

ILLINOIS POLLUTION CONTROL BOARD

January 28, 2009

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 00-211
	)	(RCRA Enforcement)
TOYAL, INC. f/k/a ALCON-TOYO	)	
AMERICA INC., a foreign corporation,	)	
	)	
Respondent.	)	
	)	

**HEARING REPORT**

On December 10 and 11, 2008, a hearing in this matter was held at the Village of Bolingbrook, Board Room, 375 W. Briarcliff Road, Bolingbrook, Illinois. Assistant Attorneys General Christopher J. Grant and Vanessa Vail, appeared and participated on behalf of the complainant. Attorneys Roy M. Harsch and Yesenia Villaseñor-Rodriguez, appeared and participated on behalf of respondent, Toyal, Inc. f/k/a Alcon-Toyo America., a foreign corporation (Toyal).

**Preliminary Matters**

On December 10, 2008, the respondent submitted a Motion to Include Witnesses' Narrative Testimony. The narrative testimony attached to the motion included testimony of Barry Van Hoose, Raymond J. Malmgren, Steve Anderson, Dennis Dobrodt and Christopher McClure (includes revised expert report, dated December 1, 2008). On December 10, 2008, the complainant orally objected, on record, to respondent's motion. For the reasons set forth on record at the hearing on December 10, 2008, respondent's motion to include witnesses' narrative testimony was denied, however, the motion and attached narrative testimony was taken as an offer of proof and marked as Hearing Officer Exhibit 1.

Also on December 10, 2008, the respondent's submitted a Motion to Allow Mr. McClure to Amend its Expert Witness Report. McClure's one page amendment is attached to respondent's motion. Respondent's motion was marked as Hearing Officer Exhibit 3. Complainant submitted a Motion to Exclude Late-Disclosed Expert Opinion at the hearing on December 10, 2009. Complainant's motion was marked as Hearing Officer Exhibit 2. For the reasons set forth on record at the hearing on December 10, 2008, the complainant's motion was granted, however, the one page amendment attached to the respondent's motion was taken as an offer of proof.

**Witness Credibility**

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

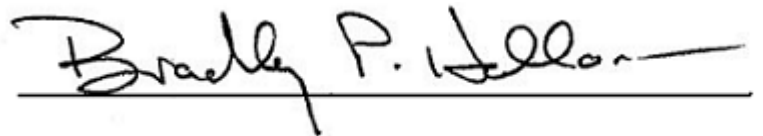
**Exhibits**

An exhibit list itemizing the offered exhibits and summarizing their status is attached to this order.

**Briefing Schedule**

A briefing schedule was discussed and agreed to subsequent the hearing. The complainant's post-hearing brief is due to be filed on or before February 16, 2009. The respondent's post-hearing brief is due to be filed on or before March 31, 2009. The complainant's reply, if any, is due to be filed on or before April 14, 2009. Public comment is due to be filed on or before February 23, 2009.

IT IS SO ORDERED.

A handwritten signature in dark ink, reading "Bradley P. Halloran", is written over a 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 00-211

December 10, 11, 2009, Hearing**Exhibit List**

Exhibit	Description	Status
Hearing Officer Exhibit 1	Respondent's Motion to Include Narrative Testimony with Testimony attached	Denied Motion, attached Narrative Testimony taken as Offer of Proof
Hearing officer Exhibit 2	Complainant's Motion to Exclude Late-Dislosed Expert Opinion	Granted
Hearing officer Exhibit 3	Respondent's Motion to Allow Mr. McClure to Amend its Expert Witness Report and a 1 page attachment	Denied Motion, attached Amendment of Analysis of Economic Benefit taken as an Offer of Proof
Complainant's Exhibit 17	Toyal's Response to Request to Admit Facts, file stamped November 12, 2008	Admitted
Complainant's Exhibit 20	Resume of Gary Styzens and attached Revised Economic Benefit Analysis, dated March 29, 2006	Admitted
Complainant's Exhibit 21	CAAPP Application, dated February 1996	Admitted
Complainant's Exhibit 22	Toyal Construction Permit, date issued, May 30, 2001	Admitted
Respondent's Exhibit 2	Toyal Financial Report, dated, December 31, 2007	Admitted
Respondent's Exhibit 3	Chronological Data For Installation of V.O.C. Unit	Admitted
Respondent's Exhibit 4	Agency Letter to Roy Harsch, dated December 21, 2006	Admitted
Respondent's Exhibit 5	Stack Test Document, dated December 30, 1998	Admitted

Respondent's Exhibit 7	Agency and Toyal Meeting Document, dated May 2, 2007	Admitted
Respondent's Exhibit 8	Document re: Information requested by Agency, dated May 2, 2007	Admitted
Respondent's Exhibit 9	Letter from Toyal re; Additional Information for Permit Extension, dated February 19, 2002	Admitted
Respondent's Exhibit 10	Letter from Toyal re; Additional Information for Permit Extension, dated February 26, 2002	Admitted
Respondent's Exhibit 11	Agency Letter to Toyal re: Construction Permit, date issued, March 8, 2002	Admitted
Respondent's Exhibit 12	Letter from Toyal to Agency re; Request for 180-Day Extension, dated August 19, 2002	Admitted
Respondent's Exhibit 13	Letter from Toyal re: Agency October 9, 2002 Letter	Admitted
Respondent's Exhibit 14	Agency Letter to Toyal re: Revised Construction Permit, date issued November 18, 2002	Admitted
Respondent's Exhibit 16	Resume of Stephen B. Anderson	Admitted
Respondent's Exhibit 17	Construction Permit, date issued May 30, 2001	Admitted
Respondent's Exhibit 18	FESOP Permit, date issued November 25, 2003	Admitted
Respondent's Exhibit 19	Construction Permit Grant, date issued June 6, 2005	Admitted
Respondent's Exhibit 21	Resume of Christopher T. McClure	Admitted
Respondent's Exhibit 22 (a)	Economic Benefit Analysis- Binder 1	Admitted
Respondent's Exhibit 22 (b)	Economic Benefit Analysis – Binder 2- Capital Expenditures	Admitted
Respondent's Exhibit 23	Expert Report of Christopher McClure, dated December 1, 2008	Taken as an Offer of Proof
Respondent's Exhibit 24	Analysis of Economic Benefit (15 pages)	Taken as Offer of Proof
Respondent's Exhibit 25	Analysis of Economic Benefit (1 page)	Taken as Offer of Proof
Respondent's Exhibit 27	Clarification of the Use of Appendix I of the Clean Air Act document	Admitted

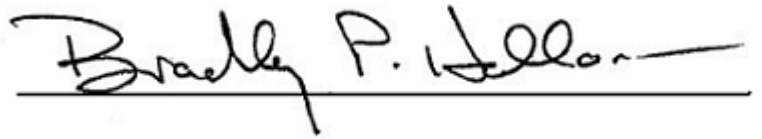
Respondent's Exhibit 28	"Leveling The Playing Field", re: Economic Benefit document	Admitted
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## CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on January 28, 2009, 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 January 28, 2009:

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, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
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100 West Randolph Street, Suite 11-500  
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312.814.8917

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