

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

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JUN 09 2005

STATE OF ILLINOIS  
Pollution Control Board

RED ROOSTER CORPORATION )  
(f/k/a CLARK RETAIL ENTERPRISES, )  
INC.) (CLARK OIL #2086), )  
 )  
Petitioner, )  
 )  
v. )  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

PCB No. 05-125

**MOTION TO CONSOLIDATE**

NOW COMES Petitioner, RED ROOSTER CORPORATION, through its undersigned attorney, and pursuant to this Board's procedural rule 101.406, 35 Ill. Adm. Code 101.406, moves this Board to consolidate for purposes of hearing this matter with another pending leaking underground storage tank fund reimbursement appeal, case PCB 05-126. In support of this motion, Petitioner states as follows:

1. This case is an appeal from an Illinois Environmental Protection Agency (IEPA) leaking underground storage tank fund reimbursement decision.
2. The facility at issue, including its remediation, the leaking underground storage tank incident number, consultants involved, and all other relevant information, are identical in this case with those in another pending leaking underground storage tank fund reimbursement appeal, PCB 05-126. Moreover, the record in this case is identical to that in PCB 05-126, as revealed by the records submitted recently by IEPA.
3. Although the issues differ slightly, all other aspects of this case and PCB 05-126 are identical, and therefore, consolidation is in the interest of convenient,

expeditious, and complete determination of both claims, and will benefit both parties, and prejudice none.

4. Accordingly, consolidation is appropriate as provided by 35 Ill. Adm. Code 101.406.

WHEREFORE, Petitioner, RED ROOSTER CORPORATION, requests that this Board consolidate this matter with the case in PCB 05-126.

Respectfully submitted,

RED ROOSTER CORPORATION f/k/a  
CLARK RETAIL ENTERPRISES, INC.  
Petitioner,

By its undersigned attorney,

By:   
Stephen F. Hedinger

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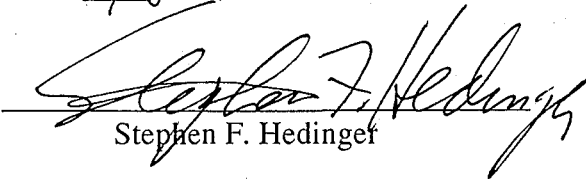
NOTICE OF FILING AND PROOF OF SERVICE

The undersigned certifies that an original and nine copies of the foregoing Motion to Consolidate, and of this Notice of Filing and Proof of Service, were served upon the Clerk of the Illinois Pollution Control Board, and one copy to each of the following parties of record in this cause by enclosing same in an envelope addressed to:

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

John J. Kim  
Assistant Counsel  
Special Assistant Attorney General  
Division of Legal Counsel  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, IL 62794-9276

with postage fully prepaid, and by depositing said envelope in a U.S. Post Office Mail Box in Springfield, Illinois before 5:30 p.m. on 6/7 June, 2005.

  
Stephen F. Hedinger

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