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FEB - 6 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
Petition of Noveon, Inc. )  
)  
)  
)  
for an Adjusted Standard from )  
35 Ill. Adm. Code 304.122 )

AS 02-5

NOTICE OF FILING

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

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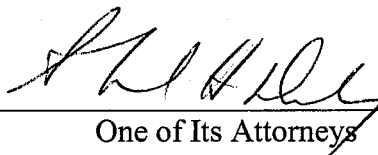
Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

PLEASE TAKE NOTICE that on **Friday, February 6, 2004**, we filed the attached **Motion To Incorporate Transcript From PCB 91-17** with the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

NOVEON, INC.

By:

  
\_\_\_\_\_  
One of Its Attorneys

Richard J. Kissel  
Mark Latham  
Sheila H. Deely  
GARDNER CARTON & DOUGLAS LLP  
191 N. Wacker Drive - Suite 3700  
Chicago, IL 60606

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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MOTION TO INCORPORATE TRANSCRIPT FROM PCB 91-17

Noveon, Inc., hereby moves to incorporate the transcript from Noveon, Inc. v. Illinois Environmental Protection Agency, PCB 91-17 (NPDES Permit Appeal), into the record for Noveon's pending adjusted standard proceeding. In support thereof, Noveon states as follows:

1. A hearing on Noveon's NPDES permit appeal was held on November 19, 1991 in the Marshall County courthouse. At that hearing, testimony was taken from the following witnesses called by Noveon: Ken Willings, then Senior Manager of Health, Safety and Environmental for the specialty polymers and chemicals division of BF Goodrich, which is now known as Noveon; and Richard Pinneo, of Illinois EPA's Bureau of Water, and Tim Kluge, also of Illinois EPA's Bureau of Water.

Id.

2. Noveon moves that the transcript of the NPDES permit appeal be placed in the record of the adjusted standard proceeding. Section 101.306 of the Board rules states:

(a) Upon the separate written request of any person or on its own initiative, the Board or hearing officer may incorporate materials from the record of another Board docket into any proceeding. The person seeking incorporation must file with the Board 4 copies of the material to be incorporated. The Board or hearing officer may approve a reduced number of copies for documents incorporated in other Board dockets. The person seeking incorporation must demonstrate to the Board or the hearing officer that the material to be incorporated is authentic, credible, and relevant to the proceeding. Notice of the request must be given to all identified participants or parties by the person seeking incorporation.

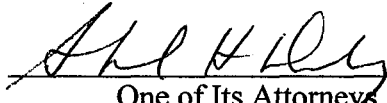
proceeding. Because this is a quasi-regulatory proceeding, the Board should recognize the relevancy of this testimony.

6. The Illinois EPA will not be prejudiced because it had an opportunity at the hearing to cross-examine Mr. Willings as well as its own witnesses. Mr. Willings will nevertheless be available at the hearing on the adjusted standard proceeding should Illinois EPA wish to call him, and Illinois EPA's witnesses are clearly within its own control.

WHEREFORE, Noveon, Inc. moves the Board to incorporate the transcript from its NPDES Permit Appeal, PCB 91-17, into this proceeding as part of the record.

Respectfully submitted,  
NOVEON, INC.

By:

  
One of Its Attorneys

Richard J. Kissel  
Mark Latham  
Sheila H. Deely  
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Due to the volume of this pleading,  
please contact the Clerk's Office

at

312/814-3629

to view this file.