



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

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CLERK'S OFFICE

APR 27 2007

STATE OF ILLINOIS  
Pollution Control Board

NOVEON, INC.,

ORIGINAL

Petitioner,

v.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Respondent.

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PCB 2004-102  
(Permit Appeal - Air)

**MOTION FOR LEAVE TO FILE PARTIAL ADMINISTRATIVE RECORD**

The Respondent, Illinois Environmental Protection Agency ("Illinois EPA"), by and through its attorneys and pursuant to 35 Ill. Adm. Code 101.500, files with the Illinois Pollution Control Board ("Board") this Motion for Leave to File Partial Administrative Record ("Administrative Record") in this cause.

1. Acting in accordance with its authority under the Clean Air Act Permit Program ("CAAPP") provisions of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/39.5(2002), the Illinois EPA issued a CAAPP and Title I permit to Noveon, Inc. ("Noveon") on November 24, 2003. The permit authorized the operation of an organic chemical manufacturing plant located in rural Henry, Marshall County, Illinois.

2. On December 24, 2003, Petitioner filed a petition before the Board challenging certain permit conditions contained within the CAAPP permit issued by the Illinois EPA.

3. On March 29, 2007, the parties participated in a status call with the Hearing Officer. In the status "[t]he petitioner represented that it will have internal discussions within the next few days to discuss the recent correspondence from the

respondent. It anticipates that it will withdraw all outstanding issues save one.” *See, Hearing Officer Order*, dated March 29, 2007. In the same order, the Hearing Officer directed the Illinois EPA to file the Administrative Record on or before April 27, 2007. *Id.*

4. In an electronic mail dated April 8, 2007, Petitioner’s counsel informed the undersigned that Petitioner agreed to drop all contested issues except the SO<sub>2</sub> issue. (ie., the applicability of 35 Ill. Adm. Code 214.301 and 214.382 to the condenser in the MBT-C process). To date, Petitioner’s counsel has not yet filed a Motion to Voluntarily Dismiss those issues.

5. Given that other information relied upon by the Illinois EPA is not relevant to the SO<sub>2</sub> issue but involves other non-contested sections of the CAAPP or contested sections of the CAAPP that will likely be withdrawn, and involves a considerable amount of additional material, the Illinois EPA is seeking leave to limit the Administrative Record to the SO<sub>2</sub> issue.

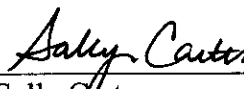
6. The undersigned attorney conferred with Petitioner’s counsel, Mr. Roy Harsch, on March 28, 2007, concerning the scope of the Administrative Record and was informed that the focus of the record should be on the SO<sub>2</sub> issue. This attorney left a message for Mr. Harsch on April 24, 2007, seeking to confirm that Petitioner had no objection to the relief sought herein. On April 25, the undersigned attorney learned that Mr. Harsch is out of the office on business. As such, the Respondent has not had an opportunity to confirm that Petitioner has no objection to the requested relief.

7. Based on the foregoing, the Illinois EPA formally seeks leave to limit the Administrative Record to the SO<sub>2</sub> issue. In the event Petitioner elects not to withdraw

the other outstanding issues and upon notification to the Illinois EPA, the agency would file the remainder of the Administrative Record within a reasonable period of time. The granting of this Motion for Leave to File Partial Administrative Record will ensure that a considerable amount of additional material is not needlessly filed but will further minimize any potential administrative burdens associated with the maintenance and storage of additional trial boxes for this appeal.

WHEREFORE, the Illinois EPA respectfully requests that the Board grant this Motion for Leave to File Partial Administrative Record.

Respectfully submitted by,

  
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Sally Carter  
Assistant Counsel

Dated: April 26, 2007  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
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 PROTECTION AGENCY, )  
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 Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB 2004-102  
(Permit Appeal - Air)

ADMINISTRATIVE RECORD

The Respondent, Illinois Environmental Protection Agency ("Illinois EPA"), by and through its attorneys in accordance with the Hearing Officer's ("HRO") Order of March 29, 2007, files its Administrative Record ("Administrative Record") in this cause.

Acting in accordance with its authority under the Clean Air Act Permit Program ("CAAPP") provisions of the Illinois Environmental Protection Act (hereinafter "Act"), 415 ILCS 5/39.5(2002), the Illinois EPA issued a CAAPP and Title I permit to Noveon, Inc. ("Noveon") on November 24, 2003. The permit authorized the operation of an organic chemical manufacturing plant located in rural Henry, Marshall County, Illinois. On December 24, 2003, Petitioner filed a petition before the Board challenging certain permit conditions contained within the CAAPP permit issued by the Illinois EPA.

In accordance with the HRO's Order of March 29, 2007, four copies and an original of the Administrative Record are filed with the Board. However, based on communication with Petitioner's counsel, the Respondent understands that the sole contested issue involves the applicability of 35 Ill. Adm. Code 214.301 and 214.382 to the condenser in the MBT-C process ("the SO2 issue"). *See, Motion for Leave to File*

*Partial Administrative Record.* Given that other information relied upon by the Illinois EPA is not relevant to this issue but involves other non-contested sections of the CAAPP or soon to be withdrawn contested sections of the CAAPP, and involves a considerable amount of additional material, the Illinois EPA limited this Administrative Record to the SO<sub>2</sub> issue.

This Administrative Record generally consists of non-privileged documents and communications, as made known and available to the undersigned attorney through other Illinois EPA personnel, that formed the basis for the permit determination. Due to a number of trade secret claims made by the Petitioner, this Administrative Record consists of two volumes, a public version and a trade secret version.

Volume I is a copy of information consisting of, among other things, a redacted version of Noveon's CAAPP application and, to the extent that Petitioner has provided redacted versions of documents containing a trade secret claim, redacted versions of these documents that the Petitioner believes can be made available to the public without compromising its claimed trade secrets.<sup>1</sup> In addition, Volume I consists of, among other things, correspondence received by or exchanged with Petitioner and, except for matters within its institutional knowledge, those documents that were relied upon by the Illinois EPA's Division of Air Pollution Control ("DAPC")/ Permits Section in the issuance of the subject CAAPP and Title I permit, particularly relevant to the SO<sub>2</sub> issue. Volume II represents the trade secret copy of information consisting of Noveon's complete CAAPP

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<sup>1</sup> It should be noted that Noveon has only submitted a portion of the public version of Noveon's CAAPP application to the Illinois EPA; this part has been included by the Illinois EPA in Volume I of the Administrative Record. In addition, public versions of other correspondence received from the Petitioner have not been submitted to the Illinois EPA. To the extent that the contents of the initial CAAPP application and other correspondence become material to this proceeding, the Board will likely have to consider whether the Petitioner is required to submit a public version of these documents for public hearing.

application and correspondence received by or exchanged with Petitioner in which Petitioner has asserted a trade secret claim. Given the considerable amount of paginated materials and the resources required to provide a total of four (4) copies, the Illinois EPA did not copy the duplicative material twice for both volumes of the record. This Administrative Record specifically consists of the following:

**Volume I  
Public (redacted) Copy**

Portion of Title V Permit Application, dated received April 30, 2003. **[Pages 1- 1143]**

Title V – Clean Air Act Permit Program (CAAPP) Permit and Title I Permit, dated November 24, 2003. **[Pages 1144 - 1234]**

Analysis Notes of Dan Punzak, dated 11/21/03. **[Pages 1235 - 1237]**

Letter from David Giffin, HSE Manager, Noveon, to Illinois EPA, dated October 17, 2003. **[Pages 1238 - 1252]**

Letter from David Giffin, HSE Manager, Noveon, to Illinois EPA, with handwritten notes of Dan Punzak, dated October 17, 2003. **[Pages 1253 - 1267]**

Letter from David Giffin to Don Sutton/Dan Punzak, Illinois EPA, dated October 9, 2003, and attachments. **[Pages 1268 - 1275]**

Public Notice Proposed Issuance of a Clean Air Act Permit Program Permit to Noveon, Inc. in Henry with handwritten notes, dated 10/8/03. **[Pages 1276 - 1277]**

Project Summary. **[Pages 1278 - 1282]**

Final Draft/ Proposed CAAPP, dated September 17, 2003. **[Pages 1283 - 1379]**

Public Notice Proposed Issuance of a Clean Air Act Permit Program Permit to Noveon, Inc. in Henry. **[Pages 1380]**

Letter from Roy Harsch, Gardner Carton & Douglas, to Donald Sutton, dated September 3, 2003. **[Pages 1381 - 1382]**

IEPA – Noveon Mtg. Attendance Sheet, dated August 6, 2003. **[Pages 1383]**

Letter from Kenneth Willings, Vice President, Health, Safety & Environmental, Noveon, to Phillip Wetherell, Bureau of Business Development, Illinois Department of Commerce and Economic Opportunity, dated July 29, 2003. [~~Pages 1384 - 1385~~]

Letter from David Giffin to Dan Punzak, dated October 25, 2002. [**Pages 1386 - 1387**]

Letter from David Giffin to Illinois EPA regarding the Inclusion of Construction/ Operating Permit No. 0070011 into Title V CAAPP application for Condenser for Building 711 Accelerator Intermediate Production, AOP-7, dated March 15, 2002, and attachments. [**Pages 1388 - 1410**]

Letter from David Giffin to Illinois EPA regarding the Inclusion of Construction/ Operating Permit No. 98040046 into Title V CAAPP application for H2S Scrubber Modification, dated February 5, 2002, and attachments. [**Pages 1411 - 1419**]

IEPA – Noveon Mtg. Attendance Sheet, dated July 12, 2001. [**Pages 1420**]

Packet of documents beginning with a facsimile from Melinda Molieri or Lauren Senette from the Louisiana Department of Environmental Quality to Dan Punzak, dated June 13, 2001. [**Pages 1421 - 1452**]

Emails from Robert Keatley to Dan Punzak, dated 6/21/01. [**Pages 1453 - 1454**]

Public Notice, Request for Public Comment on a Proposed Operating Permit Modification, UniRoyal Chemical, printed 6/13/01. [**Pages 1455 - 1456**]

Public Notice, Request for Public Comment on a Proposed Operating Permit, UniRoyal Chemical, printed 6/13/01. [**Pages 1457 - 1458**]

Request for Additional Information CAAPP Permit Application, dated May 16, 2001. [**Pages 1459 - 1460**]

Calculation Sheet of Dan Punzak, dated 5/16/01. [**Page 1461**]

Facsimile from Mark A. Latham to Dan Punzak, dated May 7, 2001. [**Pages 1462 - 1463**]

Letter from Don Sutton to David Giffin, regarding Preliminary Draft Title V – Clean Air Act Permit Program (CAAPP) Permit, dated March 21, 2001, and attachment. [**Pages 1464 - 1466**]

Handwritten notes of Dan Punzak beginning “BFG Goodrich”. [**Pages 1467**]

Handwritten notes of Dan Punzak including diagram of the condenser. [**Pages 1468**]



Request for Additional Information CAAPP Permit Application, dated February 22, 2001. **[Pages 1469 - 1471]**

Calculation Sheet, dated February 21, 2001. **[Pages 1472]**

Memorandum from Don Sutton to Julie Armitage, dated January 12, 2001, and attachments. **[Pages 1473 - 1479]**

Handwritten notes of Dan Punzak beginning "Possible increases..." **[Pages 1480]**

"FOIA Copies" of Letters from John C. Uptmor, Senior Environmental Engineer, to Dan Punzak, dated November 11, 1996 and October 31, 1996, and attachments. **[Pages 1481 - 1506]**

CAAPP Application Completeness Determination and Source Fee Determination, dated March 6, 1996. **[Pages 1507 - 1509]**

Miscellaneous Permitting Material from Louisiana. **[Pages 1510 - 1539]**

Error – **[No Pages 1540 – 1541]**

Miscellaneous emails beginning 1/30/01 through 11/24/03. **[Pages 1542 - 2082]**

The Updated HON Rule – A Fresh Look Including All Modifications. **[Pages 2083 - 2130]**

13.5 Industrial Flares. **[Pages 2131 - 2135]**

Control of Volatile Organic Compound Emissions from Batch Processes, dated February 1994. **[Pages 2136 - 2510]**

Document beginning "Plant Name – MON Organic Chemical Manufactures (batch processes; 5 also with continuous)". **[Pages 2511 - 2525]**

**Volume II**  
**Trade Secret Copy**

Title V Permit Application, dated received May 7, 1996. **[Pages 1 - 2115]**

Letter from Roy Harsch, Gardner Carton & Douglas, to Donald Sutton, regarding Noveon, Inc. Response to May 16, 2001, Request for Compliance Plan, dated June 14, 2001. **[Pages 2116 - 2118]**

Letter from Nathan Gray, Project Manager, BFGoodrich to Dan Punzak regarding Deadline for the Title V Comment Period, date received April 23, 2001. **[Page 2119]**

Letter from Nathan Gray to Dan Punzak regarding IEPA Letter Dated 2/22/01: 2<sup>nd</sup> Letter Addressing Additional Title V Information, date received April 12, 2001. [Pages 2120 - 2121]

Letter from Nathan Gray to Dan Punzak regarding IEPA letter dated 2/22/01- Request for Additional Information, dated March 19, 2001. [Pages 2122 - 2124]

Letter from John Uptmor to Dan Punzak regarding Amendment to BF Goodrich Title V (CAAPP) Permit Application, dated November 11, 1996, and attachments. [Pages 2125 - 2141]

Letter from John Uptmor to Dan Punzak regarding Amendment to BF Goodrich State Operating Permit, dated October 31, 1996, and attachments. [Pages 2142 - 2155]

Respectfully submitted by,



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Sally Carter  
Assistant Counsel

Dated: April 26, 2007  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

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CERTIFICATE OF SERVICE

STATE OF ILLINOIS  
Pollution Control Board

I hereby certify that on the 26<sup>th</sup> day of April 2007, I did send, via CMS Courier,

the following instrument entitled **MOTION FOR LEAVE TO FILE PARTIAL**

**ADMINISTRATIVE RECORD** and **ADMINISTRATIVE RECORD** to:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

I further hereby certify that on the 26<sup>th</sup> day of April 2007, I did send, a true and correct copy of the same foregoing instrument, by First Class Mail with postage thereon fully paid and deposited into the possession of the United States Postal Service, to:

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph Street  
Chicago, Illinois 60601

Roy M. Harsch  
Steven J. Murawski  
Gardner Carton & Douglas  
191 N. Wacker Drive  
Suite 3700  
Chicago, Illinois 60606-1698

  
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Sally Carter  
Assistant Counsel