

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PETITION OF ROYAL FIBERGLASS POOLS,) AS 2009-04
INC. FOR AN ADJUSTED STANDARD FROM) (Adjusted Standard-Air)
35 ILL. ADM. CODE 215.301)
)
)

NOTICE

TO: John Therriault, Assistant Clerk Carol Webb, Hearing Officer
Illinois Pollution Control Board Illinois Pollution Control Board
James R. Thompson Center James R. Thompson Center
100 West Randolph, Suite 11-500 100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218 Chicago, Illinois 60601-3218

Dale A. Guariglia
Brandon W. Neuschafer
Bryan Cave LLP
One Metropolitan Square, Suite 3600
211 N. Broadway
St. Louis, MO 63102-2750

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the MOTION FOR LEAVE TO FILE INSTANTER POST-HEARING COMMENTS and RESPONDENT'S POST-HEARING BRIEF of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Charles E. Matoesian

Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: December 16, 2009

1021 North Grand Avenue East
P.O. Box 19276
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**THIS FILING IS SUBMITTED
ON RECYCLED PAPER**

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MOTION FOR LEAVE TO FILE INSTANTER POST-HEARING COMMENTS

NOW COMES the Proponent, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA” or “Agency”), by its attorney, and pursuant to 35 Ill. Adm. Code 101.502 and 102.402, moves that the Hearing Officer allow for the filing instanter of the attached post-hearing comments in the matter above.

On October 28, 2009, the Illinois Pollution Control Board (“Board”) held a hearing in the Petition of Royal Fiberglass Pools, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 215.301 (“Royal”) At that hearing, a date of December 7, 2009, was set as a deadline for post-hearing briefs.

On that date, Royal filed comments late in the day. After the close of the comment period the Illinois EPA realized they needed to respond to one aspect of Royal’s comments. The Illinois EPA contacted Royal and set up a call to discuss the matter. At that time, both parties came to an agreement concerning the language at issue. Although the Illinois EPA regrets the timing of this late request and recognizes the fact that the Board is proceeding expeditiously, as the comment period has closed the Agency prays that the Hearing Officer allow the attached comment to be included in the record.

Allowing the agreed upon change into the record will resolve a potentially contentious issue between the parties.

WHEREFORE, for the reasons set forth above, the Illinois EPA moves that the Hearing Officer allow this motion and pray that it be allowed to file the attached post-hearing comments instanter.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Charles E. Matoesian
Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: December 16, 2009

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RESPONDENT'S POST-HEARING BRIEF

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") by its attorney, Charles E. Matoesian, and hereby submits its Post-Hearing Brief with the Illinois Pollution Control Board ("Board") in this matter. In support of this Post-Hearing Brief, the Illinois EPA states as follows:

1. Royal Fiberglass Boats ("Royal") filed its First Amended Petition for Adjusted Standard (hereinafter "Petition") on July 17, 2009, pursuant to Section 28.1 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/28.1, and the regulations of the Board at 35 Ill. Adm. Code Section 104.402. The Petition requests that the Board grant Royal an adjusted standard from 35 Ill. Adm. Code Section 215.301, the Use of Organic Material Rule, better known as the "8 lb/hr Rule" as it applies to the emissions of volatile organic material ("VOM") from Royal's Dix, Illinois, swimming pool manufacturing facility.
2. On June 4th, 2009, the Board had found that Royal's original petition met the requirements of 35 Ill. Adm. Code Section 104.406 and accepted the matter for hearing.

3. On or about August 20th, 2009, the Illinois EPA filed its recommendation with the Board recommending that the Board GRANT the Petition for Adjusted Standard.
4. A hearing was held in this matter on October 28th, 2009. Testimony was presented by Mr. Cliff Hebert and Dr. Robert A. Haberlein for Petitioner. Testimony was presented by Mr. Andy Russo for Respondent.
5. On December 7, 2009, the Petitioner filed its Post-Hearing brief with the Board.
6. This reply solely involves a concern the Petitioner expressed on page 12 of its Post-Hearing brief with condition "d" in the Illinois EPA's Recommendation.
7. The Illinois EPA has spoken with the Respondent's attorney about this matter and have agreed to language which may be substituted for the Illinois EPA's current condition "d" in its recommendation filed August 20, 2009.
8. The Petitioner is therefore aware that the Illinois EPA is filing these comments and attached motion with the Board and does not object.
9. The Illinois EPA has agreed that the condition "d" in its recommendation at page 7 be replaced with the following language. "d. The relief granted in this proceeding shall be limited to the swimming pool manufacturing emission units (spray booths) existing as of August 20, 2009, at Royal's Dix facility."
10. Petitioner has agreed to withdraw its objection to the Agency's condition "d" assuming the new language is used in any Board order.

WHEREFORE, for the reasons stated herein, the Illinois EPA recommends that Royal's Petition for an Adjusted Standard be granted.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: /s/ Charles E. Matoesian
Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: December 16, 2009
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STATE OF ILLINOIS)
)) SS
COUNTY OF SANGAMON)

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served electronically the attached MOTION FOR LEAVE TO FILE INSTANTER POST-HEARING COMMENTS and RESPONDENT'S POST-HEARING BRIEF, upon the following persons:

John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601

Carol Webb, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
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St. Louis, MO 63102-2750

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

/s/ Charles E. Matoesian

Charles E. Matoesian
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