

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

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FEB 23 2007

STATE OF ILLINOIS
Pollution Control Board

NORTH AMERICAN LIGHTING, INC., a)
Michigan corporation,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Respondent.)

79
PCB -07-XXXX
Permit Appeal - Air

NOTICE OF FILING

To: Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 W. Randolph Street, Ste. 11-500
Chicago, Illinois 60601

Mr. Ed Bakowski
Acting Manager, Permit Section
Illinois Environmental Protection Agency
Division of Air Pollution Control
1021 N. Grand Avenue, East
Springfield, Illinois 62702

PLEASE TAKE NOTICE that on February 23, 2007, pursuant to 35 Ill Adm. Code § 105.102(a), we filed with the Illinois Pollution Control Board an original and eleven (11) copies of the Permit Appeal and Request for Hearing regarding the Construction Permit, Application No.: 06100061 issued January 23, 2007. A copy of the **Permit Appeal and Request for Hearing** and **Appearances** are attached hereto and served upon you.

NORTH AMERICAN LIGHTING, INC.

By 
One of Its Attorneys

Jeryl L. Olson
James L. Curtis
SEYFARTH SHAW LLP
131 S. Dearborn Street, Suite 2400
Chicago, Illinois 60603
312-460-5000

Dated: February 23, 2007

(THIS FILING IS MADE ON RECYCLED PAPER)

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PCB -07-XXXX
Permit Appeal - Air

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of North American Lighting, Inc.

Respectfully submitted,

NORTH AMERICAN LIGHTING, INC.

By: 
Jeryl L. Olson

Jeryl L. Olson
Seyfarth Shaw LLP
131 S. Dearborn, Suite 2400
Chicago, Illinois 60603
312-460-5802

February 23, 2007

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Permit Appear – Air

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of North American Lighting, Inc.

Respectfully submitted,

NORTH AMERICAN LIGHTING, INC.

By: James L. Curtis
James L. Curtis

James L. Curtis
Seyfarth Shaw LLP
131 S. Dearborn, Suite 2400
Chicago, Illinois 60603
312-460-5802

February 23, 2007

(THIS FILING IS SUBMITTED ON RECYCLED PAPER)

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached PERMIT APPEAL AND REQUEST FOR HEARING, and APPEARANCES of Jeryl L. Olson and James L. Curtis this 23rd day of February 2007 upon:

VIA HAND DELIVERY

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 W. Randolph Street, Ste. 11-500
Chicago, Illinois 60601

VIA U.S. MAIL

Mr. Ed Bakowski
Acting Manager, Permit Section
Illinois Environmental Protection Agency
Division of Air Pollution Control
1021 N. Grand Avenue, East
Springfield, Illinois 62702


Jeryl L. Olson

3. A draft construction permit was issued by the Agency on January 19, 2007, and North American submitted comments to the Agency on January 22, 2007. The comments highlighted certain errors made by the Agency in paragraph 4(a) of the permit, including errors citing existing emissions limits, errors in the prospective emissions associated with the construction project, and errors in the post-construction total facility VOM emissions.

4. The Construction Permit ("Permit") was issued by the Agency the day following North American's comments, on January 23, 2007 (See, Exhibit B); that permit did not correct the errors identified by North American in its comments on January 22, 2007.

5. For the reasons set forth below, North American maintains that the erroneous existing emissions limits, emissions associated with the construction project, and post-construction total plantwide VOM emissions limits cited in paragraph 4(a) of the Construction Permit are critical errors because they are inconsistent with the Title V permit and other permits previously issued to North American. The contradictory emissions limits in various permits create confusion for North American, the public, USEPA and the Agency, by not stating a consistent standard by which to measure compliance, and thus presents potential enforcement and undue hardship for North American. Further, the errors, if accepted as true, would limit emissions below levels at which the facility can operate, and would affect the facility's ability to make modifications in the future.

- a. First, paragraph 4(a) indicates that the construction permit seeks increased annual permitted emissions of 98.8 tons per year VOM; this is an error. The construction permit submitted to the Agency actually seeks limits of 84.44 tpy VOM associated with new spray booths, and 4.62 tpy VOM associated with new molding units, for a total 89.06 tpy new VOM emissions (See, the Permit

Application Project Summary, page 3 of Exhibit A; for clarity, the Project Summary is separately reproduced in Exhibit C). Because North American's construction permit application specified increased emissions of only 89.06 tpy VOM, the construction permit issued by the state overstates emissions relating to the new construction by 9.74 tons. Such overstatement potentially affects North American's ability to make future modifications to its plant under Agency rules for permitting under without New Source Review and PSD. Because there is no basis for the Agency to arbitrarily increase the emissions limits for the new sources beyond the limits sought by North American Lighting in its application, such action by the Agency is arbitrary and capricious.

- b. Second, paragraph 4(a) erroneously states the permitted emissions for the existing sources are 109.9 tpy; again, this is an error. As shown in the facility's Title V Permit No. 04020028 dated December 1, 2005, (See, Exhibit D) which has undergone Public Notice and Comment and USEPA review, and under which permit North American Lighting has been operating since December 1, 2005 the VOM emissions limit for existing molding processes is 12 tpy (See page 19, paragraph 7.1.6(b)(i)), and the VOM emissions for existing coating lines is 144 tons per year (See page 24, paragraph 7.2.6(b)(i)). Thus, in the Title V Permit, the combined existing VOM emissions for the plant are 156 tpy. This limit is accurately represented in the Construction Permit Application, as shown in the Project Summary (See, Exhibits B and C).

The erroneous statement in the construction permit that the total existing source emissions are 109.9 tpy understates the plantwide permitted emissions by 46.1 tpy; this is a significant error. It is unreasonable for the Agency to issue a construction permit which identifies existing limits as 46.1 tpy VOM less than allowed under the Title V permit, and this inconsistency presents an undue hardship on North American Lighting because it puts the Company at enforcement risk, without a clear standard to be used for determining compliance.

- c. Because in the construction permit IEPA understated existing emissions by 46.1 tpy, and overstated new emissions increases associated with the construction project by 9.74 tpy, paragraph 4 erroneously calculates post-construction total plantwide VOM emissions limits as 208.7 tpy. In fact, total permitted VOM emissions for the Paris facility, post construction will be 245.06 tpy (existing permitted VOM emissions as set forth in the Title V permit are of 156 tpy; adding the construction permit limits of 89.6 tpy equals 245.06 tpy). This total 245.06 tpy limit is clearly set forth in the Construction Permit application and Project Summary sheets in Exhibits B and C.

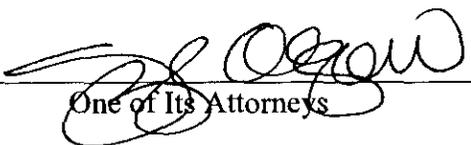
The error made by IEPA identifying post-construction emissions of 208.7 tpy, compared to the correct limits 245.06 tpy, is another 36.36 tpy error by the Agency. This 36.36 ton per year difference between what the permit should say, and does say, is not insignificant; such difference affects North American's operations, and its ability to make modifications in the future. There is no reasonable basis for the imposition of this limitation by IEPA, and thus, this error

is an arbitrary and capricious action by the Agency, resulting in undue hardship to North American.

6. It is the position of North American that all the errors in the Construction Permit paragraph 4(a) need to be corrected. The Construction Permit needs to correctly present the existing emissions, expected emissions associated with the new construction, and the post-construction plantwide VOM emissions limits. Because the emissions limits set forth in paragraph 4(a) are in error, and there is no basis for the Agency action arbitrarily altering limits, the Agency's actions are arbitrary, capricious, without merit, and pose an unreasonable hardship on North American.

7. For the reasons set forth above, North American hereby requests a hearing on this Appeal, and requests an Order from the Board requiring the Agency to issue to North American Lighting a Construction Permit correcting the errors in the permit and reflecting the changes herein.

NORTH AMERICAN LIGHTING, INC.

By  _____
One of Its Attorneys

Jeryl L. Olson
James L. Curtis
SEYFARTH SHAW LLP
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Dated: February 23, 2007