



1 A P P E A R A N C E S:

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ILLINOIS POLLUTION CONTROL BOARD:  
3 MR. BRADLEY P. HALLORAN, Hearing Officer  
100 West Randolph  
4 Suite 11-500  
Chicago, Illinois 60601  
5 (312) 814-8917

6

7 SEYFARTH SHAW

8 131 South Dearborn  
Suite 2400  
9 Chicago, Illinois 60603  
(312) 460-5000

10 BY: MS. MEAGAN NOEL NEWMAN

11                                    Appearing on behalf of the Petitioner;

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OFFICE OF THE ATTORNEY GENERAL, ENVIRONMENTAL BUREAU  
13 188 East Randolph  
20th Floor  
14 Chicago, Illinois 60601  
(312) 814-3369  
15 BY: MR. GERALD KARR

16                                    Appearing on behalf of the Respondent.

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1                   MR. HEARING OFFICER: Good morning.  
2                   My name is Bradley Halloran. I'm a hearing  
3                   officer with the Illinois Pollution Control  
4                   Board. I'm also assigned to this matter  
5                   entitled Partylite World, Inc., petitioner,  
6                   versus Illinois Environmental Protection  
7                   Agency, respondent. The case number is  
8                   PCB 08-32. This hearing has been publicly  
9                   noticed pursuant to the Board regulations,  
10                  and will be conducted in accordance with  
11                  Section 101.600 in the Board's Procedure of  
12                  Regulations.

13                  Again, this is a permit appeal  
14                  involving the Clean Air CAPP Program  
15                  Application. CAPP, C-A-P-P. I also note for  
16                  the record that I will not be making the  
17                  ultimate decision in the case. That decision  
18                  will be left to the five esteemed Board  
19                  members. My job is to insure an orderly  
20                  transcript and clear record and rule on any  
21                  evidentiary matters that may arise. There's  
22                  no members of the public in attendance.

23                  With that said, I'm going to have  
24                  counsels introduce themselves. Ms. Newman?

1 MS. NEWMAN: Megan Newman here on  
2 behalf of Partylite.

3 MR. KARR: And Gerald Karr, K-A-R-R,  
4 on behalf of The Illinois Environmental  
5 Protection Agency.

6 MR. HEARING OFFICER: It's my  
7 understanding that counsels have waived  
8 openings. They are going to go right into  
9 direct. Partylite has one witness.

10 Before we go into that, the  
11 respondent, represented by Mr. Jerry Karr  
12 filed a motion to withdraw its motion for  
13 extension of time, I believe to file the  
14 record, and motion to reschedule the hearing.  
15 That was filed on January 28, 2008. There  
16 being no objection, those motions are  
17 granted.

18 With that said, I guess we can  
19 swear Dr. Harrington in, and Ms. Newman will  
20 do the direct.

21 Before we go into that, I haven't  
22 forgotten, Mr. Karr, you wanted to make a  
23 stipulation on the record. Do you want to do  
24 that now?

1                   MR. KARR: I guess it was a joint  
2                   stipulation relative to this facts that are  
3                   relevant to this matter. I am not sure how  
4                   we want to set those out.

5                   MR. HEARING OFFICER: Let's just do  
6                   the direct, and we'll figure that out later.

7                   ROBERT M. HARRINGTON  
8                   having been first duly sworn, was examined and  
9                   testified as follows:

10                   DIRECT EXAMINATION

11 BY MS. NEWMAN:

12                   Q.       Mr. Harrington, can you state your  
13                   full name.

14                   A.       Robert M. Harrington.

15                   Q.       Where are you employed?

16                   A.       Partylite.

17                   Q.       What is your position?

18                   A.       Director of Regulatory Safety and  
19                   Analytical Sciences.

20                   Q.       In that position, do you have any  
21                   responsibilities with respect to environmental  
22                   permitting?

23                   A.       Yes, Ma'am.

24                   Q.       Can you explain those?

1                   A.       As the director of regulatory, it's my

2 responsibility to see that the facility has the  
3 proper operating permits.

4 Q. Are you aware of a CAPP application  
5 submitted by Partylite about two years ago?

6 A. Yes, I am --

7 (Discussion off the record.)

8 BY MS. NEWMAN:

9 Q. Okay. Mr. Harrington, you are aware  
10 of a CAPP application that was submitted?

11 A. That is correct.

12 Q. Do you remember on what date that  
13 application was submitted?

14 A. September 21, 2005.

15 Q. Mr. Harrington, do you remember  
16 completing an affidavit in this case?

17 A. Yes.

18 Q. I'm going to show you an affidavit  
19 here.

20 MS. NEWMAN: Mr. Karr, this is a copy  
21 of what I'm showing the witness.

22 BY MS. NEWMAN:

23 Q. Can you take a look. Is that the  
24 affidavit that was submitted?

1 A. Yes, it is.

2 Q. Just to refresh your recollection,  
3 there in paragraph two, is there a date upon which  
4 you swore that a CAPP application was submitted?  
5 A. Yes.  
6 Q. And what is that date?  
7 A. September 28, 2005.  
8 Q. Is that the correct date?  
9 A. Yes, it is.  
10 Q. And for what location was that  
11 application submitted?  
12 A. 601 Kingland Drive, Batavia, Illinois  
13 60510.  
14 Q. Did you ever receive a Notice of  
15 Completeness from the Agency with respect to that  
16 application?  
17 A. Yes, I did.  
18 Q. What date did you receive that Notice  
19 of Completeness?  
20 A. November 3, 2005.  
21 Q. And to this date, Mr. Harrington, are  
22 you aware of any determination that has been made by  
23 the IEPA on that CAPP application?  
24 A. No.

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1 MS. NEWMAN: I think that's it for  
2 now. Thank you very much, Mr. Harrington.

3 MR. HEARING OFFICER: Thank you,  
4 Mr. Harrington.

5 Mr. Karr, any cross?

6 MR. KARR: Yes, just a couple  
7 questions.

8 CROSS-EXAMINATION

9 BY MR. KARR:

10 Q. Mr. Harrington, have operations  
11 continued at the facility during the pendency of  
12 this permit application?

13 A. Yes, they have.

14 Q. Did you prepare the permit  
15 application?

16 A. I was one of the people who prepared  
17 it. It was primarily under my direction.

18 Q. Were any outside engineers utilized?

19 A. Yes, there were.

20 MR. KARR: That's all I have.

21 MR. HEARING OFFICER: Thank you.

22 Ms. Newman, any redirect?

23 MS. NEWMAN: No.

24 MR. HEARING OFFICER: Do we want to

1 put anything in? Was that an Exhibit? Do  
2 you want to put anything in evidence? I



3 believe it was the affidavit.

4 MS. NEWMAN: Yes, we can mark that as  
5 Exhibit A.

6 MR. KARR: That's fine. It's already  
7 part of the Board's file.

8 MR. HEARING OFFICER: Petitioner's  
9 Exhibit A is admitted into evidence with no  
10 objection. Thank you.

11 (Document marked as  
12 Petitioner's Exhibit A  
13 offered and received in  
14 evidence.)

15 Dr. Harrington, you may step down  
16 or aside as the case may be.

17 We can go off the record for a  
18 second.

19 (Discussion off the record.)

20 MR. HEARING OFFICER: We're back on  
21 the record. Dr. Harrington has stepped down.  
22 Ms. Newman has indicated that is the  
23 petitioner's last witness, but the parties do  
24 want to make an oral stipulation into the

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1 record. Counsels?

2 MR. KARR: On behalf of the Illinois  
3 Environmental Protection Agency, we stipulate

4 to the fact that Partylite did submit the  
5 CAPP application on September 28, 2005. They  
6 received a Notice of Completeness on or about  
7 November 3, 2005, and as of the date of this  
8 hearing, there has been no determination made  
9 by the Illinois Environmental Protection  
10 Agency on that permit application.

11 MR. HEARING OFFICER: Thank you,  
12 Mr. Karr.

13 Ms. Newman, have you rested your  
14 case in chief?

15 MS. NEWMAN: Yes, I have.

16 MR. HEARING OFFICER: Thank you.

17 Mr. Karr?

18 MR. KARR: We have no rebuttal  
19 witnesses and we rest.

20 MR. HEARING OFFICER: Thank you.

21 With that said, we have talked off  
22 the record regarding the post-briefing  
23 hearing schedule. The statutory decision due  
24 date in this matter is March 20, 2008. The

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1 record will be closing February 20, 2008. I  
2 think by contract with the reporting service,  
3 the transcript is due, I think it's eight

4 business days, so that would be February 8th.  
5 But in any event, we've decided and agreed  
6 that there will be post-hearing, subcutaneous  
7 post-hearing opening briefs by the parties.  
8 Those briefs are due February 20th. The  
9 mailbox rule will not apply for that February  
10 20th, 2008 date. Anything else, Counsels,  
11 that I forgot?

12 MR. KARR: Nothing I have.

13 MR. HEARING OFFICER: Before I forget,  
14 I find no credibility issues with  
15 Dr. Harrington's testimony.

16 With that said, I think -- again,  
17 this is January 29, 2008, PCB 8-32 -- and  
18 with that said, I just want to thank  
19 everybody for their professionalism and  
20 civility. Have a safe drive home. Thank  
21 you.

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1 STATE OF ILLINOIS.)  
2 ) SS.  
3 COUNTY OF C O O K )  
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5 I, DENISE ANDRAS, being a Certified  
6 Shorthand Reporter doing business in the City of Des  
7 Plaines, Illinois, County of Cook, certify that I  
8 reported in shorthand the proceedings had at the  
9 foregoing hearing of the above-entitled cause. And  
10 I certify that the foregoing is a true and correct  
11 transcript of all my shorthand notes so taken as  
12 aforesaid and contains all the proceedings had at  
13 the said meeting of the above-entitled cause.

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DENISE ANDRAS, CSR  
CSR NO. 084-003437

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