No. FL-1-16, Ordinance No. 25110.

12. Again, on or about February 1, 2017, the Jefferson Parish Council approved an amendment to the Special Permitted Use for an addition to an existing building and the addition of two new buildings under Docket No. FL-2-17, Ordinance No. 25299.

CORNERSTONE'S 2017 REQUEST TO AMEND SPECIAL PERMITTED USE

13. On September 6, 2017, Cornerstone submitted to the Jefferson Parish Department of Planning a request for an amendment to the Special Permitted Use approved under Docket No. FL-2-17, Ordinance No. 25299 ("the Amendment"). (See Exhibit 1, Cornerstone's Submission)

14. Cornerstone's request sought approval for the following: (a) replacement of an existing sulfuric acid storage tank; (b) installation of six new alkylation sulfuric acid storage tanks; (c) installation of one urea solution storage tank; (d) installation of one demineralized water tank; and (e) construction of a new hydrocyanic acid (HCN) plant with two HCN storage tanks.

15. Cornerstone's request was made in conjunction with the modernization of its facility, including the acrylonitrile plant. Because the acrylonitrile plant modernization would result in the reduction in the quantity of HCN produced as a co-product of acrylonitrile production, a component of the modernization plan was the construction of an HCN plant using industry-leading production and safety technology. The construction of the HCN plant is intended to produce only enough HCN to replace that which is being "lost" with the acrylonitrile plant modernization, in order to meet Cornerstone's contractual obligation to provide HCN to an on-site tenant who consumes all HCN produced within a very short period of time.

16. The special permitted use request submitted by Cornerstone called for the HCN plant to be built in the middle of the 800-acre Fortier Manufacturing Complex. (See Exhibit 2, Figure 3, Jefferson Parish Department of Planning Special Permitted Use Report.)

17. HCN has been co-produced at the Fortier Manufacturing Complex for decades, including at the time the request was made for an amendment to the SPU. Cornerstone has made clear the volume of HCN produced in the new HCN unit would not exceed the current volume of HCN being produced and would be fully consumed onsite.

18. Cornerstone, in conjunction with its request for the Amendment, provided to the Jefferson Parish Planning Department a complete submission for a technical review by the planning department.

19. On September 26, 2017, the Land Use Review Technical Committee ("LURTC") submitted several comments to Cornerstone regarding the Amendment. Cornerstone replied to those comments and provided additional information on October 16, 2017.

20. A second set of comments was received by Cornerstone from the LURTC on November 17, 2017. Cornerstone responded to those comments and provided additional information on November 27, 2017.

21. The Jefferson Parish Planning Department issued a Special Permitted Use Report. (Exhibit 2)

22. The Special Permitted Use Report noted that there was no opposition to the Amendment by the Public Works Department, ICE-Site Plan, ENG-Site Plan, ICE-Building, Parish Attorney, Eastbank-Westbank Consolidated Fire Department, HAZMAT, and Environmental Affairs.

23. The Special Permitted Use Report concluded the following:

- The Cornerstone Chemical Company is an existing facility and the proposed Special Permitted Use amendment will not alter the overall purpose and operation of the facility as previously approved.
- **The proposed HCN plant and additional tanks meet all Jefferson Parish and NFPA requirements.** (Emphasis added.) (See Exhibit 2)

24. The Jefferson Parish Planning Department recommended approval of Cornerstone's Special Permitted Use amendment.

25. The Jefferson Parish Planning Department advertised Cornerstone's request for amendment to the Special Permitted Use on December 20 and 27, 2017 and January 3, 2018.

26. A public hearing on Cornerstone's request for an amendment to the Special Permitted Use was conducted by the Planning and Advisory Board on January 11, 2018.

27. Following the public hearing, the Planning and Advisory Board unanimously approved the Amendment.

THE PASSAGE OF JEFFERSON PARISH ORDINANCE 25500

28. The Amendment was scheduled to be heard by the Jefferson Parish Council at its regularly scheduled meeting on January 31, 2018. The proposed ordinance was published along with the Agenda for the January 31, 2018 meeting prior to the meeting.

29. At the January 31, 2018, meeting, upon motion of Councilman Spears, the Jefferson Parish Council unanimously approved Cornerstone's request for an amendment to its Special Permitted Use under Docket No. FL-4-17, as Ordinance No. 25500. (See Exhibit 3)

30. The minutes of the January 31, 2018 meeting of the Jefferson Parish Council show that Ordinance No. 25500 was voted on and passed with full knowledge of the Council regarding the scope of the Amendment, as evidenced by those minutes that state in part:

WHEREAS, Cornerstone Chemical Company intends to amend the Special Permitted Use (SPU) for the processing, refining, or bulk storage of flammable and combustible liquids by constructing additional storage tanks, replacing an existing storage tank and building a new HCN plant on Lot 1, Cornerstone Subdivision, which are owned by Cornerstone Chemical Company. (See Exhibit 3)(Emphasis added)

31. Ordinance No. 25500 became effective ten days later.

CORNERSTONE'S RELIANCE ON JEFFERSON PARISH ORDINANCE 25500

32. In conjunction with the passage of Ordinance No. 25500 and in good-faith reliance on the passage of Ordinance 25500, Cornerstone proceeded with planning, engineering and design work for all components of the proposed project.

33. In good-faith reliance on the passage of Ordinance 25500, Cornerstone has incurred expenses to date of over \$10.6 million for engineering and design work, licensing, consulting fees, instrumentation, construction, process equipment and permits related to the modernization of the acrylonitrile plant and construction of the HCN plant, including the purchase and installation of new catalyst and modification of reactors in the acrylonitrile plant.

34. Based on good-faith reliance on the passage of Ordinance 25500, Cornerstone is prepared to begin construction of the HCN plant portion of the project. It has already obtained a bid for the construction costs.

35. If the Council is allowed to amend Ordinance No. 25500, Cornerstone would have to reverse certain work already performed and would lose millions of dollars already spent.

36. Based upon the unanimous passage of Ordinance No. 25500 by the Jefferson Parish Council and the expenditure of millions of dollars by Cornerstone in

reliance upon that passage, Cornerstone has obtained a vested right in the Special Permitted Use authorized by Ordinance No. 25500.

**AMENDMENT TO ORDINANCE 25500 AND RECISION OF SPU
COMPONENTS**

37. Approximately one year after the passage of Ordinance No. 25500 and the expenditure of over \$10 million by Cornerstone, Cornerstone learned that the councilman for Council District 3 in which the Fortier Manufacturing Facility is located, intended to introduce an ordinance to rescind Ordinance No. 25500.

38. A resolution, Resolution No. 133173, was placed on the agenda for the regularly scheduled Jefferson Parish Council meeting on February 27, 2019.

39. Prior to the Council meeting, representatives of Cornerstone met with several members of the Jefferson Parish Council, including the councilman for Council District 3.

40. At the February 27, 2019 Jefferson Parish Council meeting, the Council considered Resolution 133173 proposed by the councilman for Council District 3 and unanimously passed Resolution No. 133173 that expressed the Council's intention to amend Ordinance No. 25500 despite unanimously approving Ordinance No. 25500 in January, 2018. (See Exhibit 4- Resolution 133173)

41. The exact cause of the Jefferson Parish Council's expressed intention to amend or rescind Ordinance No. 25500 is not known. However, it is clear that the Council's expressed intention to amend or rescind Ordinance No. 25500 was not based on any mistake, error of fact, or misrepresentation made by Cornerstone in its request for the Special Permitted Use amendment.

42. On March 20, 2019, the Jefferson Parish Council considered, but deferred until the April 3, 2019, action on a proposed Ordinance that would have rescinded Ordinance No. 25500.

43. At the April 3, 2019 meeting of the Jefferson Parish Council, the Council, upon motion of Mr. Spears, approved Ordinance No. 25763 that purports to amend Ordinance No. 25500 to rescind the "approval of the construction of the HCN plant and

the two HCN storage tanks on Lot 1, Cornerstone Subdivision,” authorized in Ordinance 25500. (Exhibit 5)

44. During the open meeting, no one who spoke, including any council members identified either a mistake, error of fact, or misrepresentation by Cornerstone in its SPU application that was the basis for the council’s decision.

45. The Council’s decision to rescind its prior Special Permitted Use approval for construction of the HCN plant was not based on any mistake, error of fact, or misrepresentation made by Cornerstone in its request for the Special Permitted Use amendment.

46. The decision of the Jefferson Parish Council was arbitrary and capricious and deprives Cornerstone of a vested property right.

**CORNERSTONE IS ENTITLED TO A TEMPORARY RESTRAINING ORDER,
AND PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF**

47. Because Cornerstone has a vested right in the Special Permitted Use approved by Ordinance No. 25500, it is not required to establish irreparable harm in order to obtain a temporary restraining order, preliminary injunction, or permanent injunction.

48. In the alternative, Cornerstone will suffer irreparable harm, injury, loss and damage as a result of the Council’s passage of Ordinance No. that seeks rescind Ordinance No. 25500.

49. In addition to incurring significant expenses in development of the HCN plant in reliance upon the passage of Ordinance No. 25500 in January, 2018, all of which will be lost if the amendment of Ordinance No. 25500, is allowed to go into effect, Cornerstone will incur additional losses, including lost revenue and profits, as well as loss of the ability to compete in the market place and the inability to modernize the plant to make it safer and more efficient.

50. Cornerstone has done nothing to justify the action of the Council to rescind the portion of Ordinance No. 25500 that approved of the construction of the HCN plant. The proposed project and all components of the request for a Special Permitted Use

amendment have been the same, with no changes to any component, since the Special Permitted Use Report was issued by the Department of Planning and the Jefferson Parish Council unanimously approved the amendment with the passage of Ordinance No. 25500.

51. Ordinance No. 25500 was not passed as a result of an error of fact or any misrepresentation by Cornerstone.

52. The amendment of Ordinance No. 25500 amounts to the illegal taking of Cornerstone's vested property right and thus a violation of Louisiana and U.S. Constitutional laws and protections.

53. The action by the Jefferson Parish Council to amend Ordinance No. 25500 was arbitrary and capricious.

WHEREFORE, Cornerstone Chemical Company prays as follows:

I. That the Court issue a temporary restraining order based on the reasons set forth herein:

(a) restraining, enjoining and prohibiting Jefferson Parish by and through the Jefferson Parish council from taking any action to allow Ordinance 25763 adopted by the council on April 3, 2019, that purports to rescind "the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500," from taking effect;

(b) restraining, enjoining and prohibiting Jefferson Parish by and through the Jefferson Parish council from taking any action to enforce Ordinance 25763 adopted by the council on April 3, 2019, that purports to rescind "the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500;"

(c) restraining, enjoining and prohibiting Ordinance 25763 adopted by the Jefferson Parish Council on April 3, 2019, that purports to rescind "the approval of the construction of the HCN plant and the two HCN storage

tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500” from becoming effective; and

(d) restraining, enjoining and prohibiting Jefferson Parish by and through the Jefferson Parish council from taking any action to amend or rescind Ordinance No. 25500 that authorized a Special Permitted Use for Cornerstone related to its Fortier Manufacturing Complex.

II. That the Court set security for the issuance of the temporary restraining order at \$5,000.00.

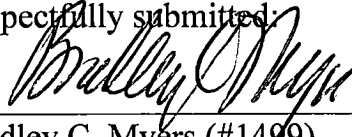
III. That the Parish of Jefferson be served with a copy of this Petition.

IV. That the Court issue a Rule to Show Cause to Jefferson Parish directing the Parish to show cause why a preliminary injunction should not be issued as requested above.

V. That after due proceedings the Court issue a permanent injunction a) restraining, enjoining and prohibiting Jefferson Parish by and through the Jefferson Parish council from taking any action to allow Ordinance No. 25763, adopted passed by the council on April 3, 2019, that purports to rescind “the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500,” from taking effect; (b) restraining, enjoining and prohibiting Jefferson Parish by and through the Jefferson Parish council from taking any action to enforce Ordinance No. 25763 adopted by the council on April 3, 2019, that purports to rescind “the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500,”; and (c) restraining, enjoining and prohibiting Ordinance 25763 adopted by the Jefferson Parish Council on April 3, 2019, that purports to rescind “the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500” from becoming effective; and (d) restraining, enjoining and prohibiting Jefferson Parish by and through the Jefferson Parish council from taking any action to amend or rescind Ordinance No. 25500 that authorized a Special Permitted Use for Cornerstone related to its Fortier Manufacturing Complex; and

VI. For such further relief as the premises suggest and equity may require.

Respectfully submitted:



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24TH JUDICIAL DISTRICT COURT

PARISH OF JEFFERSON

STATE OF LOUISIANA

CORNERSTONE CHEMICAL COMPANY

SUIT NO.: 793-948

VERSUS

SECTION: L

THE PARISH OF JEFFERSON AND THE
JEFFERSON PARISH COUNCIL

TEMPORARY RESTRAINING ORDER
AND RULE TO SHOW CAUSE

The Court has considered Cornerstone Chemical Company's verified Petition for Temporary Restraining Order, Preliminary Injunction and Permanent Injunction, and the court being satisfied from the specific facts alleged therein that although not required to be proven, immediate, substantial and irreparable injury, loss, and damage to plaintiff's legal rights will be unavoidable and will result before a hearing can be had on plaintiff's application for entry of a preliminary injunction:

IT IS ORDERED that upon Cornerstone Chemical Company giving bond in the sum of \$ _____, for this Temporary Restraining Order the defendant, the Parish of Jefferson by and through the Jefferson Parish Council are hereby: (a) restrained, enjoined and prohibited from taking any action to allow Ordinance 25763 adopted by the council on April 3, 2019, that purports to rescind "the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500," from taking effect; (b) restrained, enjoined and prohibited from taking any action to enforce Ordinance 25763 adopted by the council on April 3, 2019, that purports to rescind "the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500"; and (c) restrained, enjoined and prohibited from taking any action to amend or rescind Ordinance No. 25500 that authorized a Special Permitted Use for Cornerstone related to its Fortier Manufacturing Complex.

IT IS FURTHER ORDERED THAT Ordinance 25763 adopted by the Jefferson Parish Council on April 3, 2019, that purports to rescind "the approval of the construction of the HCN plant and the two HCN storage tanks on Lot 1, Cornerstone Subdivision, in Ordinance 25500" is restrained, enjoined and prohibited from becoming effective.

This temporary restraining order expires at the end of the ten (10) days from its date, unless extended by this Court prior to its expiration, for good cause shown and the reasons entered of record.

IT IS FURTHER ORDERED that defendants show cause on the ____ day of _____, 2019, at ____ o'clock a.m. in the 24th Judicial District Court, Room _____, Gretna, Louisiana, why a preliminary injunction in the form and substance of the temporary restraining order above should not be issued herein, as to be effective during the pendency of these proceedings and why the preliminary injunction prayed for by Cornerstone Chemical Company should not be granted.

SIGNED in the city of Gretna, Louisiana, this 8 day of April, 2019 at

10:30 clock Am.


JUDGE, 24TH JUDICIAL DISTRICT COURT

PLEASE SERVE:

The Parish of Jefferson
Through its agent for service
Jeremy Dwyer, Parish Attorney
1221 Elmwood Park Blvd., Suite 701
Jefferson, LA 70123

24TH JUDICIAL DISTRICT COURT

PARISH OF JEFFERSON

STATE OF LOUISIANA

CORNERSTONE CHEMICAL COMPANY

SUIT NO.: 793-943

VERSUS

SECTION: L

THE PARISH OF JEFFERSON AND THE
JEFFERSON PARISH COUNCIL

ORDER

Considering the Petition for Preliminary Injunction and Permanent Injunction filed
by Cornerstone Chemical Company

IT IS ORDERED THAT a hearing be held on the 23rd day of
April, 2019 at 9:30 o'clock A M. on Cornerstone Chemical Company's
request for a preliminary injunction.

Gretna, Louisiana this 9 day of April, 2019.


JUDGE, 24th Judicial District Court

Please Serve:

The Parish of Jefferson
Through its agent for service
Jeremy Dwyer, Parish Attorney
1221 Elmwood Park Blvd., Suite 701
Jefferson, LA 70123

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Petition For Temporary Restraining Order, Preliminary Injunction and Permanent Injunction have been served upon the following:

Jeremy Dwyer
Parish Attorney
Parish of Jefferson
1221 Elmwood Park Blvd., Suite 701
Jefferson, LA 70123

Baton Rouge, Louisiana, this 8th day of April, 2019.



Bradley C. Myers