

ILLINOIS POLLUTION CONTROL BOARD  
May 14, 2008

EMERALD PERFORMANCE MATERIALS, )  
L.L.C. (as purchaser of NOVEON, INC.), )  
 )  
Petitioner, )  
 )  
v. ) PCB 04-102  
 ) (CAAPP Permit Appeal)  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

**HEARING REPORT**

On February 5, 2008, a hearing was held in the above-captioned matter at the Municipal Building Council Chamber, 426 E. Park Row, Henry, Illinois. Attorney Roy Harsch appeared and participated on behalf of the petitioner. Attorney Sally Carter appeared and participated on behalf of the respondent.

**Preliminary Matters**

Prior to the hearing on February 5, 2008, it was agreed by the parties that the hearing would be closed to the public due to trade secret issues. The hearing officer attached a sign up sheet for public comment at the entrance of the hearing in the event of any interest by the public to give public comment at the appropriate time during the hearing. No one signed up to give comment.

On April 14, 2008, the petitioner filed a motion to designate transcript as non-trade secret. The petitioner stated that “based on petitioner’s review of the testimony provided and the Exhibits accepted into evidence... the transcript of the hearing and the Exhibits other than Exhibit 3, do not contain information that would be deemed confidential and protected under the trade secret provisions of the Illinois Pollution Control Board at 35 Ill. Adm. Code Part 130”. Motion at 1. The petitioner represented that the respondent did not oppose the motion. By order of April 23, 2008, the hearing officer granted the motion and stated that Exhibit 3 will be marked with the words Trade Secret in red ink on the face of the Exhibit.

It is further noted that Exhibit 3 was copied by the petitioner taken from Volume II of the Trade Secret copy of the record filed with the Board on April 27, 2007.

Finally, the respondent submitted pages 1276 through 1452 of Volume I of the Public copy of the record at the hearing because the respondent believes the pages were inadvertently

omitted from the initial filing on April 27, 2007. The pages are marked as Hearing Officer Exhibit A.

On April 29, 2008, the parties submitted a proposed post-hearing briefing schedule.

### **Witness Credibility**

Based upon my legal judgment, experience and observations at the hearing, I find that the credibility of the witnesses is not an issue in this matter.

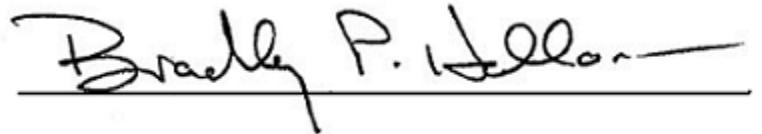
### **Exhibits**

A list itemizing the exhibits and their status is attached to this order.

### **Briefing Schedule**

A proposed post-hearing briefing schedule was submitted on April 29, 2008. The briefing schedule was accepted to the extent as follows. Petitioner's brief is due to be filed on or before June 6, 2008. The respondent's brief is due to be filed on or before July 7, 2008. Petitioner's reply brief is due to be filed on or before July 21, 2008. Public Comment is due to be filed on or before June 12, 2008. As of May 13, 2008, an open waiver of the statutory decision deadline is on file.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
100 W. Randolph Street  
Chicago, Illinois 60601  
312.814.8917

PCB 04-102  
February 5, 2008 Hearing

**Exhibit List**

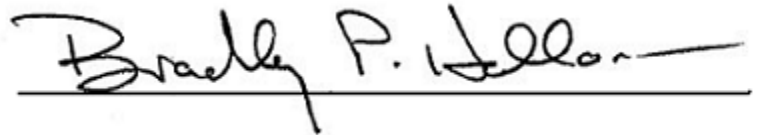
Exhibit	Description	Status
Hearing Officer Exhibit A	Pages 1276 through 1452 of Volume I of the Public copy of the record, filed April 27, 2007	Taken with the case
Petitioner's Exhibit A	Motion to Supplement the Record with attached Record. Note- Petitioner's motion was denied in a Hearing Officer order, dated February 4, 2008	Taken with the case as an Offer of Proof
Petitioner's Exhibit 1	Affidavit of Dan Punzak attached to respondent's response to petitioner's motion to supplement the record, filed January 29, 2008	Admitted
Petitioner's Exhibit 2	Letter dated September 6, 2001, from Bonnie Sawyer to Roy Harsch	Admitted
Petitioner's Exhibit 3 –Trade Secret	Process Schematic	Admitted

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on May 14, 2008, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on May 14, 2008:

John T. Therriault  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Ste. 11-500  
Chicago, Illinois 60601

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

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

PCB 2004-102  
Robb H. Layman  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

PCB 2004-102  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

PCB 2004-102  
Sally A. Carter  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

PCB 2004-102  
Roy M. Harsch  
DrinkerBiddleGardnerCarton  
191 N. Wacker Drive  
Suite 3700  
Chicago, IL 60606-1698

PCB 2004-102  
Steven J. Murawski  
DrinkerBiddleGardnerCarton  
191 N. Wacker Drive  
Suite 3700  
Chicago, IL 60606-1698

PCB 2004-102  
Bill Maupin  
1318 County Road  
1450 North  
Henry, IL 61537