

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JAN 22 2009

STATE OF ILLINOIS  
Pollution Control Board

APOLLO PLASTICS CORPORATION )

Petitioner )

v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )

Respondent. )

No. PCB 09-44

(Permit Appeal-Air)

NOTICE OF FILING

To: See attached service list.

PLEASE TAKE NOTICE that on January 22, 2009, we filed with the Illinois Pollution Control Board an original and nine (9) copies of Appearance of Harvey M. Sheldon and an Amended Petition for Hearing, pursuant to 415 ILCS 5/39, in the above-referenced matter on behalf of Apollo Plastics Corporation, a copy of which is hereby served upon you.

DATED: January 22, 2009

Respectfully submitted,

APOLLO PLASTICS CORPORATION

By: 

One of Its Attorneys

Harvey M. Sheldon, Esq.  
Hinshaw & Culbertson LLP  
222 North LaSalle Street  
Suite 300  
Chicago, IL 60601  
(312) 704-3000

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APPEARANCE OF COUNSEL

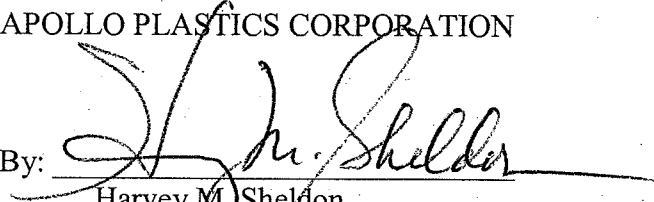
PLEASE TAKE NOTICE that I hereby file my appearance and that of my firm as counsel for the Petitioner Apollo Plastics Corporation in the above-captioned matter. Please serve me with all future orders, notice and pleadings to Apollo.

DATED: January 22, 2009

Respectfully submitted,

APOLLO PLASTICS CORPORATION

By:



Harvey M. Sheldon  
Hinshaw & Culbertson LLP

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JAN 22 2009

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

APOLLO PLASTICS CORPORATION	)	
	)	
Petitioner	)	
	)	
v.	)	No. PCB 09-44
	)	
ILLINOIS ENVIRONMENTAL	)	(Permit Appeal-Air)
PROTECTION AGENCY,	)	
	)	
	)	
Respondent.	)	

AMENDED PETITION FOR HEARING AND APPEAL OF DENIAL OF  
CONSTRUCTION PERMIT  
FOR POLLUTION CONTROL EQUIPMENT

NOW COMES, Petitioner Apollo Plastics Corporation ("Apollo"), by and through its attorneys, Harvey M. Sheldon and Hinshaw & Culbertson LLP, pursuant to Section 39 of the Illinois Environmental Protection Act, 415 ILCS 5/39 (the "Act") and Section 105.204(a) of the Illinois Administrative Code, 35 Ill. Adm. Code § 105.204(a), and petitions the Board for review of the Agency's denial of renewal of its Construction Permit Application covering air pollution control equipment.

In support thereof, Apollo states as follows:

1. This Amended Petition is a restatement of Count II of the Petition for Hearing originally filed November 25, 2008. This restatement is made pursuant to the Order of the Board entered January 8, 2009, in which the Board directed Petitioner to file amended petitions by February 9, 2009 presenting each Count of the original Petition as a separate petition.
2. Apollo was, until at least October 24, 2008, lawfully operating certain lines at its Chicago facility under the authority of a Construction Permit to install a Regenerative Thermal

Oxidation (RTO) system for control of Volatile Organic Material (VOM). The RTO was constructed and operating to assure maintenance and operation of Apollo as a minor source. The RTO continues so to operate.

3. The RTO system was tested in December 2007, and, on information and belief, the test results demonstrated to the Agency's satisfaction that the RTO operates as required. Given that Apollo's FESOP application had not yet been issued, earlier in 2008 Apollo requested that its RTO Construction Permit be renewed. However, the Agency issued a Construction Permit renewal denial on October 24, 2008, which was received by Apollo on October 29, 2008. A true copy of the action of Denial is attached as Exhibit A.

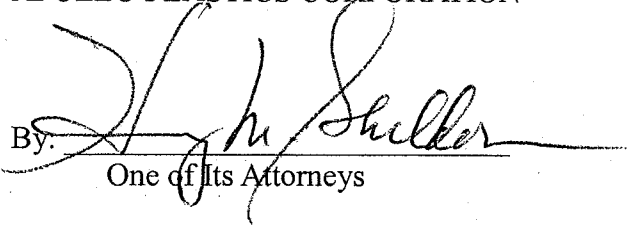
4. Although "information available to Illinois EPA" indicating that the "construction or modification of the equipment...has been completed" is referenced as possibly some part of the basis that the Agency used to deny the renewal of the Construction Permit for this system, the lack of possession of an operating permit is also cited. The denial states, in part, that "an operating permit is to be obtained prior to operation of any emission unit or air pollution control equipment for which a construction permit is required" and that the "permit application is denied because Sections 9 and 39 of the Illinois Environmental Protection Act and 35 Ill. Adm. Code 201.142 might be violated." As so stated, the denial of the renewal of the Construction Permit complained of in this Petition misstates the applicable law, and the denial also was arbitrary and capricious, because it is based on the Agency's own failure to timely act to issue the FESOP application that is the subject of appeal docketed as PCB 09-36.

WHEREFORE, Apollo petitions the Board for a hearing on the denial of the renewal of the Construction Permit application.

DATED: January 22, 2009

Respectfully submitted,

APOLLO PLASTICS CORPORATION

By:   
One of Its Attorneys

Harvey M. Sheldon  
Hinshaw & Culbertson LLP  
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Chicago, IL 60601  
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19506, SPRINGFIELD, ILLINOIS 62794-9506 - (217) 782-2113

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-2113



CERTIFIED MAIL

7007 0220 0000 0153 5314

PERMIT DENIAL

October 24, 2008

RECEIVED

OCT 29 2008

APOLLO PLASTICS

Apollo Plastics  
Attn: Larry Polleck  
5333 North Elston Avenue  
Chicago, Illinois 660630

Application No.: 06090077

I.D. No.: 031600FMK

Applicant's Designation:

Date Received: August 21, 2008

Subject: Molded Plastic Parts Coating Line (Renewal Request)

Date Issued: October 24, 2008

Location: 5333 North Elston Avenue, Chicago, Cook County

The Illinois EPA has reviewed your Application for Construction Permit for the above referenced project. The permit application is DENIED because Sections 9 and 39 of the Illinois Environmental Protection Act (Act) and 35 Ill. Adm. Code 201.142 might be violated.

The following are specific reasons why the Act and the Rules and Regulations may not be met:

1. Pursuant to 35 Ill. Adm. Code 201.143, an operating permit is to be obtained prior to operation of any emission unit or air pollution control equipment of any type for which a construction permit is required Pursuant to 35 Ill. Adm. Code 201.142. Information available to the Illinois EPA indicated that the construction or modification of the equipment described in this application has been completed. Consequently, your application for construction permit is hereby denied.

If you have any questions on this, please call German Barria at 217/782-2113.

*Edwin C. Bakowski*  
RMB

10/24/2008

Edwin C. Bakowski, P.E.  
Acting Manager of Permit Section  
Division of Air Pollution Control

ECB:GB:psj

cc: Region 1  
Ray Pilapil, CES

**CERTIFICATE OF SERVICE**

I, Kathryn Messina, hereby certify that I caused copies of the attached NOTICE OF FILING, APPEARANCES OF HARVEY M. SHELDON and AMENDED PETITION FOR HEARING to be served on:

**SERVICE LIST**

Clerk of the Board  
Attn: Mr. John Therriault  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
(Via Hand Delivery)

Christopher Grant, Esq.  
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Springfield, Illinois 62794

Maureen Wozniak, Esq.  
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P.O. Box 19276  
Springfield, Illinois 62794

by United States Mail, first-class postage affixed thereto, at 222 N. LaSalle Street, Chicago, Illinois 60601, first-class postage prepaid on January 22, 2009.

