

ILLINOIS POLLUTION CONTROL BOARD  
February 4, 2020

IN THE MATTER OF: )  
)  
PETITION OF EMERALD POLYMER ) AS 19-2  
ADDITIVES, LLC, FOR AN ADJUSTED ) (Adjusted Standard- Water)  
STANDARD FROM 35 ILL. ADM. CODE )  
304.122(b) )

**HEARING REPORT**

On January 14, 2020, a hearing in this matter was convened at Lacon City Hall in Marshall County, Illinois. Attorneys Thomas Dimond and Kelsey Weyhing appeared on behalf of petitioner. Attorneys Rex Gradeless and Christine Zeivel appeared on behalf of the Illinois Environmental Protection Agency. The hearing was continued in Lacon on January 15, 2020; and further continued in Springfield, Illinois on February 3-4, 2020. The Springfield portion of the hearing was video conferenced in Chicago.

Witnesses

Seven witnesses testified during the hearing:  
Mr. Galen Hathcock, Henry Plant Director  
Mr. T. Houston Flippin, Petitioner's Expert  
Mr. Gary Bingenheimer, IEPA  
Mr. Brian Koch, formerly IEPA  
Mr. Scott Twait, IEPA  
Mr. Mark Liska, IEPA  
Mr. Chris Wrobel, Emerald

Mr. Richard Pinneo, formerly IEPA, made a public comment at hearing.

Exhibits

The parties offered exhibits as evidence at hearing. An exhibit list itemizing the offered exhibits and summarizing their status is attached to this order. Petitioner objected to the Agency's offer of evidence depositions and petitioner's financial statements. The exhibits were admitted as non-disclosable information. The parties were reminded to file exhibits electronically pursuant to 35 Ill. Adm. Code 101.627.

Briefing Schedule

The parties' briefs are due by March 11, 2020, and response briefs are due by March 25, 2020. The public comment deadline is February 21, 2020.

IT IS SO ORDERED.

Carol Webb

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Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
217/524-8509  
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**AS 19-2**  
**January 14-15, February 3-4, 2020 Hearing**

**Exhibit List**

Exhibit	Description	Status
Petitioner's Exhibit #1	Written testimony of Galen Hathcock	Admitted
Petitioner's Exhibit #2	Annual summaries of the daily monitoring results (DMRs) used to file reports with IEPA for 2013-June 2019, Bates EP002706-003111	Admitted
Petitioner's Exhibit #3	Summary of Ammonia Samples, Bates EP003096-003099	Withdrawn
Petitioner's Exhibit #4	Emerald's letter reports to IEPA, pursuant to AS 02-5 and AS 13-2, Bates EP002785-002804 and EP003514-003551	Admitted
Petitioner's Exhibit #5	Violation Notice W-2015-50227, Emerald's compliance commitment agreement and compliance statement, Bates EP002932-002945	Admitted
Petitioner's Exhibit #6	Violation Notice W-2019-50007, Emerald's compliance commitment agreement and compliance statement, Bates EP002947-002951, EP003503-003513, EP003479-003486	Admitted
Petitioner's Exhibit #7	Block flow diagram of Henry Plant's current wastewater treatment system	Admitted
Petitioner's Exhibit #8	Emerald's cover letters to IEPA and lab reports of WET test results, Bates EP002839-002912, EP003238-003248, EP003487-003501	Admitted
Petitioner's Exhibit #9	Written expert testimony of T. Houston Flippin	Admitted
Petitioner's Exhibit #10	Resume of T. Houston Flippin	Admitted
Petitioner's Exhibit #11	April 17, 2018 cover letter to IEPA and April 13, 2018 Brown and Caldwell Technical Memorandum, Bates EP003514-003551	Admitted
Petitioner's Exhibit #12	T. Houston Flippin's October 11, 2019 Expert Report	Admitted
Petitioner's Exhibit #13	Henry Plant DMRs for July-December 2019	Admitted
Petitioner's Exhibit #14	Updated Summary of Ammonia Samples	Admitted
Petitioner's Exhibit #15	Sample data	Admitted
Petitioner's Exhibit #16	Sample data; plant overview	Admitted

Petitioner's Exhibit #17	(None offered)	N/A
Petitioner's Exhibit #18	(None offered)	N/A
Petitioner's Exhibit #19	Letter from IEPA to Citgo dated June 10, 2016	Admitted
Petitioner's Exhibit #20	(None offered)	N/A
Petitioner's Exhibit #21	Email from Mark Winters to Houston Flippin, et.al. dated September 17, 2019	Admitted
Petitioner's Exhibit #22	35 Ill. Adm. Code 370	Admitted
Petitioner's Exhibit #23	Design and Operation of Farm Irrigation Systems- Table	Admitted
Agency's Exhibit #1	Project description chart, IEPA Bates #1-4	Admitted
Agency's Exhibit #2	October 23, 2012 Memorandum to Mark Liska from Brian Koch	Admitted
Agency's Exhibit #3	June 16, 2015 Memorandum to Mark Liska from Brian Koch	Admitted
Agency's Exhibit #4	Sources and Users Flow Diagram	Admitted
Agency's Exhibit #5	(None offered)	N/A
Agency's Exhibit #6	(None offered)	N/A
Agency's Exhibit #7	DMR data	Admitted
Agency's Exhibit #8	Algaewheel information	Admitted
Agency's Exhibit #9A	Deposition of Amy Harding	Admitted as Non-Disclosable Information
Agency's Exhibit #9B	Petitioner's financial statement	Admitted as Non-Disclosable Information
Agency's Exhibit #10	Deposition of Edward Gotch	Admitted as Non-Disclosable Information
Agency's Exhibit #11A	Combined Financial Statements and Report for Emerald Performance Materials dated December 31, 2016 and 2015	Admitted as Non-Disclosable Information
Agency's Exhibit #11B	Combined Financial Statements and Report for Emerald Performance Materials dated December 31, 2017 and 2016	Admitted as Non-Disclosable Information
Agency's Exhibit #11C	Combined Financial Statements and Report of Emerald Performance Materials dated December 31, 2018 and 2017	Admitted as Non-Disclosable Information

Agency's Exhibit #12	August 1, 2019 Email from Houston Flippin to Thomas Dimond re: Expert Testimony	Admitted
Agency's Exhibit #13A	August 19, 2019 Letter Proposal to Galen Hathcock from Houston Flippin	Admitted
Agency's Exhibit #13B	August 26, 2019 Letter Proposal to Galen Hathcock from Houston Flippin	Admitted
Agency's Exhibit #14	September 5, 2019 Email from Houston Flippin to Thomas Dimond	Admitted
Agency's Exhibit #15	Identical document as Petitioner's Exhibit #12	Withdrawn
Agency's Exhibit #16	2017 NACWA Financial Survey	Admitted
Agency's Exhibit #17	AACE International Recommended Practice 18R-97: Cost Estimate Classification System	Admitted
Agency's Exhibit #18	Deposition of Mark Winters	Admitted
Agency's Exhibit #19	Article re: Soybean Peroxidase-Catalyzed Removal of an Aromatic Thiol, 2-Mercaptobenzothiazole from Water	Admitted
Agency's Exhibit #20	ExxonMobil Permit dated July 20, 2007	Admitted

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e-mailed on February 4, 2020, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on February 4, 2020:

Don A. Brown  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Ste. 11-500  
Chicago, Illinois 60601



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