

RECEIVED  
CLERK'S OFFICE

MAR 11 2004

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

SWEARINGIN AMOCO,

Petitioner

v.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Respondent

)  
)  
)  
) PCB 03-156, PCB 03-157, PCB 03-158  
) PCB 04-151, PCB 04-152, PCB 04-153  
) PCB 04-154  
)  
) UST Fund Appeal  
)  
)

NOTICE OF FILING

TO: John Kim  
Special Assistant Attorney General  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Carol Sudman  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274

PLEASE TAKE NOTICE that on March 11, 2004, filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original, executed copy of a Motion to Consolidate.

Dated: March 11, 2004

Respectfully submitted,

Swearingin Amoco

By: Carolyn S. Hesse  
One of Its Attorneys

Carolyn S. Hesse  
Barnes & Thornburg LLP  
One North Wacker Drive  
Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313  
209174v1

**CERTIFICATE OF SERVICE**

I, on oath state that I have served the attached Motion to Consolidate by placing a copy in an envelope addressed to:

John Kim  
Special Assistant Attorney General  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Carol Sudman  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274

from One North Wacker Drive, Suite 4400, Chicago, Illinois, before the hour of 5:00 p.m., on this 11<sup>th</sup> Day of March, 2004.

  
\_\_\_\_\_  
Carolyn S. Hesse

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

MAR 11 2004

STATE OF ILLINOIS  
Pollution Control Board

SWEARINGIN AMOCO, )  
)  
Petitioner )  
) PCB 03-156, PCB 03-157, PCB 03-158  
v. ) PCB 04-151, PCB 04-152, PCB 04- 153  
) PCB 04- 154  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, ) UST Fund Appeal  
)  
Respondent )

MOTION TO CONSOLIDATE

NOW COMES Swearingin Amoco by one of its attorneys, Carolyn Hesse of Barnes & Thornburg, pursuant to 35 Ill. Adm. Code 101.406 and hereby moves to consolidate three appeals of Illinois Environmental Protection Agency ("Agency") decisions that were filed on June 16, 2003. In support of this motion, Petitioner states as follows:

1. Three underground storage tank (UST) appeals were filed on June 16, 2003. The case numbers are: PCB 03 - 156, PCB 03- 157, and PCB 03-158 and these cases were previously consolidated.
2. Two additional UST appeal arising from the same site (PCB 04-151 and PCB 04-152) were filed on March 9, 2004, and two more are being filed at the same time as this Motion to Consolidate.
3. All of these appeals involve a denial of reimbursement of costs from the Leaking Underground Storage Tank Trust Fund to perform corrective action activities at property located at 503 South State St., Jerseyville, Jersey County, Illinois. This property is owned by Swearingin Services, Inc. d/b/a Swearingin Amoco.

4. The corrective action activities related to all appeals are related to corrective action activities for the same underground storage tanks that leaked.
5. The seven Agency letters denying reimbursement apply to activities at the site, but cover differing periods of time and different costs and expenses related to the corrective action activities.
6. Because the factual basis of the seven petitions are closely related, consolidating the four petitions that were most recently filed into one proceeding with the consolidated cases will be more convenient to the Board, the Agency and Petitioner Consolidation will also result in a more expeditious and complete determination of the claims and would not cause material prejudice to any party. Further, consolidation of the claims will provide for a more efficient administration of justice and reduce duplication of efforts that would be required if the appeals were handled separately. The burden of proof for the seven appeals is identical and will be based on nearly identical facts and background information.

WHEREFORE, Petitioner, Swearingin Amoco respectfully requests that the Board grant its motion to consolidate the two petitions filed on behalf of Swearingin Amoco on this date with the two filed on March 9, 2004 and the previously pending appeals.

Dated: March 11, 2004

Respectfully submitted,

**Swearingin Amoco**

By: Carolyn S. Hesse  
One of Its Attorneys

Carolyn S. Hesse, Esq.  
Barnes & Thornburg LLP  
One North Wacker Drive  
Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313  
209170v1