

COPY

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

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JUN 01 2009

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Complainant,

v.

C. JOHN BLICKHAN,

Respondent.

AC 09-46

(IEPA No. 94-09-AC)

**NOTICE OF FILING**

TO: Mr. John Therriault  
Assistant Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an *Entry of Appearance of Jon S. Faletto*, *Motion to Consolidate*, and *Petition to Contest Administrative Citation*, copies of which are herewith served upon you.

Dated: May 28, 2009

Respectfully submitted,

C. JOHN BLICKHAN,  
Respondent

  
\_\_\_\_\_  
Jon S. Faletto  
One of His Attorneys

Jon S. Faletto  
Hinshaw & Culbertson LLP  
416 Main Street, 6th Floor  
Peoria, IL 61602  
309-674-1025

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STATE OF ILLINOIS  
Pollution Control Board

C. JOHN BLICKHAN,	)	
	)	
Petitioner,	)	
	)	
vs.	)	AC 09-46
	)	
ILLINOIS ENVIRONMENTAL	)	(IEPA NO. 94-09-AC)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**MOTION TO CONSOLIDATE**

NOW COMES the Petitioner, C. JOHN BLICKHAN, (hereinafter "Petitioner or "John Blickhan"), by and through his attorneys, Hinshaw & Culbertson LLP, and pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (the "Act"), 415 ILCS 5/40(a)(1) and 35 Ill. Admin. Code Part 105, Subpart B, hereby moves to consolidate the above-captioned matter with *Illinois Environmental Protection Agency v. C. John Blickhan*, Case No. AC 07-24, and *Illinois Environmental Protection Agency v. C. John Blickhan*, Case No. AC 08-19, and in support thereof, states as follows:

1. These actions arise out of the same alleged unlawful conduct at the leased property commonly known as Blick's Village in Quincy, Illinois, albeit occurring at different times.

2. Consolidation of these actions is appropriate, and in the interest of judicial economy, these actions should be combined.

WHEREFORE, the Defendant, C. JOHN BLICKHAN, respectfully requests the Board to consolidate Case No. 09-46 with Case Nos. AC 07-24 and AC 08-19.

Dated: May 28, 2009

Respectfully Submitted,

On behalf of C. JOHN BLICKHAN

By: Hinshaw & Culbertson LLP

  
\_\_\_\_\_  
Jon S. Faletto  
One of His Attorneys

HINSHAW & CULBERTSON LLP  
416 Main Street – 6<sup>th</sup> Floor  
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provided additional detail regarding the precise locations where IEPA Official Eisenbrandt identified the alleged violations.

4. As more fully identified and described in the Inspection Report of IEPA Official Paul Eisenbrandt, the alleged violations of §21(p) of the Act were identified as occurring at residential properties located within a development known as “Blick’s Village” located at the common address of Blick’s Village Court in Quincy, Illinois.

5. The Complainant states that the “Respondent has owned and operated said facility at all times pertinent hereto.” To the extent Complaint equates “said facility” with the locations where Inspector Eisenbrandt observed the §21(p) alleged violations, Complainant’s allegation is false and denied.

6. Section 108.206 of the Board’s Regulations applicable to Administrative Citations provides, in relevant part, “(A) *formal Petition to Contest must include any reasons why the AC recipient believes the AC was improperly issued, including: (b) The AC recipient did not cause or allow the alleged violations; and (d) the alleged violation was a result of uncontrollable circumstances.*” (35 Ill. Admin. Code §108.206(a)(b)).

7. C. John Blickhan, the Respondent and recipient of the Complainant’s AC, did not cause or allow the alleged violations as stated in the AC filed by IEPA. While the Respondent owns certain property identified as “Blick’s Village,” he has lawfully transferred possession and control of those properties pursuant to written lease agreements. To the extent the alleged violations were observed at the locations identified by IEPA Official Paul Eisenbrandt, the Respondent is not liable for those violations because he did not cause or allow the alleged violations.

8. Therefore, the AC was improperly issued to Respondent C. John Blickhan.

9. Further, on information and belief, the Respondent did not cause or allow the alleged violations of §21(p) which, if such violations occurred as alleged, was a result of uncontrollable circumstances pursuant to 35 Ill. Admin. Code §108.206(b) and (d).

WHEREFORE, Respondent C. JOHN BLICKHAN, requests that the Illinois Pollution Control Board enter an Order dismissing the Administrative Citation as improperly issued pursuant to §31.1 of the Act and implementing regulations, and denying the civil penalties and any other relief sought therein.

Dated: May 28, 2009

Respectfully submitted,

C. JOHN BLICKHAN,  
Respondent

  
\_\_\_\_\_  
Jon S. Faletto  
One of His Attorneys

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**CERTIFICATE OF SERVICE**

I, Jon S. Faletto, the undersigned, hereby certify that I have served the attached *Entry of Appearance, Petition to Contest Administrative Citation, and Motion to Consolidate* upon:

Michelle M. Ryan, Esq.  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

John T. Therriault  
Assistant Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Ste. 11-500  
Chicago, IL 60601

By depositing said documents in the United States Mail, postage prepaid, in Peoria, Illinois, on  
May 28, 2009.

  
\_\_\_\_\_  
Jon S. Faletto

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