

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

HAPPY'S SUPER SERVICE)	
Petitioner,)	
)	
v.)	PCB 22-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

NOTICE

Don Brown, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
don.brown@illinois.gov

Midwest Environmental
Attn: Allan M. Green.
22200 Illinois Route 9, P.O. Box 614
Tremont, IL 6158-0614
mdwstenv@frontier.com

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



Melanie A. Jarvis
Assistant Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
melanie.jarvis@illinois.gov

Dated: March 29, 2022

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

HAPPY'S SUPER SERVICE)	
Petitioner,)	
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)	(LUST Appeal – Ninety Day
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**REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, Melanie A. Jarvis, Assistant 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 July 5, 2022, 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 February 23, 2022, the Illinois EPA issued a final decision to the Petitioner.
2. On March 29, 2022, 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 February 28, 2022.

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



Melanie A Jarvis
Assistant Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
866/273-5488 (TDD)
melanie.jarvis@illinois.gov
Dated: March 29, 2022

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on March 29, 2022, I served true and correct copies of a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** by the method(s) and to the persons identified below:

Electronic Service

Don Brown, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
don.brown@illinois.gov

Midwest Environmental
Attn: Allan M. Green.
22200 Illinois Route 9, P.O. Box 614
Tremont, IL 6158-0614
mdwstenv@frontier.com

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



Melanie A. Jarvis
Associate Counsel
Division of Legal Counsel
1021 North Grand Avenue East
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melanie.jarvis@illinois.gov

Midwest Environmental Consulting & Remediation Services Inc.

22200 Illinois Route 9 • P.O. Box 614

Tremont, IL 61568-0614

Phone : (309) 925-5551 • Fax : (309) 925-5606

E-mail : mdwstenv@frontier.com

March 28, 2022

Illinois Environmental Protection Agency
Department of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
Attn: Ms. Melanie Jarvis

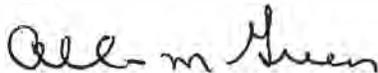
RE: LPC# 0111005022 – Bureau County
Happy's Super Service
101 East Dakota Street
Spring Valley, Illinois 61362
Incident -Claim #s 20141324—72465, 72468, 72467
LUST Fiscal File

Dear Ms. Jarvis:

I am writing to request a time extension for filing of an appeal for the above claims. Please extend the time for filing an appeal for 60 days. The extra time is necessary to prepare our response.

Sincerely,

Midwest Environmental Consulting & Remediation Services, Inc.



Allan M. Green
President

AJF
Job No. 14-54



(217) 524-3300

CERTIFIED MAIL #

7011 1150 0001 0856 7432

FEB 23 2022

Fred West
Attn: Midwest Environmental Consulting & Remediation Services, Inc.
PO Box 614
Tremont, IL 61568

Re: 0111005022 -- Bureau County
Spring Valley / Happy's Super Service
101 East Dakota
Incident-Claim No.: 20141324 -- 72468
Queue Date: October 27, 2021
Leaking UST Fiscal File

Dear Mr. West:

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 October 7, 2021 and was received by the Illinois EPA on October 27, 2021. The application for payment covers the period from November 20, 2014 to November 15, 2016. The amount requested is \$3,788.11.

On October 27, 2021, 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 \$318.66 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 for this claim is \$5,000.00, which was previously withheld from your payment(s). 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.

Page 1

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 that reads "Brian P. Bauer". The signature is written in a cursive style with a large, stylized "B" and "A".

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

Attachment: A

c: Mr. Fred West
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: 0111005022 -- Bureau County
Spring Valley / Happy's Super Service
101 East Dakota
Incident-Claim No.: 20141324 -- 72468
Queue Date: October 27, 2021
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. \$3,469.45, deduction for costs for personnel that were not approved in a budget. The overall goal of the financial review must be to assure 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 35 Ill. Adm. Code 734.Subpart H. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b) and 35 Ill. Adm. Code 734.605(a).

Pursuant to 35 Ill. Adm. Code 734.605(a), costs for which payment is sought must be approved in a budget, provided, however, that no budget must be required for early action activities conducted pursuant to 35 Ill. Adm. Code 734.Subpart B other than free product removal activities conducted more than 45 days after confirmation of the presence of free product. The costs associated with personnel were not approved in a budget and are, therefore, ineligible for payment.

In addition, deduction for costs for personnel that exceed those contained in a budget or amended budget approved by the Illinois EPA. The cost included in the application for payment exceeds the approved budget amount and, as such, is ineligible for payment from the Fund pursuant to Section 57.8(a)(1) of the Act and 35 Ill. Adm. Code 734.605(g) and 734.630(m).

In addition, 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 site investigation or corrective 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(dd).

As Early Action cost these costs appear to be unreasonable. Since these costs were submitted as Stage 1 costs and a Stage 1 Budget was approved on 8/23/17 and a reimbursement claim was subsequently submitted 9/12/17, which used the entire budget approved by the IEPA, no additional Stage 1 costs can be approved.