

ILLINOIS POLLUTION CONTROL BOARD
May 18, 2006

ARLYN'S SERVICE CENTER,)
)
 Petitioner,)
)
 v.) PCB 06-130
) (UST Appeal)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ARLYN D. FISK d/b/a ARLYN FISK'S)
 SERVICE CENTER,)
)
 Petitioner,)
)
 v.) PCB 06-145
) (UST Appeal)
 ILLINOIS ENVIRONMENTAL) (Consolidated)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On April 10, 2006, Arlyn's Service Center filed a petition asking the Board to review the Illinois Environmental Protection Agency's (Agency) determination. At issue is the Agency's denial of certain costs of corrective action for Arlyn's Service Center's leaking underground petroleum storage tank facility located at 210 East Pine, Percy, Randolph County. On April 20, 2006, the Board accepted the petition, docketing the matter as PCB 06-130.

On March 13, 2006, Arlyn D. Fisk d/b/a Arlyn Fisk's Service Center (Arlyn Fisk) filed a petition asking the Board to review a February 2, 2006 determination of the Agency. At issue is the Agency's rejection of the Site Investigation Plan and associated budget for the same site referenced in PCB 06-130. The Board accepted the second petition for hearing on March 16, 2006, docketing the matter as PCB 06-145.

On May 1, 2006, the petitioner in each case filed an identical motion to consolidate. In the motions, the petitioners state that the facility at issue, the incident numbers, the consultants involved and all other relevant information are identical in the two cases. Mot. at 1. The petitioners assert that the consolidation is in the interest of convenient, expeditious and complete determination of both claims, and will result in no prejudice to either party. *Id.* The petitioners

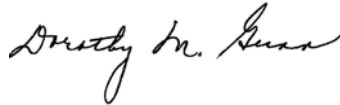
assert that a settlement in principal has been reached in each case, and that for administrative convenience the two cases should be monitored together during the pendency of the settlement negotiations. Mot. at 2.

To date, the Agency has not filed a response to the motions. If a party files no response to a motion within 14 days the party will be deemed to have waived objection to the granting of the motion. *See* 35 Ill. Adm. Code 101.500(d).

Pursuant to Board rules, the Board will consolidate proceedings if consolidation is in the interest of convenient, expeditious and complete determination of claims, and if the consolidation would not cause material prejudice to any party. 35 Ill. Adm. Code 101.406. The Board finds that consolidation of PCB 06-130 and PCB 06-145 will not materially prejudice any party, and will assist in the expeditious and complete determination of the claims before us. As reflected in the caption above, the Board grants the petitioners' motion to consolidate these petitions for hearing, but not necessarily for decision.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 18, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board