

ILLINOIS POLLUTION CONTROL BOARD

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APR 14 2008

STATE OF ILLINOIS  
Pollution Control Board

EMERALD PERFORMANCE )  
MATERIALS, INC )  
(as purchaser of Noveon, Inc.) )  
Petitioner, )  
)  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

PCB 04-102  
(Permit Appeal – Air)

Via E-Mail and First Class Mail

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

John T. Therriault  
Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
100 W. Randolph Street  
Chicago, IL 60601

Sally A. Carter  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

NOTICE OF MOTION

**PLEASE TAKE NOTICE** that today I, Roy M. Harsch, have filed with the Clerk of the Office of the Illinois Pollution Control Board a **MOTION TO DESIGNATE TRANSCRIPT AS NON-TRADE SECRET** in this above titled matter. A copy is hereby served upon you.

BY:



\_\_\_\_\_  
Roy M. Harsch, One of its Attorneys

Dated: April 11, 2008

Roy M. Harsch, Esq. ARDC # 1141481  
Drinker Biddle & Reath LLP  
191 N. Wacker Drive - Suite 3700  
Chicago, IL 60606  
(312) 569-1451 (Telephone)  
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**MOTION TO DESIGNATE TRANSCRIPT AS NON-TRADE SECRET**

Petitioner by its attorneys, Drinker Biddle & Reath LLP, hereby requests that the Hearing Officer grant this motion to designate the transcript from the February 5, 2008 hearing in this matter including all of the exhibits with the exception of Exhibit 3 as non-trade secret. In support, of this motion Petitioner states as follows:

1. On February 5, 2008, the parties participated in a hearing in this matter at the Municipal Building, Council Chamber, 426 E. Park Row, in Henry, Illinois.
2. At the February 5, 2008 hearing, Mr. Roy Harsch, attorney for Petitioner, presented Exhibit 3 as evidence.
3. The information presented in Exhibit 3 is derived from the trade secret version of the Record filed by the Illinois EPA on April 27, 2007.
4. Based on Petitioner's review of the testimony provided and the exhibits accepted into evidence at the February 5, 2008 hearing, Petitioner asserts that the February 5, 2008 transcript of the hearing and the Exhibits other than Exhibit 3 do not contain information that would be deemed confidential and protected under trade secret provisions of the Illinois Pollution Control Board at 35 Ill. Adm. Code Part 130.

5. Petitioner requests that the transcript of the February 5, 2008 hearing and the Exhibits other than Exhibit 3 be reclassified as non-trade secret.

6. Illinois EPA does not oppose this motion.

Wherefore, Petitioner respectfully requests that the Hearing Officer grant this motion to designate the transcript of the February 5, 2008 hearing and Exhibits other than Exhibit 3 as non-trade secret.

Respectfully Submitted,

A handwritten signature in black ink that reads "Roy M. Harsch". The signature is written in a cursive style with a large initial "R" and "M".

---

Roy M. Harsch, One of the Attorneys for Petitioner

Dated: April 14, 2008

Roy M. Harsch, Esq. ARDC # 1141481  
Drinker Biddle & Reath LLP  
191 N. Wacker Drive - Suite 3700  
Chicago, IL 60606  
(312) 569-1451 (Telephone)  
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**CERTIFICATE OF SERVICE**

I, Roy M. Harsch, an attorney, hereby certify that on April 14, 2008 a copy of the foregoing Motion to Designate Transcript as Non-Trade Secret, was sent to the following via e-mail and First Class mail:

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
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Roy M. Harsch