

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PARTYLITE WORLDWIDE, INC.,)	
)	
Petitioner,)	PCB No. 08-32
)	
v.)	(Air-Permit Appeal)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	
)	

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 DEC 17 2007
 STATE OF ILLINOIS
 Pollution Control Board

NOTICE OF FILING

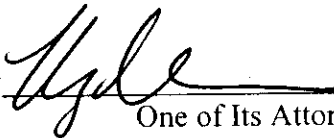
TO: See attached service list.

PLEASE TAKE NOTICE that on December 17, 2007, we filed with the Illinois Pollution Control Board an original and nine (9) copies of Petitioner's Motion for Expedited Review, in the above-referenced matter on behalf of PartyLite Worldwide, Inc., a copy of which is hereby served upon you.

DATED: December 17, 2007

Respectfully submitted,

PARTYLITE WORLDWIDE, INC.

By  _____
 One of Its Attorneys

Eric E. Boyd
 Meagan Newman
 SEYFARTH SHAW LLP
 131 South Dearborn Street
 Suite 2400
 Chicago, Illinois 60603
 (312) 460-5000

THIS FILING PRINTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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)	PCB No. 08-32
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MOTION FOR EXPEDITED REVIEW

NOW COMES Petitioner, PartyLite Worldwide, Inc. ("PartyLite"), by and through its attorneys, SEYFARTH SHAW LLP, pursuant to Section 101.512 of the Illinois Administrative Code, 35 Ill. Adm. Code § 101.512, and moves the Board for expedited review of the Petition for Hearing filed by PartyLite with respect to the Illinois Environmental Protection Agency's (the "Agency") failure to act on PartyLite's CAAPP application. In support thereof, PartyLite states as follows:

INTRODUCTION

1. On November 2, 2007, PartyLite filed a Petition for Hearing, pursuant to Section 40.2(a) of the Illinois Environmental Protection Act (the "Act"), 415 ILCS 5/40.2(a), and Section 105.304 of the Illinois Administrative Code, 35 Ill. Adm. Code § 105.304, seeking review of the Illinois Environmental Protection Agency's (the "Agency's") failure to act on PartyLite's CAAPP application.

2. PartyLite seeks expedited review of the Agency's failure to act because the Agency has continued to fail to take the required action with respect to PartyLite's CAAPP application and has similarly failed to comply with the Board's procedural rules for this matter.

3. As of the date of this filing, the Agency has failed to act on PartyLite's CAAPP application, has failed to enter an appearance in this matter, as required by 35 Ill. Adm. Code § 105.302(f), and has failed to file the record with the Board, as required by 35 Ill. Adm. Code § 105.116 and § 105.302(f).

4. The Agency's inaction has caused, and will continue to cause, material prejudice to PartyLite. PartyLite's ability to conduct its business has been impaired by the Agency's failures. Although a hearing in this matter has been scheduled, requiring the parties to appear at hearing is unnecessary given the straightforward nature of this matter.

FACTUAL AND PROCEDURAL BACKGROUND

5. On September 28, 2005, PartyLite submitted an application for an initial FESOP on a CAAPP application form to the Agency for its candlemaking facility located at 601 Kingsland Drive, Batavia, Illinois, pursuant to Section 504 of the Clean Air Act, 42 USC § 7661b(c), and Section 39.5 of the Act. (*See* Affidavit of Robert Harrington, attached as Exhibit A).

6. On or about November 3, 2005, the Agency sent a notice to PartyLite informing PartyLite that its CAAPP application was complete pursuant to Section 39.5 of the Act. (*See* CAAPP Application Completeness Determination and Source Fee Determination, attached as Exhibit B).

7. Pursuant to 415 ILCS 5/39.5(5)(j), the Agency must act on initial CAAPP applications within two (2) years after the date of a completed application. The two (2) year time period for Agency action begins to run from the date that a complete application was submitted.

8. As of the date of this Motion, the Agency has failed to take any action on PartyLite's initial CAAPP application. (*See* Exhibit A).

9. If the Agency fails to act within two (2) years, its failure to act is treated as a final permit action for purposes of judicial review pursuant to Sections 40.2 and 41 of the Act. 415 ILCS 5/39.5(5)(j). PartyLite, therefore, filed its Petition for Hearing, pursuant to Section 40.2(a) of the Act and Section 105.304 of the Illinois Administrative Code, 35 Ill. Adm. Code § 105.304.

REQUESTED RELIEF

10. PartyLite requests that the Board grant its Motion for Expedited Review, pursuant to Section 101.512 of the Illinois Administrative Code, 35 Ill. Adm. Code § 101.512, and that the Board issue an Order requiring the Agency to issue PartyLite a CAAPP permit, as requested in its application submitted on September 28, 2005, within 90 days. This timeframe allows the Agency sufficient time to review PartyLite's CAAPP permit application and comply with its public notice and comment obligations.

11. The Board now has before it all of the facts and information necessary for it to reach a determination regarding the Agency's failure to meet the statutory requirements for action on PartyLite's initial CAAPP permit application. The Agency's delay has prejudiced PartyLite and any further delay in the Board's review of the Agency's inaction will cause PartyLite additional prejudice. The Agency should not be able to extend its time to act on PartyLite's CAAPP application by failing to comply with the Board's procedural rules with respect to PartyLite's Petition for Hearing.¹

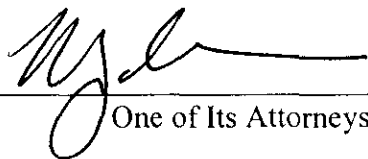
¹ Pursuant to Section 101.800 of the Illinois Administrative Code, 5 Ill. Adm. Code § 101.800, the Board may enter a judgment by default against the Agency for failure to comply with the Board's procedural rules.

WHEREFORE, PartyLite respectfully requests that the Board grant its Motion for Expedited Review and order that the Illinois Environmental Protection Agency issue PartyLite's requested CAAPP permit within 90 days.

DATED: December 17, 2007

Respectfully submitted,

PARTYLITE WORLDWIDE, INC.

By  _____
One of Its Attorneys

Eric E. Boyd
Meagan Newman
SEYFARTH SHAW LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603
(312) 460-5000

Exhibit A

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PARTYLITE WORLDWIDE, INC.,)
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) Petitioner,)
) PCB No. ~~08~~-32.
) v.)
) (Air-Permit Appeal)
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 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
) Respondent.)
)

AFFIDAVIT OF ROBERT HARRINGTON

I, Robert Harrington, Ph.D., D.A.B.T., being duly sworn, hereby depose and state as follows:

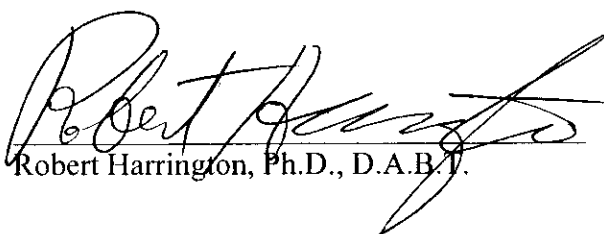
1. My name is Robert Harrington. I am Director of Regulatory, Safety and Analytical Sciences for PartyLite. My office is located at 603 Kingsland Drive, Batavia, IL 60510. In this position I am knowledgeable regarding PartyLite's regulatory and environmental affairs, including matters related to permitting.

2. On September 28, 2005, PartyLite submitted an application for an initial FESOP on a CAAPP application form, pursuant to Section 504 of the Clean Air Act, 42 USC § 7661b(c), and Section 39.5 of the Illinois Environmental Protection Act, 415 ILCS 5/40.2(a), to the Illinois Environmental Protection Agency (the "Agency") for its candlemaking facility located at 601 Kingsland Drive, Batavia, Illinois.

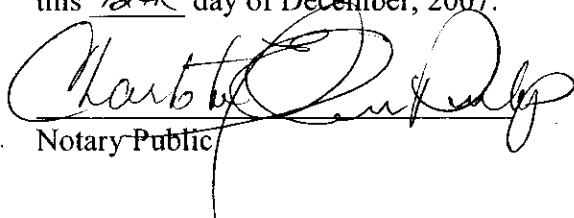
3. On or about November 3, 2005, the Agency sent a notice to PartyLite informing PartyLite that its CAAPP application was complete pursuant to Section 39.5 of the Act.

4. As of today, December 12, 2007, the Agency has failed to take any further action regarding PartyLite's CAAPP application. PartyLite has not received any notification of a determination made regarding its CAAPP application.

Further affiant sayeth not.


Robert Harrington, Ph.D., D.A.B.T.

Signed and sworn before me
this 12th day of December, 2007.


Notary Public

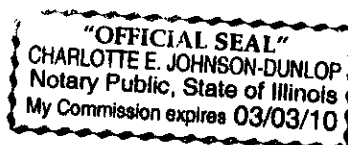


Exhibit B



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19506, SPRINGFIELD, ILLINOIS 62794-9506 - (317) 782-2113

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

217/785-5151

CAAPP APPLICATION COMPLETENESS DETERMINATION
AND SOURCE FEE DETERMINATION

APPLICANT

Party Lite
Attn: Paul Birch
601 Kingsland Drive
Batavia, Illinois 60510

Date of Determination: November 3, 2005
Application/Permit No.: 05090062
I.D. Number: 089413AAM
Date Received: September 28, 2005
Source Name: Party Lite
Location of Source: 601 Kingsland Drive, Batavia

Dear Mr. Birch:

This letter provides notification that your Clean Air Act Permit Program (CAAPP) application received on the date indicated above, has been determined by the Agency to be complete pursuant to Section 39.5(5) of the Illinois Environmental Protection Act (Act).

As provided in Section 39.5(18) of the Act, a CAAPP source shall pay a fee. Attached is the annual fee bill for this CAAPP source as determined from information included in your application, on form 292-CAAPP - FEE DETERMINATION FOR CAAPP PERMIT. Payment of the fee is due within 45 days of the billing date indicated on the billing statement.

Notwithstanding the completeness determination, the Agency may request additional information necessary to evaluate or take final action on the CAAPP application. If such additional information affects your allowable emission limits, a revised form 292-CAAPP-FEE DETERMINATION FOR CAAPP PERMIT must be submitted with the requested information. The failure to submit to the Agency the requested information within the time frame specified by the Agency, may force the Agency to deny your CAAPP application pursuant to Section 39.5 of the Act.

If you have any questions regarding this matter, please contact the Division of Air Pollution Control Permit Section at 217/785-5151.

Sincerely,

Donald E. Sutton, P.E.
MTR

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:YMC:psj

Enclosure(s)

cc: F09, Region 1
Application File
Compliance & Systems Management Section

CERTIFICATE OF SERVICE

I, Meagan Newman, hereby certify that I caused copies of the attached **NOTICE OF FILING** and **MOTION FOR EXPEDITED REVIEW** to be served on:

SERVICE LIST

Ms. Dorothy Gunn
Clerk of the Board
Illinois Pollution Control Board
100 W. Randolph Street
Suite 11-500
Chicago, Illinois 60601
(Via Hand Delivery)

Julie Armitage
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794

Maureen Wozniak
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794

by United States Mail, first-class postage affixed thereto, at 131 S. Dearborn Street, Chicago, Illinois 60603, first class postage prepaid on December 17, 2007.

