

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
-v-)	
)	
FIRST ROCKFORD GROUP, INC., an Illinois)	PCB 06-103
corporation,)	
)	
Respondent.)	

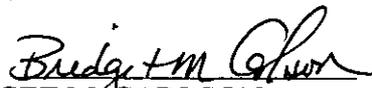
NOTICE OF FILING

TO: See Attached Service List.

PLEASE TAKE NOTICE that today, January 5, 2006, the People of the State of Illinois filed with the Illinois Pollution Control Board by electronic filing a Motion to Consolidate PCB 06-103 with PCB 05-215, true and correct copies of which are attached and hereby served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY: 
BRIDGET M. CARLSON
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
(312) 814-0608

Date: January 5, 2006

SERVICE LIST

Mr. John P. Malburg
Heritage Engineering Ltd.
345 Executive Parkway
Suite M1
Rockford, Illinois 61125

Mr. James E. Stevens
Barrick, Switzer, Long, Balsley & Van Evera
One Madison Street
Rockford, Illinois 61104

Mr. Charles Helsten
Hinshaw & Culbertson
100 Park Avenue
Rockford, Illinois 61105

Mr. Jack D. Ward
Reno, Zahm, Folgate, Lindberg & Powell
2902 McFarland Road
Suite 400
Rockford, Illinois 61107

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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FIRST ROCKFORD GROUP, INC., an Illinois)	PCB 06-103
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COMPLAINANT'S MOTION TO CONSOLIDATE
PCB 06-103 WITH PCB 05-215

Complainant, People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, hereby respectfully moves the Illinois Pollution Control Board to consolidate PCB 06-103 with PCB 05-215, and in support thereof states as follows:

The Illinois Pollution Control Board ("Board") has the authority to consolidate proceedings for the purpose of hearing, decisions or both. 35 Ill.Adm.Code 101.406. The Board will consolidate proceedings if consolidating is in the interest of convenient, expeditious and complete determination of claims and if consolidation would not cause material prejudice to any party. The Board will not consolidate proceedings where the burdens of proof vary. 35 Ill.Adm.Code 101.406.

The Complaint in PCB 05-215 contains two counts. The first count is alleged against four Respondents for the construction of potable water lines without a permit. The four Respondents include First Rockford Group Inc., the Village of Cherry Valley, Heritage Engineering Ltd. and Schlichting and Sons Excavating Inc. The second count is

alleged against only the Village of Cherry Valley, as official custodian of a community water supply, for allowing the construction of a potable water line prior to obtaining a construction permit.

On September 26, 2005, the Complainant and Heritage Engineering Ltd. filed a Stipulation and Proposal for Settlement with Heritage Engineering Ltd. in PCB 05-215 with the Board. The Board accepted the Stipulation and Proposal for Settlement with Heritage Engineering Ltd. on November 3, 2005. Respondent Heritage Engineering Ltd. would not be prejudiced by the consolidation of these matters.

On December 23, 2005, the Complainant and the Village of Cherry Valley filed a Stipulation and Proposal for Settlement with Heritage Engineering Ltd. in PCB 05-215 with the Board. The Complainant has not received a response from the Board regarding this Stipulation as of the date of this Motion. Respondent Village of Cherry Valley would not be prejudiced by the consolidation of these matters.

The Complainant and Respondent, Schlichting and Sons, have verbally agreed to settlement terms regarding PCB 05-215. Complainant anticipates filing a Stipulation and Proposal for Settlement with Schlichting and Sons with the Board. Respondent Schlichting and Sons would not be prejudiced by the consolidation of these matters.

The Complaint in PCB 06-103 was filed on December 15, 2005, and contains nine counts alleged against Respondent First Rockford Group Inc.

The Complainant and Respondent, First Rockford Group Inc., have reached settlement terms regarding both Complaints PCB 05-215 and PCB 06-103. The terms include Respondent First Rockford Group Inc.'s payment of a single civil penalty and its completion of a Supplemental Environmental Project. To separate the settlement terms

between the two matters would be ineffective and cause duplication of time and effort on behalf of both parties and the Board. The factual and legal issues in matters PCB 05-215 and PCB 06-103 include the same Respondent and can be incorporated into one Stipulation and Proposal for Settlement to completely determine the claims.

PCB 05-215 involves allegations against Respondent First Rockford Group Inc. for construction of a potable water line without a permit. PCB 06-103 includes allegations against Respondent First Rockford Group Inc. of water pollution, creating a water pollution hazard and violations of National Pollutant Discharge Elimination System ("NPDES") permit requirements. The burdens of proof are the same as both are enforcement cases. Respondent First Rockford Group Inc. would not be prejudiced by the consolidation of these matters. In fact, consolidating these two matters is in the interest of convenient, expeditious and complete determination of claims for both the Complainant and the Respondent First Rockford Group Inc.

PCB 05-215 was filed on June 15, 2005, and has been the subject of ongoing litigation. The Board has not made any substantive rulings in the PCB 05-215 case regarding the allegations against Respondent First Rockford Group Inc. and Respondent First Rockford Group Inc. has not answered that Complaint.

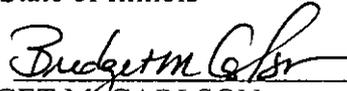
PCB 06-103 was filed on December 15, 2005, and Respondent First Rockford Group Inc.'s answer to the Complaint is not due until February 15, 2006. If the matters are not consolidated, the parties will be prejudiced in that the parties will need to duplicate their efforts at resolving these matters.

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board grant its Motion to Consolidate PCB 05-215, People of the State of Illinois

v. First Rockford Group Inc., Village of Cherry Valley, Heritage Engineering Ltd and
Schlichting and Sons, and PCB 06-103, People of the State of Illinois v. First Rockford
Group Inc.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY: 
BRIDGET M. CARLSON

Assistant Attorney General
Environmental Bureau
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
(312) 814-0608

CERTIFICATE OF SERVICE

I, BRIDGET M. CARLSON, an Assistant Attorney General, certify that on the 5th day of January 2006, I caused to be served by First Class Mail the foregoing Motion to Consolidate PCB 06-103 with PCB 05-215 to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.


BRIDGET M. CARLSON