

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

MAC'S CONVENIENCE STORES, LLC,	)	
Petitioner,	)	
	)	
v.	)	PCB 22-
	)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION	)	Extension)
AGENCY,	)	
Respondent.	)	

**NOTICE**

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

Jana Langnickel  
Pinnacle Environmental Management  
Support, Inc.  
2001 West Sample Road, Suite 101  
Pompano Beach, FL 33064

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD – CLAIM NUMBER 20171135 - 70320 with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson  
Deputy General Counsel  
Dated: August 23, 2021  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

MAC'S CONVENIENCE STORES, LLC,	)	
Petitioner,	)	
	)	
v.	)	PCB No. 22-
	)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL	)	Extension)
PROTECTION AGENCY,	)	
Respondent.	)	

**REQUEST FOR NINETY DAY EXTENSION  
OF APPEAL PERIOD – CLAIM NUMBER 20171135 - 70320**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James G. Richardson, Deputy General Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to December 9, 2021, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On or about July 30, 2021, the Illinois EPA issued a final decision to the Petitioner.
2. On August 20, 2021, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about August 6, 2021.

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



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James G. Richardson  
Deputy General Counsel

Dated: August 23, 2021

1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
866/273-5488 (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) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

(217) 524-3300

CERTIFIED MAIL #

7020 2450 0000 1647 0314

JUL 30 2021

Mac's Convenience Stores, LLC  
Attn: Charlene Troyer  
555 Warrenville Road, Suite 400  
Lisle, IL 60532-4311

Re: 1570155022 -- Randolph County  
Coulterville / Circle K #1358  
102 East Grant Street  
Incident-Claim No.: 20171135 -- 70320  
Queue Date: June 6, 2019  
Leaking UST Fiscal File

Dear Ms. Troyer:

The Illinois Environmental Protection Agency (Illinois EPA) has completed the review of your application for payment from the Underground Storage Tank (UST) Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.Subpart F.

This information is dated January 7, 2019 and was received by the Illinois EPA on June 6, 2019. The application for payment covers the period from December 4, 2017 to May 10, 2018. The amount requested is \$431,610.83.

On June 6, 2019, the Illinois EPA received your application for payment for this claim. As a result of Illinois EPA's review of this application for payment, a voucher for \$291,824.19 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Illinois EPA received your complete request for payment of this application for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date complete subsequent application for payment requests are received by the Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

The deductible amount of \$5,000.00 was withheld from your payment. Pursuant to Section 57.8(a)(4) of the Act, any deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted from any payment invoice paid to an eligible owner or operator.

There are costs from this claim that are not being paid. Listed in Attachment A are the costs that are not being paid and the reasons these costs are not being paid.

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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 require further assistance, please contact Nicole Howland of my staff at (217) 524-0435.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian P. Bauer". The signature is written in a cursive style with a large initial "B".

Brian P. Bauer  
Leaking UST Claims  
Leaking Underground Storage Tank Section  
Bureau of Land

Attachment: A

c: Civil & Environmental Consultants, Inc.  
Leaking UST Claims Unit

### 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 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:

Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson 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  
PO Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544

Attachment A  
Accounting Deductions

Re: 1570155022 -- Randolph County  
Coulterville / Circle K #1358  
102 East Grant Street  
Incident-Claim No.: 20171135 -- 70320  
Queue Date: June 6, 2019  
Leaking UST Fiscal File

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$1,072.00, deduction for costs for laboratory analysis, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

In addition, deduction for site investigation or corrective action costs for laboratory analysis that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Provided documentation did not support the amount in the claim packet for laboratory analysis.

2. \$380.00, deduction for costs of corrective action incurred before providing notification of the release of petroleum to Illinois Emergency Management Agency in accordance with 35 Ill. Adm. Code 734.210. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(n).

Laboratory analysis prior to the IEMA date of 12/12/2017.

3. \$316.00, deduction for costs for sample shipping, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of

those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

In addition, deduction for site investigation or corrective action costs for sample shipping that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Provided documentation did not support the costs of sample shipping in the claim packet.

4. \$111,357.99, deduction for costs for groundwater remediation, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

In addition, deduction for costs for groundwater remediation, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

In addition, deduction for site investigation or corrective action costs for groundwater remediation that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Many of the activities that were done during the groundwater remediation were in excess of the Agency's requirements and not reasonable costs.

5. \$4,044.76, deduction for costs of corrective action incurred before providing notification of the release of petroleum to Illinois Emergency Management Agency in accordance with 35 Ill. Adm. Code 734.210. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(n).

Personnel costs that were prior to the IEMA date of 12/12/2017.

6. \$523.10, deduction for a reduction in the personnel title listed in Section 734.APPENDIX E Personnel Titles and Rates. Pursuant to Section 734.850(b) personnel costs must not exceed the amounts set forth in Appendix E and the personnel costs must be based on the work performed, regardless the title of the person performing the work. A few title rates have been reduced to a Senior Account Technician rate of \$69.51 per hour.

The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and 35 Ill. Adm. Code 734.630(dd).

Titles were reduced to the Senior Account Technician rate for reimbursement activities.

7. \$1,101.88, deduction for costs for personnel, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

In addition, deduction for early action costs for personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

Personnel marked as being for the preparation or work on the 45 Day report after the report had been receive by the Agency.

8. \$104.29, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable

In addition, deduction for early action costs for personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

Personnel time used for "invoicing" is an indirect cost of doing business.

9. \$292.80, deduction for costs of corrective action incurred before providing notification of the release of petroleum to Illinois Emergency Management Agency in accordance with 35 Ill. Adm. Code 734.210. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(n).

Consultant's materials used prior to the IEMA date of 12/12/2017.

10. \$1,774.42, deduction for costs for consultant's materials, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

In addition, deduction for early action costs for consultant's materials that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

The Agency doesn't reimburse vehicle usage costs or fuel, just qualified mileage costs. There are also several items without receipts, and PID rental in excess of possible use.

11. \$96.61, deduction for costs for consultant's materials, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

In addition, deduction for early action costs for consultant's materials that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

Receipts for items purchased that do not meet the minimum requirements for site necessity.

12. \$2,215.00, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable

Items such as CADD, hand tools, copies, and PPE are indirect costs of doing business.

13. \$360.00, deduction for consultant's materials costs that exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Materials for temporary wells fall under the Subpart H rate for drilling.

14. \$8,750.00, deduction for early action costs for consultant's materials that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

This is the scrap value placed on the equipment through H2K Technologies.

15. \$2,397.79, adjustment in the handling charges due to the deduction(s) of ineligible costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.635.

Handling is not eligible on hotel, food, mileage or other items that are not reimbursed by the Agency.

**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on August 23, 2021 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD – CLAIM NUMBER 20171135 – 70320 by the method(s) and to the persons identified below:

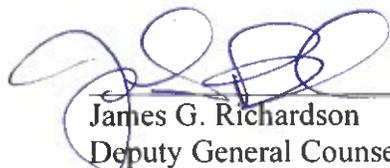
Electronic Service

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

USPS First Class Mail

Jana Langnickel  
Pinnacle Environmental Management Support, Inc.  
2001 West Sample Road, Suite 101  
Pompano Beach, FL 33064

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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