

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK  
APR 16 2014

GINGER L. DEEVERS, )  
Petitioner, )  
 )  
v. )  
 )  
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Respondent. )

PCB 14- 125  
(LUST Appeal – Ninety Day  
Extension)  
STATE OF ILLINOIS  
Pollution Control Board

NOTICE

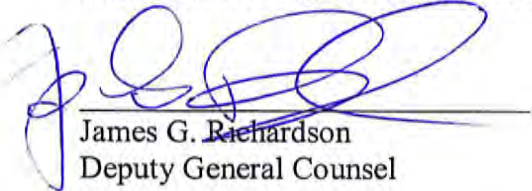
 ORIGINAL

John Therriault  
Clerk  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601-3218

William D. Ingersoll  
Brown, Hay & Stephens, LLP  
P.O. Box 2459  
Springfield, Illinois 62705

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

  
James G. Richardson  
Deputy General Counsel

Dated: April 11, 2014  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

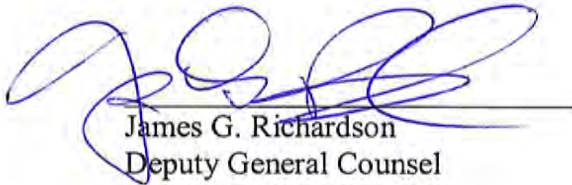


3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson  
Deputy General Counsel

Dated: April 11, 2014

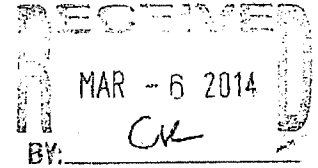
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217)782-2829  
PAT QUINN, GOVERNOR LISA BONNETT, DIRECTOR



217/524-3300

CERTIFIED MAIL

MAR 05 2014

7012 0470 0001 2999 6450

Mr D's Soft Serve Ice Cream  
Ginger L. Deavers  
102 E. Pearl  
Danvers IL, 61732

Re: LPC #1130455003--County--McLean  
Danvers / Mr D's Soft Serve Ice Cream  
205 Southwest Street  
Leaking UST Incident No. 20120805  
Leaking UST Technical File

Dear Ms. Deavers:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Stage 2 Site Investigation Plan (plan) submitted for the above-referenced incident. This plan, dated January 7, 2014, was received by the Illinois EPA on January 7, 2014. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The Illinois EPA requires modification of the plan; therefore, the plan is conditionally approved with the Illinois EPA's modifications. The Illinois EPA has determined that the modifications listed below are necessary to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 734 (Sections 57.7(a)(1) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)).

1. Agency proposed modifications:

- a. Install three (3) soil borings (soil samples) West , North and South of WC-1 greater than 5 feet but less than 10 feet away from WC-1
- b. Install one (1) soil boring (soil sample) South of P-1 greater than 5 feet but less than 10 feet away from P-1
- c. Install three (3) soil borings (soil samples) to be converted to Monitoring Wells:

4302 N. Main St., Rockford, IL 61103 (815) 987-7760  
595 S. State, Elgin, IL 60123 (847) 608-3131  
2125 S. First St., Champaign, IL 61820 (217) 278-5800  
2009 Mall St., Collinsville, IL 62234 (618) 346-5120

9511 Harrison St., Des Plaines, IL 60016 (847) 294-4000  
5407 N. University St., Arbor 113, Peoria, IL 61614 (309) 693-5462  
2309 W. Main St., Suite 116, Marion, IL 62959 (618) 993-7200  
100 W. Randolph, Suite 10-300, Chicago, IL 60601 (312) 814-6026

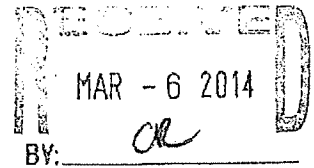


- i. One (1) PMW/SB East of WC-1 and Northeast of P1.
  - ii. One (1) PMW/SB East of MW-2 (near the tree line).
  - iii. One (1) PMW/SB West of MW-3 (across the street).
- d. If required one (1) contingent Soil Boring (soil samples) to be converted to a Monitoring Well
  - i. One (1) PMW/SB Southwest of MW-3 (across the street). Under the following conditions:
    - 1. In the event that the Agency Proposed Monitoring Well/Soil Boring south of MW3 is contaminated. And/or,
    - 2. The Agency Proposed Monitoring Well/Soil Boring East of MW3 is contaminated.
- e. On May 16, 2013, the Illinois Pollution Control Board added the indoor inhalation exposure route to Illinois EPA's risk-based corrective action requirements found in 35 Ill. Adm. Code 742. These amendments were effective on July 15, 2013. In accordance with the procedures outlined in the Petroleum Vapor Intrusion Assessment for Leaking UST Program Sites Fact Sheet at <http://www.epa.state.il.us/land/taco/petroleum-vapor-intrusion-assessment-fact-sheet.html>, the Illinois EPA has determined there is not an interval of at least five feet of uncontaminated soil between contaminated groundwater and the lowest point of the ground surface and an evaluation of the indoor inhalation exposure route in accordance with Part 742 is required. Therefore, collection and analysis of a soil gas sample in the area of the most contaminated groundwater sample is required as part of Site Investigation. The soil gas sample must be collected in the following location:

- i. Near sample MW-2.

The soil gas sample must be collected in accordance with the Soil Gas Sampling Protocol Fact Sheet at <http://www.epa.state.il.us/land/taco/soil-gas-sampling-protocol.html>. Please note the laboratory detection limits should be equal to or less than the indoor air remediation objectives calculated using Equation J&E1 or J&E2 in the event those calculated remediation objectives are utilized as soil gas remediation objectives.

In addition, the Illinois EPA requires that the owner provide building specifications in the next submittal for evaluation of the indoor inhalation exposure route. The owner must provide information regarding the foundation (whether it is slab on grade, concrete basement, or earthen floor crawl space or basement), and information regarding any migratory pathways (sumps or elevator shafts) that may be present in the building.



- f. In accordance with the Part742 (TACO) amendments effective July 15, 2013, TACO tables associated with Chemical Specific Parameters have been updated. Please be advised that Taco Equations that were approved prior to July 15, 2013 must conform to the revised tables and /or equations as applicable.
- g. Please be advised in all future submittals of Reports Plans and Budgets, Agency forms are required as part of the submittal. The Agency forms must be properly filled out signed and certified as necessary. Failure to comply with this regulation may result in the denial of the document received by the Agency.

The actual costs for Stage 1 are modified pursuant to Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are approved. Be aware that the amount of payment from the Fund may be limited by Sections 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

In addition, the proposed budget for Stage(s) 2 is modified pursuant to Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b). The modifications are listed in Section 2 of Attachment A. Costs must be incurred in accordance with the approved plan. The maximum amounts that can be paid from the Fund must be determined in accordance with Subpart H, Appendix D, and Appendix E of 35 Ill. Adm. Code 734 (35 Ill. Adm. Code 734.310(b)). Please be advised that costs associated with materials, activities, and services must be reasonable, must be consistent with the associated technical plan, must be incurred in the performance of corrective action activities, must not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payment amounts set forth in Subpart H, Appendix D, and Appendix E of Part 734 (Section 57.7(c) of the Act and 35 Ill. Adm. Code 734.510(b)).

NOTE: Pursuant to Section 57.8(a)(5) of the Act, if payment from the Fund will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted. Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be paid from the Fund.

Pursuant to Sections 57.7(a)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires submittal of a Stage 3 Site Investigation Plan, and budget if applicable, or Site Investigation Completion Report within 30 days after completing the site investigation to:

Page 4

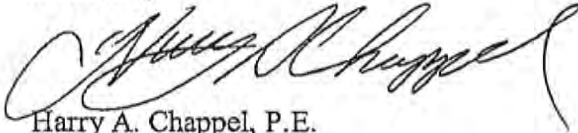
Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

If you have any questions or need further assistance, please contact Wayne Zuehlke at 217/557-6937.

Sincerely,



Harry A. Chappel, P.E.  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

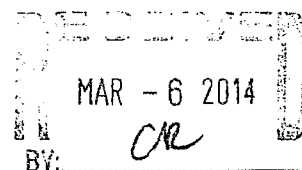
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Attachment: Attachment A  
Appeal Rights

cc: CW3M  
BOL File

Attachment A

Re: LPC #1130455003--County--McLean  
Danvers / Mr D's Soft Serve Ice Cream  
205 Southwest Street  
Leaking UST Incident No. 20120805  
Leaking UST Technical File



**SECTION 1**

**STAGE 1 Actual Costs**

As a result of the Illinois EPA's modifications in Section 2 of this Attachment A, the following amounts are approved:

\$3,887.70	Drilling and Monitoring Well Costs
\$1,924.59	Analytical Costs
\$877.50	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$17,713.08	Consulting Personnel Costs
\$796.00	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

**STAGE 2 Proposed Budget**

Costs must be incurred in accordance with the approved plan and must be determined in accordance with 35 Ill. Adm. Code 734.Subpart H, Appendix D, and Appendix E.

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.



**SECTION 2**

**STAGE 1 Modifications**

Pursuant to 734.605(g), in no case must the agency authorize payment to the owner or operator in amounts greater than the amounts approved by the Agency in a corresponding budget.

The Proposed Stage 1 Budget Subpart H rates must apply to the Actual Stage 1 Budget. The following deductions apply.

Stage 1 budget certificate received on 10/3/2012

- a. Drilling costs reduction of \$69.85

\*Subpart H rates 7/1/2012 to 6/30/2013

Totals	feet	Consultant		*Agency Cost	
HAS	75	\$ 27.39	\$ 2,054.25	\$ 26.91	\$ 2,018.25
Push	20	\$ 21.44	\$ 428.80	\$ 21.06	\$ 421.20
Push Inj	10	\$ 15.00	\$ -	\$ 17.55	\$ -
		Soil Boring Cost	\$ 2,483.05		\$ 2,439.45
HSA?		sub part H Min			
		Total	\$ 2,483.05		\$ 2,439.45
		Deduction			

Totals	feet	Consultant		*Agency Cost	
HAS	75	\$ 19.66	\$ 1,474.50	\$ 19.31	\$ 1,448.25
Push	0		\$ -	\$ 14.62	\$ -
Rec 4	0		\$ -	\$ 29.25	\$ -
Rec 6	0		\$ -	\$ 47.97	\$ -
Rec 8	0		\$ -	\$ 11.70	\$ -
		Monitoring Well Cost	\$ 1,474.50		\$ 1,448.25
		Deduction			

b. Analytical costs reduction of \$34.71

\*Subpart H rates 7/1/2012 to 6/30/2013

Consultant units	Totals		Agency		Deduction
	Cost/unit	cost	*Cost/unit	cost	Deduction
12	\$ 101.24	\$ 1,214.88	\$ 99.45	\$ 1,193.36	
5	\$ 96.48	\$ 482.40	\$ 94.77	\$ 473.84	
12	\$ 11.91	\$ 142.92	\$ 11.70	\$ 140.40	
2	\$ 59.55	\$ 119.10	\$ 58.50	\$ 117.00	
		\$ 1,959.30		\$ 1,924.59	

c. Drum Disposal costs reduction of \$15.81 \*Subpart H rates 7/1/2012 to 6/30/2013

Drum Disposal:

Number of Drums	Consultant Disposal Costs	Consultant Costs	Agency Unit Cost	Agency Cost
3	\$297.77	\$893.31	\$292.50	\$877.50

Deduction is \$893.31 - \$877.50 = \$15.81

d. Personnel Deduction is \$319.14

\*Subpart H rates 7/1/2012 to 6/30/2013

Key	Consultant Hr	Consultant Rate	Consultant Cost	*Agency Rate	Agency Cost	Deduction
Sr. Proj. Mgr.	63	\$ 34.17	\$ 2,143.98	\$ 31.70	\$ 2,001.90	\$ 142.08
Engineer 3	46	\$ 41.33	\$ 1,900.78	\$ 37.00	\$ 1,702.00	\$ 198.78
Tech 4	68	\$ 10.51	\$ 714.50	\$ 20.00	\$ 1,360.00	\$ 645.50
Sr. CAD	87	\$ 9.75	\$ 848.25	\$ 7.50	\$ 652.50	\$ 195.75
Sr. Admin						
Asst.	81	\$ 2.64	\$ 214.44	\$ 2.60	\$ 210.60	\$ 3.84
Tech 4	68	\$ 27.32	\$ 1,857.76	\$ 13.50	\$ 918.00	\$ 939.76
Sr. Proj. Mgr.	63	\$ 14.73	\$ 928.59	\$ 12.00	\$ 756.00	\$ 172.59
Engineer 3	46	\$ 47.82	\$ 2,190.92	\$ 37.00	\$ 1,702.00	\$ 488.92
Engineer 3	46	\$ 21.00	\$ 966.00	\$ 12.00	\$ 552.00	\$ 414.00
Sr. Proj. Mgr.	63	\$ 14.73	\$ 928.59	\$ 12.00	\$ 756.00	\$ 172.59
Sr. P.E.	48	\$ 9.68	\$ 464.64	\$ 7.00	\$ 336.00	\$ 128.64
Engineer 3	46	\$ 41.43	\$ 1,905.78	\$ 37.00	\$ 1,702.00	\$ 203.78
Sr. Admin						
Asst.	81	\$ 1.30	\$ 107.20	\$ 1.30	\$ 107.20	\$ 0.00
Sr. Admin	81	\$ 1.30	\$ 107.20	\$ 1.30	\$ 107.20	\$ 0.00

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Asst						
Sr. Proj. Mgr.	63	12	\$ 119.11	\$ 1,429.32	\$ 117.00	\$ 1,402.00
Sr. P.E.	48	3	\$ 154.84	\$ 464.52	\$ 152.10	\$ 456.30
Sr. Acct. Tech.	75	24	\$ 65.50	\$ 1,572.00	\$ 64.34	\$ 1,540.16

Consultant           \$ 18,032.22  
 Agency                ██████████  
 Deduction            ██████████

STAGE 2 Modifications

1. Agency proposed modifications:

a. Proposed Stage 2 Budget modifications:

- i. Add Cost of Drilling four (4) soil borings to 10 feet (Items 7(a) and 7(b)).
- ii. Add Cost of Drilling and Cost of Monitoring Wells for Three (3) Soil borings to 15 feet (Items 7(c)).
- iii. Add Cost of Drilling and Cost of Monitoring Wells for One (1) Soil borings to 15 feet (Items 7(d)).
- iv. Add the following Analytical Costs:
  1. 16 BTEX/MTBE soil analysis costs.
  2. 4 BTEX/MTBE water analysis costs.
  3. 16 Encore sampler costs.
  4. 2 Shipping per sample events
- v. Add cost for four additional Solid Waste 55 Gallon Drums.

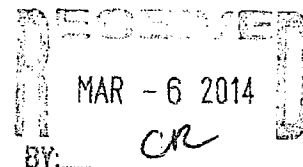
WSZ:

## Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
312/814-3620



For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276  
217/782-5544



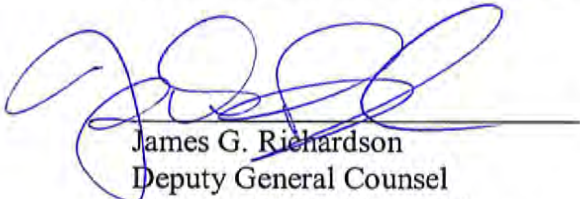
**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on April 11, 2014 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by first class mail of the United States Postal Service upon the persons as follows:

John Therriault  
Clerk  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601-3218

William D. Ingersoll  
Brown, Hay & Stephens, LLP  
P.O. Box 2459  
Springfield, Illinois 62705

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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