

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	AS 19-002
Petition of Emerald Polymer)	
Additives, LLC for an Adjusted)	(Adjusted Standard)
Standard from 35 Ill. Adm. Code)	
304.122(b))	

To: See attached service list.

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board ILLINOIS EPA'S MOTION FOR JUDICIAL ENFORCEMENT OF SUBPOENA DUCES TECUM, for the above-captioned proceeding, a copy of which is herewith served upon you.

Respectfully submitted,

Dated: January 6, 2020

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Rex L. Gradeless, #6303411
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
Rex.Gradeless@Illinois.Gov

Respondent,

BY: /s/Rex L. Gradeless
Rex L. Gradeless

THIS FILING IS SUBMITTED ELECTRONICALLY

SERVICE LIST

EMERALD POLYMER ADDITIVES, LLC

Thomas W. Dimond

Kelsey Weyhing

ICE MILLER LLP

200 West Madison, Suite 3500

Chicago, Illinois 60606

ILLINOIS POLLUTION CONTROL BOARD

Don Brown, Clerk

James R. Thompson Center

100 W. Randolph, Suite 11-500

Chicago, IL 60601

ILLINOIS POLLUTION CONTROL BOARD

Carol Webb, Hearing Officer

1021 North Grand Avenue East

Springfield, Illinois 62794-9274

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Rex Gradeless

Christine Zeivel

1021 North Grand Avenue East

Springfield, IL 62794-9276

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IN THE MATTER OF:)
) AS 19-002
Petition of Emerald Polymer)
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**ILLINOIS EPA’S MOTION FOR JUDICIAL ENFORCEMENT OF
SUBPOENA DUCES TECUM**

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), by and through its counsel, and for its Motion for Judicial Enforcement of Subpoena Duces Tecum states as follows:

1. On December 19, 2019, the Illinois EPA served a subpoena for documents on Amy Harding (“Harding”), the corporate controller for Emerald Performance Materials, LLC.
2. Because of the joint accounting practices of Petitioner and Emerald Performance Materials, LLC, Harding was to provide the Illinois EPA with Emerald Performance Materials, LLC’s balance sheet(s) for fiscal years 2015-2019; income statement(s) for fiscal years 2015-2019; cash flow statement(s) for fiscal years 2015-2019; and annual audits for fiscal years 2015-2019, on or before January 3, 2020.
3. During Harding’s deposition in this case, Harding disclosed this information was readily available and could be provided.
4. To date, this information has not been provided to the Illinois EPA.
5. 35 Ill. Adm. Code 101.622 provides that the failure of any witness to comply with a subpoena will subject the witness to sanctions or the judicial enforcement of the subpoena.
6. Further, Section 101.622 provides that the Board may, upon proper motion by the party requesting the subpoena, request the Attorney General to pursue judicial enforcement of the

subpoena on behalf of the Board.

7. In this case, the Board should request representation from the Attorney General's Office and request that the Attorney General seek enforcement of the subpoena under Washington State's Uniform Interstate Depositions and Discovery Act. 5.51 RCW.

8. Enforcement of Illinois subpoenas in other jurisdictions is common practice for the Attorney General's Office and undersigned has confirmed the request for representation and enforcement of the subpoena should be addressed to the Bureau Chief of the General Law Bureau, Christopher Higerson, at 3000 Montvale Drive, Springfield, IL 62704.

WHEREFORE, Illinois EPA respectfully requests that this honorable Board grant Illinois EPA's Motion for Judicial Enforcement of Subpoena Duces Tecum and request the Attorney General's Office enforce the subpoena.

Respectfully submitted,

Dated: January 6, 2020

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Rex L. Gradeless, #6303411
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
Rex.Gradeless@Illinois.gov

Respondent,

BY: /s/Rex L. Gradeless
Rex L. Gradeless

THIS FILING IS SUBMITTED ELECTRONICALLY

CERTIFICATE OF SERVICE

I, the undersigned, on affirmation state the following:

That I have served the attached **ILLINOIS EPA'S MOTION FOR JUDICIAL ENFORCEMENT OF SUBPOENA DUCES TECUM** by e-mail upon Thomas W. Dimond at the e-mail address of Thomas.Dimond@icemiller.com, upon Kelsey Weyhing at the e-mail address of Kelsey.Weyhing@icemiller.com, upon Don Brown at the e-mail address of don.brown@Illinois.gov upon Carol Webb at the e-mail address of Carol.Webb@Illinois.gov upon Christine Zeivel at the e-mail address of Christine.Zeivel@Illinois.gov.

That my e-mail address is Rex.Gradeless@Illinois.gov.

That the number of pages in the e-mail transmission is five (5).

That the e-mail transmission took place before 4:30 p.m. on the date of January 6, 2020.

/s/Rex L. Gradeless

January 6, 2020

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	AS 19-002
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Standard from 35 Ill. Adm. Code)	
304.122(b))	

SUBPOENA DUCES TECUM

TO: Amy Harding, Corporate Comptroller, Emerald Performance Materials, LLC, 1499 Southeast Tech Center Place, Suite 300 Vancouver, WA 98683.

YOU ARE COMMANDED to appear, pursuant to Section 5(e) of the Environmental Protection Act (415 ILCS 5/5(e) (2018)) and 35 Ill. Adm. Code 101, Subpart F, and give testimony at a deposition in the above-captioned matter before a certified shorthand reporter at the Illinois Environmental Protection Agency, 1021 North grand Avenue East, Springfield, Illinois 62794, on January 3, 2020, at 9:00 a.m.

YOU ARE COMMANDED ALSO to bring the following:

Emerald Performance Materials, LLC's balance sheet(s) for fiscal years 2015-2019; income statement(s) for fiscal years 2015-2019; cash flow statement(s) for fiscal years 2015-2019; and annual audits for fiscal years 2015-2019 in your possession or control.

PLEASE NOTE: NO DEPOSITION WILL BE TAKEN PROVIDED THE INFORMATION REQUESTED ABOVE IS PROVIDED BY January 3, 2020.

Failure to comply with this subpoena will subject you to sanctions under 35 Ill. Adm. Code 101.622(g) and 101.802.

Date: December 19, 2019

Rex L. Gradeless, #6303411
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794-9276
(217) 782-5544
Rex.Gradeless@Illinois.Gov

ENTER:



Don A. Brown, Clerk
Illinois Pollution Control Board

Date: December 19, 2019

CERTIFICATE OF SERVICE

I, the undersigned, on affirmation state the following:

That I have served the attached **SUBPOENA DUCES TECUM** by e-mail upon Thomas W. Dimond at the e-mail address of Thomas.Dimond@icemiller.com, upon Kelsey Weyhing at the e-mail address of Kelsey.Weyhing@icemiller.com, upon Don Brown at the e-mail address of don.brown@illinois.Gov, and upon Carol Webb at the e-mail address of Carol.Webb@illinois.Gov.

That I have served the attached **SUBPOENA DUCES TECUM** upon **AMY HARDING**, by placing a true copy in an envelope via U.S. Postal Service (Express Delivery) duly addressed to Amy Harding, Emerald Performance Materials, LLC, 1499 Southeast Tech Center Place, Suite 300 Vancouver, WA 98683, bearing proper prepaid postage in the United States mail at Springfield, Illinois on December 19, 2019.

That my e-mail address is Rex.Gradeless@Illinois.Gov.

That the number of pages in the e-mail transmission is two (2).

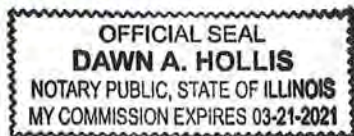
That the e-mail transmission, and placing the envelop into U.S. Postal Service, took place before 4:30 p.m. on the date of December 19, 2019.

/s/Rex L. Gradeless
December 19, 2019



Signed and sworn to before me
December 19, 2019.


(Notary Public)



Name: Rex Gradeless
Attorney for: Illinois Environmental Protection Agency
Address: 1021 North Grand Avenue East, Springfield, IL 62794-9276
Telephone: (217) 782-5544