

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

DEC 14 2005

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Complainant,

vs.

REX D. EVANS and  
ROY W. EVANS, JR.,

Respondents.

No. AC 2006-17  
(IEPA No. 443-05-AC)

NOTICE OF FILING

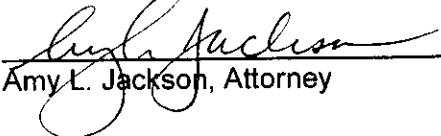
To: Michelle M. Ryan  
Special Assistant Attorney General  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Illinois Pollution Control Board of the State of Illinois, a PETITION FOR REVIEW and MOTION TO CONSOLIDATE, on behalf of the above-named Respondents, REX D. EVANS and ROY W. EVANS, JR.

Respectfully submitted,

REX D. EVANS and ROY W.  
EVANS, JR., Respondents

BY: RAMMELKAMP BRADNEY, P.C.,  
their attorneys

BY:   
Amy L. Jackson, Attorney

Attorneys for Respondents:  
Rammelkamp Bradney, P.C.  
Amy L. Jackson, Attorney  
232 West State Street  
P.O. Box 550  
Jacksonville, IL 62651-0550  
Telephone: (217) 245-6177

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No. AC 2006-17  
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**PETITION FOR REVIEW**

COME NOW the Respondents, REX D. EVANS and ROY W. EVANS, JR., by and through their attorney, Rammelkamp Bradney, P.C., and pursuant to 35 Ill. Adm. Code 108.100 *et seq.* file this Petition for Review of the Administrative Citation filed by Complainant, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY. In support of this Petition for Review, Respondents state as follows:

1. Respondents were served with the Administrative Citation on November 10, 2005, and accordingly, this Petition is timely filed in accordance with 35 Ill. Adm. Code 108.204.
2. Respondents are owners of a facility located in rural Murrayville, Morgan County, Illinois.
3. That the Complainant has filed two separate Administrative Citation proceedings, docketed as PCB No. AC 2006-16 and PCB No. AC 2006-17, in which the Complainant mistakenly characterizes the Respondents' facility as two separate facilities and for which two separate penalties are sought.

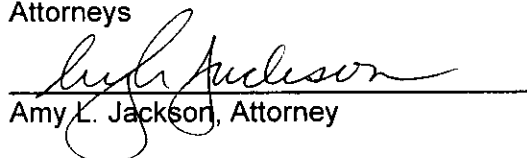
4. The facility at issue, however, is one and the same facility, and it is inappropriate for the Complainant to treat the facilities separately and for the Complainant to seek imposition of what is essentially a double penalty for the same violations.
5. It is further the Respondents' position that some of the violations alleged in the Administrative Citation were the result of uncontrollable circumstances.
6. Finally, Respondents maintain that the deposition of fly ash on Respondents' property, an alleged violation in Complainant's citation, was only done after first obtaining approval and acknowledgement of the Complainant.

WHEREFORE, Respondents, REX D. EVANS and ROY W. EVANS, JR., respectfully request that the Board set this matter for hearing and after hearing enter an Order consolidating the alleged violations into one Administrative Citation and reducing the applicable penalties and fines accordingly.

REX D. EVANS and ROY W. EVANS, JR.,  
Respondents

BY: RAMMELKAMP BRADNEY, P.C., their  
Attorneys

BY:

  
\_\_\_\_\_  
Amy L. Jackson, Attorney

Attorneys for Respondents:  
Rammelkamp Bradney, P.C.  
Amy L. Jackson, Attorney  
232 West State Street  
P.O. Box 550  
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Telephone: (217) 245-6177

Attorney for Complainant:

Michelle M. Ryan

Special Assistant Attorney General

Illinois Environmental Protection Agency

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**No. AC 2006-16  
No. AC 2006-17  
(IEPA Nos. 442-05-AC and  
443-05-AC)**

**DEC 14 2005**  
**STATE OF ILLINOIS  
Pollution Control Board**

**MOTION TO CONSOLIDATE**

COME NOW the Respondents, REX D. EVANS and ROY W. EVANS, JR., by and through their attorney, Rammelkamp Bradney, P.C., and pursuant to 35 Ill. Adm. Code 101.406 file this Motion to Consolidate the above-referenced Administrative Citation proceedings. In support of this Motion, Respondents state as follows:


1. Respondents seek consolidation of the above-referenced Administrative Citation proceedings for purposes of hearing and decision.
2. Although the citations purportedly apply to two separate facilities, they in fact apply to one singular facility with common ownership and common operation.
3. Economy of the parties and the Board will be best served by allowing the requested consolidation.
4. While neither party will be prejudiced by the requested consolidation, the Respondents may, in fact, be prejudiced if the consolidation is denied.
5. Pursuant to 35 Ill. Adm. Code 101.406, consolidation is appropriate "in the interest of convenient, expeditious, and complete determination of claims, and if consolidation would not cause material prejudice to any party."

6. For the reasons set forth herein, Respondents seek consolidation.

WHEREFORE, Respondents, REX D. EVANS and ROY W. EVANS, JR., respectfully request that the Board consolidate the Administrative Citation proceedings known as PCB Nos. AC-2006-16 and AC-2006-17.

REX D. EVANS and ROY W. EVANS, JR.,  
Respondents

BY: RAMMELKAMP BRADNEY, P.C., their  
Attorneys

BY:   
\_\_\_\_\_  
Amy L. Jackson, Attorney

Attorneys for Respondents:  
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Telephone: (217) 245-6177

Attorney for Complainant:  
Michelle M. Ryan  
Special Assistant Attorney General  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instruments were served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on 12-13, 2005, by:

U.S. Mail Ryan       FAX  
 Hand Delivered       Overnight Courier  
 Federal Express Gunn       Other: (Certified Mail/Return Receipt Requested)

Signature: Barbara D. Davenko