

**RECEIVED**  
CLERK'S OFFICE  
SEP 24 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
v. )  
)  
NATIONAL MATERIAL L. P., an )  
Illinois limited partnership, )  
d/b/a NATIONAL LAMINATION )  
COMPANY, and NM HOLDING, INC., )  
a Nevada corporation, )  
)  
Respondents. )

STATE OF ILLINOIS  
Pollution Control Board

PCB 01-02  
(Enforcement)

**NOTICE OF FILING**

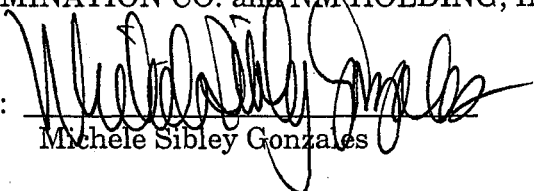
TO: VIA FACSIMILE and U.S. MAIL  
Bradley P. Halloran, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601  
Fax: 814-3669

VIA FACSIMILE and U.S. MAIL  
Paula Becker Wheeler  
Assistant Attorney General  
Office of the Attorney General  
Environmental Bureau  
188 W. Randolph Street, Suite 2001  
Chicago, IL 60601

VIA FACSIMILE and U.S. MAIL  
Dorothy M. Gunn  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601

PLEASE TAKE NOTICE that on September 22, 2003, the undersigned filed the attached Motion to Amend the Discovery Schedule with the Clerk of the Pollution Control Board. A copy of this document is attached and served upon you herewith.

NATIONAL MATERIAL L.P. d/b/a NATIONAL  
LAMINATION CO. and NM HOLDING, INC.

By:   
Michele Sibley Gonzales

Michele Sibley Gonzales  
Holland & Knight LLC  
131 S. Dearborn Street, 30<sup>th</sup> Floor  
Chicago, IL 60603  
(312) 236-3600

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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COMPANY, and NM HOLDING, INC., )  
a Nevada corporation, )  
)  
Respondents. )

No. PCB 01-02  
(Enforcement - Air)

**RESPONDENTS' MOTION TO AMEND THE DISCOVERY SCHEDULE**

Respondents, NATIONAL MATERIAL L.P. d/b/a NATIONAL LAMINATION CO., and NM HOLDING, INC., by their attorneys, move for entry of an order amending the initial discovery schedule in this matter, as follows:

1. This matter arises out of Respondents' voluntary disclosure of its non-compliance with certain regulations. After rejecting Respondents' Compliance Commitment Agreement, Complainant filed this action and in January 2003, Complainant amended its Complaint. The first four counts of the five count Amended Complaint are not contested and the parties have been attempting to resolve, at a minimum, the uncontested counts.
2. On July 2, 2003, a Hearing Officer Order was entered setting a discovery schedule in this matter. All written discovery was to be served by July 21, 2003, with responses provided by August 29, 2003. Depositions of non-expert witnesses were to be completed by October 17, 2003 and expert depositions were to

be completed by November 21, 2003. All discovery was scheduled to be completed by December 31, 2003. (Order attached hereto as Exhibit A.)

3. On or around September 11, 2003, during a telephone conference between counsel for Complainants, Paula Becker Wheeler, and counsel for Respondents, Michele Sibley Gonzales, Ms. Wheeler advised she had not yet received discovery requests or responses from Respondents.

4. On Wednesday, September 17, 2003, Respondents' counsel requested that Complainant's counsel agree to an extension of the initial discovery deadlines however the parties were unable to reach an agreement regarding the same.

5. Through mere inadvertence, the written discovery deadlines were not met by counsel for Respondents. Following a law firm merger and move to new offices in March, 2003, Ms. Gonzales was assigned this matter in late spring, as well as being assigned as the attorney primarily responsible for approximately 24 other files, in addition to her regular case load. Ms. Gonzales has also been involved in preparing for trial as lead counsel in a matter originally set to commence trial on July 7, 2003, which has since been continued, entitled *Basile v. Haggerty Pontiac, General Motors Corporation, et al.*, DuPage County Case No. 01 CH 1186. See Affidavit of Michele Sibley Gonzales, attached hereto as Exhibit B.

6. While an office move and a sudden increase in caseload is not dispositive of this motion, the facts set forth in Paragraph 3, indicate that Ms. Gonzales' failure to meet the initial discovery schedule in this matter was not intentional, but rather was a result of mere inadvertence.

7. There has been no trial date set in this matter.

8. This is the first request by Respondents to amend the initial discovery schedule in this matter and this amended discovery schedule is not sought to delay this matter nor sought for any other improper purpose.

9. Complainants will not suffer any undue hardship or prejudice as a result of this amended discovery schedule as there has no trial date set and the parties can still complete discovery by the original discovery completion date of December 31, 2003.

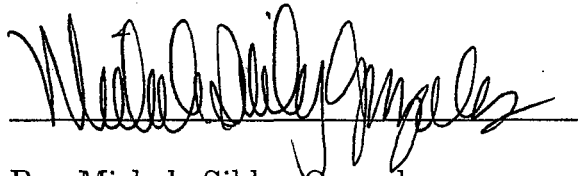
10. For this reason, Respondents request that the initial discovery schedule be amended, as follows:

- (1) Respondents must serve their discovery requests upon Complainant by Wednesday, September 24, 2003;
- (2) Respondent to provide its written discovery responses to Complainants' initial discovery by October 13, 2003;
- (3) Depositions of all non-experts to be completed by November 17, 2003;
- (4) Depositions of all experts to be completed by December 24, 2003;
- (5) All discovery shall be completed by December 31, 2003.

WHEREFORE, Respondents, National Material L.P. d/b/a/ National Lamination Company, and NM Holding, Inc., requests this Motion to Amend the Initial Discovery Schedule be granted and that an order be entered setting forth the amended schedule as set forth in Paragraph 10 above.

Respectfully submitted,

NATIONAL MATERIAL L.P., d/b/a  
NATIONAL LAMINATION COMPANY  
NM HOLDING, INC.

A handwritten signature in black ink, appearing to read "Michele Sibley Gonzales", is written over a horizontal line.

By: Michele Sibley Gonzales

ILLINOIS POLLUTION CONTROL BOARD  
July 2, 2003

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STATE OF ILLINOIS  
Pollution Control Board

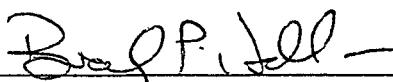
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v. ) PCB 01-2  
) (Enforcement - Air)  
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limited partnership d/b/a NATIONAL )  
LAMINATION COMPANY, and NM )  
HOLDING, INC., a Nevada corporation, )  
)  
Respondents. )

**HEARING OFFICER ORDER**

On June 20, 2003, the parties submitted an agreed discovery schedule. The discovery schedule is accepted to the extent as follows: all written discovery to be served on or before July 21, 2003; responses to written discovery to be served on or before August 29, 2003; depositions of all non-experts to be completed on or before October 17, 2003; depositions of all experts to be completed on or before November 21, 2003; all discovery to be completed on or before December 31, 2003.

The parties are reminded that a telephonic status conference is set for July 17, 2003, at 10:45 a.m. The status conference must be initiated by the complainant, but each party is nonetheless responsible for its own appearance. At the status conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing. The parties are to discuss outstanding discovery and propose possible hearing dates at the next status conference.

IT IS SO ORDERED.

  
\_\_\_\_\_  
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

## CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, to each of the following on July 2, 2003:


Mark J. Steger  
Holland & Knight LLC  
131 S. Dearborn Street  
30th Floor  
Chicago, IL 60603

Cyrus Tang, President  
NM Holding, Inc.  
3773 Howard Hughes Parkway  
Suite 350N  
Las Vegas, NV 89109

Paula Becker-Wheeler  
Assistant Attorney General  
Office of the Attorney General  
Environmental Bureau  
188 W. Randolph Street  
20th Floor  
Chicago, IL 60601

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on July 2, 2003:

Dorothy M. Gunn  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Ste. 11-500  
Chicago, Illinois 60601

  
\_\_\_\_\_  
Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
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COMPANY, and NM HOLDING, INC., )  
a Nevada corporation, )  
)  
Respondents. )

**AFFIDAVIT OF MICHELE SIBLEY GONZALES**

I, MICHELE SIBLEY GONZALES, being first duly sworn upon oath, state that if I were called to testify in this matter, based on personal knowledge, I would testify as follows:

1. I am the attorney primarily responsible for the trial of this matter on behalf of Respondents, NATIONAL MATERIALS L.P. d/b/a NATIONAL LAMINATION CO., and NM HOLDING, INC., with the assistance of my partner, Mark Steger.

2. On or around September 11, 2003, during a telephone conference between counsel for Complainants, Paula Becker Wheeler, and counsel for Respondents, Michele Sibley Gonzales, I realized that I had in advertently failed to meet the initial written discovery deadlines set forth in the order entered on July 2,



2003 when Ms. Wheeler advised me that she had not yet received discovery requests or responses from Respondents.

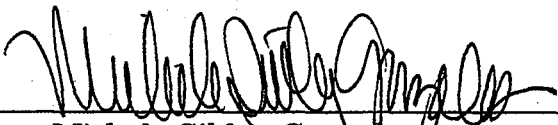
3. On Wednesday, September 17, 2003, I requested that Complainant's counsel agree to an extension of the initial discovery deadlines however the parties were unable to reach an agreement regarding the same.

4. Through mere inadvertence, I failed to comply with the initial the written discovery deadlines. While I regret the circumstances leading to this situation, the missed deadline was a matter of mere inadvertence and not intentional delay. Since my law firm merger and move to new offices in March, 2003, I was assigned this matter in late spring, as well as approximately 24 other files, in addition to my regular case load.

5. In late June and early July, 2003 I was also involved in preparing for trial as lead counsel in a matter originally set to commence trial on July 7, 2003, which has since been continued, entitled *Basile v. Haggerty Pontiac, General Motors Corporation, et al.*, DuPage County Case No. 01 CH 1186.

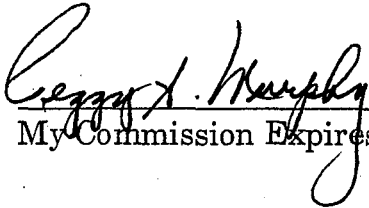
6. This is Respondents' first request to amend the discovery schedule in this matter and this request is not sought to delay this matter or sought for any other improper purpose.

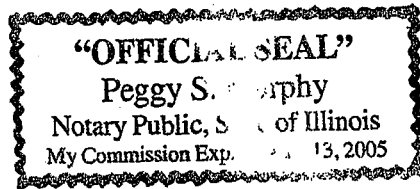
FURTHER AFFIANT SAYETH NAUGHT.

  
Michele Sibley Gonzalez

STATE OF ILLINOIS    )  
                                  ) SS  
COUNTY OF COOK    )

SUBSCRIBED and SWORN to before  
me a Notary Public this 22nd day  
of September, 2003.

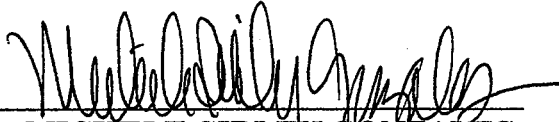
  
My Commission Expires: 8/13/2005



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**CERTIFICATE OF SERVICE**

I, Michele Sibley Gonzales, an attorney in this matter, do certify that on this 22nd day of September 2003, I caused to be served the foregoing Notice of Filing and Respondents' Motion to Amend the Discovery Schedule, upon the person named within by facsimile and U.S. Mail.

  
MICHELE SIBLEY GONZALES

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