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APR 22 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

**WEWS, L.P., WITH RESPECT TO
THE BOYE NEEDLE FACILITY,**

Petitioner

v.

**ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,**

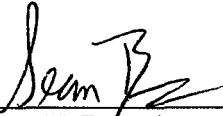
Respondent

**PCB 04-128
(UST APPEAL)**

NOTICE OF FILING

TO: Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, the undersigned's APPEARANCE in the above-captioned matter and Petitioner WEWS, L.P. with respect to the Boye Needle Facility's PETITION FOR APPEAL OF ILLINOIS ENVIRONMENTAL PROTECTION AGENCY DETERMINATION REGARDING UST FUND REIMBURSEMENT AND HEARING, a copy of both of which are herewith served upon you.



Sean W. Bezark
for Greenberg Traurig, LLP

Date: April 22, 2004

Sean W. Bezark
GREENBERG TRAURIG, LLP
77 West Wacker Drive
Suite 2500
Chicago, Illinois 60601
(312) 476-5027

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**WEWS, L.P., WITH RESPECT TO
THE BOYE NEEDLE FACILITY,**

Petitioner

v.

**ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,**

Respondent

**PCB 04-128
(UST APPEAL)**

**PETITION FOR APPEAL OF ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY DETERMINATION REGARDING
UST FUND REIMBURSEMENT AND HEARING**

Petitioner, WEWS, L.P., with respect to the Boye Needle Facility, hereby submits this Petition For Appeal of Illinois Environmental Protection Agency Determination Regarding UST Fund Reimbursement and Hearing to appeal the Illinois Environmental Protection Agency's ("Agency") final determination that certain expenditures Petitioner incurred for activities taken in response to a confirmed UST release performed in compliance with the Illinois Environmental Protection Act ("Act"), Sections 415 ILCS 5/57, 5/58, at 4343-4357 North Ravenswood, Chicago, Cook County, are unreasonable and not reimbursable from the UST Fund. This Petition is submitted pursuant to Section 40 and Section 57.8(i) of the Act. Petitioner requests that the Board find that the \$42,852.00 that the Agency determined is unreasonable and not reimbursable from the UST Fund is in fact and by law reimbursable pursuant to the Act and hold a hearing with respect to the issues discussed in this Petition.

I. Procedural History

WEWS, L.P. has engaged Pioneer Engineering and Environmental Services, Inc. ("Pioneer") to conduct response actions at 4343-4357 North Ravenswood, Chicago, Cook County, with respect to a confirmed UST release at that facility. Considerable amounts of necessary response actions have been taken at the facility and the Agency has approved of numerous UST Fund reimbursement requests and the Comptroller of the State of Illinois has reimbursed these approved reimbursement requests.

On April 17, 2003 and June 16, 2003, Pioneer, on behalf of Petitioner, submitted to the Agency an Early Action Billing Package and an Early Action Billing Package #2, respectively, both of which contained a Request for Payment of UST Corrective Action Costs, for response activities performed in connection with, amongst other activities, the operation and maintenance of the active remediation free product recovery system to address the confirmed release at the facility. The Early Action Billing Packages are voluminous and are, therefore, incorporated herein by reference (full copies will be made available to the Board upon request). On October 8, 2003, the Agency sent two letters to Petitioner, one of which deducted \$42,852.00 for Field Technician and Project Engineer's costs for operation and maintenance (O & M) of the free product recovery system which the Agency deemed unreasonable. A copy of that letter is attached hereto as Attachment 1. Item #1 on Attachment A to this letter is the only item at issue in this Appeal. Pioneer sent the Agency a letter dated November 5, 2003 explaining that all costs and fees were appropriately incurred to address the release at the facility. A copy of this explanatory letter is attached hereto as Attachment 2. Note that

this November 5 2003 letter also addresses other matters not at issue. On December 18, 2003, the Agency sent Petitioner a final determination letter which is attached hereto as Attachment 3 (this letter was received by Petitioner on December 22, 2003). This final determination letter approved an additional voucher of \$3,267.00 and contained a Technical Deduction of \$42,852.00 for costs which were "unreasonable as submitted." The Agency's determination that these \$42,852.00 in incurred costs are unreimbursable is inconsistent with the Act. Consequently, Respondent is submitting this timely Petition for Hearing and Appeal of that portion of the Agency's December 18, 2003 determination.¹

II. Grounds for Appeal

The grounds for appeal in this matter are quite simple. All costs incurred by Petitioner as described in Pioneer's Early Action Billing Packages, including the \$42,852.00 at issue here and referenced above were reasonable, were for costs for activities taken in response to a confirmed release and are properly reimbursable pursuant to 415 ILCS 5/57 and 5/58. Contrary to the Agency's determination, the \$42,852.00 in costs at issue were reasonable as submitted.

The Agency has taken the position that those costs were unreasonable because, in essence, the Agency believes it took Pioneer too many hours to perform certain response action activities. This determination does not take into account the complexities of the remediation project and certain other factors related to the remediation activities.

¹ On February 5, 2004, the Board adopted an Order extending the time period within which Petitioner must file this Appeal with the Board, a copy of which is attached hereto as Attachment 4.

First and foremost, every dollar of the \$42,852.00 at issue was incurred to comply with the Act and to operate and maintain the free product recovery system at the facility. The presence of free product at the facility necessitated the operation of an active treatment system. This system included the installation of wells, the pumping of groundwater and the pumping and disposal of free product. A summary of Pioneer's employee's field notes were provided to the Agency to document and provide detailed information regarding the services performed (and are included herein in Attachment 2). The contemporaneously-prepared field notes clearly show the significant time Pioneer's employees spent in appropriately and reasonably conducting response actions at the facility. These activities were not in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Admin. Code 732.606(o)). 35 Ill. Admin. Code 732.203 required removal of free product to the extent practicable. Costs incurred to comply with that section (and the Act) are reasonable.

In addition, the facility has physical constraints which makes free product recovery difficult and time consuming. The free product is located underneath the floor in the basement at the facility with limited access for investigative and treatment equipment. Also, the cold winter weather necessitated additional response action activities to operate and maintain the free product treatment equipment and to keep it from freezing.

While the Petitioner understands and appreciates the Agency's authority and need to review reimbursement requests to make certain the costs incurred are reasonable, that reasonableness determination should be made on a case-by-case basis taking into account whether the costs were incurred to comply with and in compliance

with the Act and were necessary under the circumstances. In fact, Petitioner's Site Investigation Plan, Site Investigation Completion Report and all Quarterly Free Product Removal Reports specifically document the recovery efforts portions of the costs which are at issue here. The Agency has approved of these documents, all of which were submitted to the Agency.

The \$42,852.00 at issue was incurred by Petitioner to comply with and in compliance with the Act and were reasonable under the circumstances of the response actions at the facility. The Agency's determination that the Field Technicians and Project Engineer's costs for operation and maintenance (O & M) of the free product recovery system were unreasonable was arbitrary and capricious. The Act authorizes the reimbursement from the UST Fund costs incurred for activities taken in response to a confirmed UST release; the \$42,852.00 in costs at issue were exactly that type of costs. The Agency has provided no rationale, and, in fact, there is no rationale that these remediation costs are "unreasonable as submitted." As such, the costs are properly reimbursable by the UST Fund via the Comptroller of the State of Illinois and the Agency should prepare a voucher for \$42,852.00 for submission to the Comptroller's Office for payment as funds become available.

III. Conclusion and Prayer for Relief

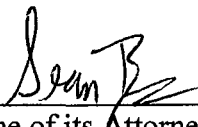
In reliance upon, pursuant to and in accordance with the Act, Petitioner incurred costs for activities to respond to a confirmed UST release. These costs are properly reimbursable pursuant to the Act and the Agency has provided no rationale or basis for its determination that the costs are unreasonable. The response actions simply could not have been appropriately performed without the services at issue having been

performed. The costs were properly incurred, were necessary and justified under the circumstances and were (and are) reasonable.

WHEREFORE, for the foregoing reasons and the reasons set forth in correspondence with the Agency, the Petitioner respectfully petitions the Board for a hearing to address the issues addressed in this Appeal or to find that the Agency's determination was in error and the \$42,852.00 was incurred by the Petitioner for reasonable response actions and is properly reimbursable to the Petitioner.

Respectfully submitted,

WEWS, L.P., with respect to
the Boye Needle Facility

By: 
One of its Attorneys

Sean W. Bezark
GREENBERG TRAURIG, LLP
77 West Wacker Drive
Suite 2500
Chicago, Illinois 60601
(312) 476-5027

ATTACHMENT 1

October 8 2003 Illinois Environmental Protection Agency Letter



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

OCT 08 2003

WEWS, L.P.

Attn: Rocco Martino

70 West Madison Street, Suite 5710

Chicago, Illinois 60602

Re: LPC #0316005567 -- Cook County
Chicago/Boye Needle Facility
4343-4357 North Ravenswood
LUST Incident Number 20010347
LUST FISCAL FILE

Dear Mr. Martino:

On July 21, 2003, the Agency sent you a letter regarding the site referenced above. Upon further review, an additional voucher for \$26,000.00 will be prepared for submission to the Comptroller's Office for payment as funds become available.

An underground storage tank owner or operator may appeal this decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) and Section 40 of the Illinois Environmental Protection Act. An owner or operator who seeks to appeal the Agency's decision may, within 35 days after the notification of the final Agency decision, petition for a hearing before the Board; however, the 35-day period may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the 35-day initial appeal period.

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, Illinois 60601
312/814-3620

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

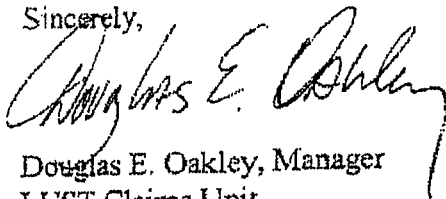
Rockford - 402 North Main Street, Rockford, IL 61103 - (815) 987-7760 • Des Plaines - 1511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4500
Evanston - 301 South State, Evanston, IL 60122 - (847) 616-1111 • Peoria - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
Bureau of Environmental Protection - 7620 S. University St., Peoria, IL 61614 - (309) 693-5462 • Champaign - 2125 South First Street, Champaign, IL 61820 - (217) 278-5000
Springfield - 4500 S. South Street, Springfield, IL 62706 - (217) 786-6812 • Collinsville - 2009 Main Street, Collinsville, IL 62234 - (618) 146-5120
Morton - 2309 W. Main St., Suite 115, Morton, IL 62959 - (618) 993-7200

Page 2

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

If you have any questions, please contact Jason Donnelly of Harry Chappel's staff at
217/782-6762.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas E. Oakley". The signature is fluid and cursive, with the first name "Douglas" being more prominent.

Douglas E. Oakley, Manager
LUST Claims Unit
Planning & Reporting Section
Bureau of Land

DEO:LH:ct\03914.doc

cc: Pioneering Engineering Environmental Services, Inc.

Attachment A
Technical Deductions

Re: LPC #031605567 - Cook County
Chicago/William Wright Ltd., Partnership
4343 North Ravenwood
LUST Incident No. 20010347
LUST Fiscal File

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

Item # Description of Deductions

1. \$42,852.00, deduction for costs which are unreasonable as submitted. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh))

The above deduction is associated with Field Technician and Project Engineer costs that were unreasonable for operation and maintenance (O&M) of the free product recovery system.

2. \$1,657.50, deduction for costs associated with demurrage charges. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(nn)). In addition, these costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs were not used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).

The proper invoices must be submitted if the above costs were for actual loading of free product.

3. \$165.75 action for handling charges in the billing(s) exceed the handling charges set forth in Section 57.8(f) of the Act. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607):

Subcontract or Field Purchase Cost	Eligible Handling Charges as a Percentage of Cost
\$0-\$5,000	12%
\$5,001-\$15,000	\$600 + 10% of amount over \$5,000
\$15,001-\$50,000	\$1600 + 8% of amount over \$15,000
\$50,001-\$100,000	\$4400 + 5% of amount over \$50,000
\$100,001-\$1,000,000	\$6900 + 2% of amount over \$100,000

ATTACHMENT 2

November 5, 2003 Pioneer Letter Providing Additional Information

November 5, 2003

Illinois Environmental Protection Agency
Bureau of Land #24 - RAPAU
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
Attn.: Lieura Hackman, RAPAU
Jason Donnelly, LUST Technical

Re: LPC #0316005567 -- Cook County
Chicago / Boye Needle Facility
4343 North Ravenswood
LUST Incident No. 20010347

Dear Ms. Hackman and Mr. Donnelly:

This letter is an appeal to two Agency letters, dated October 8, 2003, regarding the reimbursement of early action corrective action costs at the above captioned subject property. As specified in the Agency's letters, this appeal is being filed within 35 calendar days of the mailing date of the Agency letters. A copy of the Agency's letters have been included as Attachment A of this submittal for your convenience.

As described in Attachment A of the Agency's letters, certain technical deductions associated with laboratory analysis and operation/maintenance costs associated with the free product recovery efforts were excluded from reimbursement.

The amounts excluded are properly reimbursable. The following is intended to provide additional documentation to support a request for a re-evaluation of the deductions outlined in the Agency's letters. For your convenience, this appeal has been structured in a format to correspond to the points outlined in your letter.

Technical Deductions (billing package #2)

1. A deduction in the amount of \$3,267.00 was made for costs associated with waste scan analysis. Due to the presence of free product at the site, active remediation was necessary in order to pursue closure of the LUST incident. This remediation included the installation of wells, the pumping of groundwater, and the pumping of free product. As a result of these activities, three separate waste streams were generated (i.e. soil, water, and product) which required proper off-site disposal. A copy of the actual subcontractor laboratory invoice is attached for your reference in Attachment B. The soil waste scan was conducted for the disposal of soil cuttings generated during the installation of monitoring and recovery wells. The purge water waste scan was conducted for the disposal of purge water generated during well sampling and free product recovery efforts at the monitoring and recovery wells. The free product waste scan was conducted for the disposal of the free product from the site which

is generated during free product recovery efforts. In order to obtain permits for off-site disposal, site-specific information was reviewed and evaluated and the waste streams were analyzed accordingly. As a result, these costs were necessary and reasonable, and the Agency should modify the amount of reimbursement to include the \$3,267.00 deducted by the Agency.

Technical Deductions (billing package #3)

2. A deduction in the amount of \$42,852.00 was made for costs associated with Field Technician and Project Engineer costs associated with the operation and maintenance of the free product recovery system. Due to the presence of free product at the site, active remediation was necessary in order to pursue closure of the LUST incident. This remediation included numerous activities, including the installation of wells, the pumping of groundwater, and the pumping of free product.

Due to the physical properties of heating oil, the recovery of this product is difficult. In addition, the cold weather conditions during the period of the operation and maintenance efforts resulted in significant labor associated with pumping heating oil and groundwater during cold weather conditions. All of the labor costs for which reimbursement is sought are for actual work performed at the subject property to recover free product and therefore are appropriately reimbursable. A summary of the field notes collected by Pioneer personnel have been summarized and are included as Attachment C to provide the Agency with documentation and additional information regarding descriptions of the work performed.

Given the above information, Pioneer respectfully requests that the approved amount for reimbursement be modified by \$46,119 to include the costs described above. Pioneer appreciates your time in review of this matter and if you have any questions or need additional information, please contact me at (312) 587-1021.

Sincerely,
**PIONEER ENGINEERING &
ENVIRONMENTAL SERVICES, INC.**



Eric Termuehlen, P.E.
Senior Project Manager

[Attachments]

cc: Rocco Martino, WEWS, L.P. (w/Attach.)
Sean Bezark, Esq., Greenberg Traurig, LLP (w/Attach.)

ATTACHMENT A
AGENCY LETTERS
OCTOBER 8, 2003



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397

JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

OCT 08 2003

WEWS, L.P.

Attention: Rocco Martino

70 West Madison Street, Suite 5710

Chicago, IL 60602

Re: LPC #0316005567 -- Cook County

Chicago/Boye Needle Facility

4343-4357 North Ravenswood

LUST Incident Number 20010347

LUST FISCAL FILE

Dear Mr. Martino:

On May 19, 2003, the Agency sent you a letter regarding the site referenced above. Upon further review, an additional voucher for \$5,015.02 will be prepared for submission to the Comptroller's Office for payment as funds become available.

An underground storage tank owner or operator may appeal this decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) and Section 40 of the Illinois Environmental Protection Act. An owner or operator who seeks to appeal the Agency's decision may, within 35 days after the notification of the final Agency decision, petition for a hearing before the Board; however, the 35-day period may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the 35-day initial appeal period.

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, Illinois 60601

312/814-3620

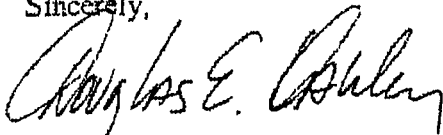
ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5600
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (317) 786-6892 • COLLINGSVILLE - 2009 Mall Street, Collingsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

Page 2

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

If you have any questions, please contact Lieura Hackman, or Jason Donnelly of Harry Chappel's staff, at 217/782-6762.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas E. Oakley". The signature is fluid and cursive, with a large initial "D" and "O".

Douglas E. Oakley, Manager
LUST Claims Unit
Planning & Reporting Section
Bureau of Land

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Attachment

cc: Pioneer Engineering Environmental Services, Inc.

Attachment A
Accounting Deductions

Re: LPC #0316005567 -- Cook County
Chicago/Boye Needle Facility
4343-4357 North Ravenswood
LUST Incident Number 20010347
LUST Fiscal File

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

Item #	Description of Deductions
--------	---------------------------

- | | |
|----|---|
| 1. | \$2,679.50, deduction for costs associated with demurrage charges. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(nn)) |
|----|---|

This deduction was made for demurrage charges requested on the SET Environmental invoice.

- | | |
|----|--|
| 2. | \$316.47, adjustment in the handling charges due to the deduction(s) of ineligible costs (Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607). |
|----|--|

This deduction for handling charges associated with the ineligible demurrage charges.

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Attachment A
Technical Deductions

Re: LPC #031605567 -- Cook County
Chicago/William Wright Ltd., Partnership
4343 North Ravenwood
LUST Incident No. 20010347
LUST Fiscal File

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

Item # Description of Deductions

1. \$3,267.00, deduction in waste scan analysis costs, which are unreasonable as submitted. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh). In addition, these costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs were not used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).

Based on the information submitted to date, the above costs are unreasonable. Before the costs can be justified, each individual analyses performed must be broken out separately. When all tests are lumped together, the Illinois EPA cannot determine if the rate and/or amount per analyses is reasonable.

HAC:JD\010347-billing.pack#2



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

OCT 08 2003

WEWS, L.P.

Attn: Rocco Martino

70 West Madison Street, Suite 5710

Chicago, Illinois 60602

Re: LPC #0316005567 -- Cook County
Chicago/Boye Needle Facility
4343-4357 North Ravenswood
LUST Incident Number 20010347
LUST FISCAL FILE

Dear Mr. Martino:

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Chicago, Illinois 60601
312/814-3620

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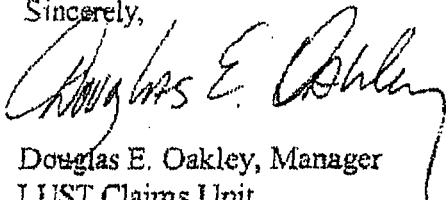
Rockford - 402 North Main Street, Rockford, IL 61103 - (815) 987-7760 • Des Plaines - 1511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4600
Evanston - 591 South State, Evanston, IL 60122 - (847) 646-1111 • Peoria - 5415 N. University St., Peoria, IL 61614 - (309) 691-5464
Bureau of Land & Forest - 7620 N. University St., Peoria, IL 61614 - (309) 691-5462 • Champaign - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
Springfield - 4300 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6802 • Collinsville - 2000 Main Street, Collinsville, IL 62234 - (618) 346-5129
Moline - 2000 W. Main St., Suite 110, Moline, IL 61201 - (314) 993-7200

Page 2

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

If you have any questions, please contact Jason Donnelly of Harry Chappel's staff at 217/782-6762.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas E. Oakley", is written over the typed name and title.

Douglas E. Oakley, Manager
LUST Claims Unit
Planning & Reporting Section
Bureau of Land

DEO:LH:ct\03914.doc

cc: Pioneering Engineering Environmental Services, Inc.

Attachment A
Technical Deductions

Re: LPC #031605567 -- Cook County
Chicago/William Wright Ltd., Partnership
4343 North Ravenwood
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2. \$1,657.50, deduction for costs associated with demurrage charges. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(nn)). In addition, these costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs were not used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).

The proper invoices must be submitted if the above costs were for actual loading of free product.

- 3 \$165.75 action for handling charges in the billing(s) exceed the handling charges set forth in Section 57.8(f) of the Act. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607):

Subcontract or Field Purchase Cost	Eligible Handling Charges as a Percentage of Cost
\$0-\$5,000	12%
\$5,001-\$15,000	\$600 + 10% of amount over \$5,000
\$15,001-\$50,000	\$1600 + 8% of amount over \$15,000
\$50,001-\$100,000	\$4400 + 5% of amount over \$50,000
\$100,001-\$1,000,000	\$6900 + 2% of amount over \$100,000

ATTACHMENT B
SUBCONTRACTOR INVOICE

Synergistic

LABORATORIES, INC.

Invoice

450 54th Street SW
Grand Rapids, MI 49548
Phone: 616-538-8700
Fax: 616-538-9055
Federal I.D. 38-3441920

Invoice Number: 011412

Invoice Date: 7/10/01

Page Number: 1

Sold To:

Pioneer Environmental, Inc.
1000 North Halsted
Suite 202
Chicago, IL 60622

Ship To:

Mr Joe Kelly
Pioneer Environmental, Inc.
1000 North Halsted Suite 202
Chicago, IL 60622

Wm. E. Wright
Recd 8/14/01
[Signature]

Client No: 100	Client P.O. and/or Project Number: 00795D	Payment Terms: Net 30 Days 1.5% Late Fee	
Project Manager Mr Ramon David	Shipping Method: Fax/Mail	Sample Received 6/25/01	Due Date: 8/9/01

Quantity	Test Requested	Unit Price	Amount
	3 SAMPLES FROM WM. E. WRIGHT		
1	HEAT OF COMBUSTION (BTU)	60.00	60.00
1	CHLORINE	25.00	25.00
3	F001 - F002 SOLVENTS, F003 FID & VOLATILE SOLVENTS, F004 SOLVENTS, F005 FID & VOLATILE SOLVENTS	382.00	1,146.00
3	FLASH POINT	25.00	75.00
3	TCLP METALS ANALYSES - LOW LEVEL	152.00	456.00
2	PAINT FILTER	15.00	30.00
3	POLYCHLORINATED BIPHENYLS	60.00	180.00
3	TOTAL PHENOLS	50.00	150.00
3	pH	10.00	30.00
3	REACTIVITY / AS INTERACTION WITH WATER	60.00	180.00
3	REACTIVE SULFIDE	40.00	120.00
3	SPECIFIC GRAVITY	45.00	135.00
3	TCLP LEACHATE ANALYSIS FOR SEMI-VOLATILES	230.00	690.00
3	TCLP LEACHATE ANALYSIS FOR VOLATILES	180.00	540.00
3	TOTAL CYANIDE	45.00	135.00
3	TOTAL SOLIDS	25.00	75.00
3	TOTAL SULFIDE	40.00	120.00
3	TOTAL ORGANIC HALOGENS	90.00	270.00

Thank You for Your Patronage!

Subtotal	4,417.00
Sales Tax	
Freight	
Total Invoice Amount	\$4,417.00
Payment Received	0.00
TOTAL DUE	\$4,417.00

Check No:

Expertise in chemical analysis

ATTACHMENT C
SUMMARY OF FIELD NOTES

00795D
Wm. E. Wright
4343 North Ravenswood Ave.
Chicago, IL
Summary of Available Field Notes

Date	O&M Description	Engineer Hours	Field Tech Hours
12/4/02	Measure DTP in tank. Replace/adjust valves at RW-4. Adjust pumps. Check/drain passive bailer assemblies.	6	
12/9/02	Tank almost full. Schedule Vac Truck event. Check/adjust pumps. Adjust pumps. Replace/adjust valves at RW-4.	7	
12/11/02	O/W separator not operational. Adjust O/W separator discharge. Check/adjust pumps. Filter/regulator leaking at RW-4. Order replacement regulator. Pump at RW-6 leaking into discharge - adjust.	10	
12/12/02	Vac Truck Event. Approx. 350 gal in tank (20 gal product) Pump out tank and product tank. Remove all pumps. Install all drop pipes. Vac total of 2286 gallons.	10	
12/16/02	Measure DTP/DTW in all wells Remove all drop pipes. Install all pumps. Restart and adjust pump heights. Check operation of all pumps.	10	
12/18/02	Document recovery levels. Replace filter/regulator at RW-4. Pump RW-6 has water in discharge vent. Disassemble RW-6 pump. Leak in internal discharge line. Repair RW-6 internal tubing. Reinstall RW-6 and check operation. Check/drain passive bailer assemblies. Change pump timer.	10	
12/19/02	Document recovery rates. Develop passive bailer wells to allow Cap install. Install vacuum breaker on discharge trap of O/W Separator.	8	
12/23/02	Check operation of all pumps. Clean discharge valves as necessary.	6	
12/27/02	Measure Product thickness and move pumps. Skim approx. 5 gal product from O/W Separator. Clean/drain passive bailer assemblies.	6	

00795D
Wm. E. Wright
4343 North Ravenswood Ave.
Chicago, IL
Summary of Available Field Notes

12/30/02	Measure product thickness in separator. Measure Product thickness. Adjust pumps. Repair defective RW-10 discharge valve. Check/drain passive bailer assemblies.	7	
1/2/03	Vac. Truck event. Approx. 350 gal in tank (10 gal product) Remove all pumps. Install all drop pipes. Vac total of 1991 gallons.	10	9.25
1/6/03	Measure DTP/DTW in all wells Reinstall all pumps & check operation. Drain/check all passive bailers.	8	
1/9/03	Check operation of all pumps. Adjust pumps. Remove/clean/reinstall check valve at RW-4. Replace check valve at RW-6. Check/drain passive bailer assemblies.	10	7
1/15/03	Measure product in O/W Separator. Check operation of all pumps. Adjust pumps. Clean pump at RW-4. Check/drain passive bailer assemblies.	10	
1/16/03	RW-8 is fouled with iron bacteria. Attempt well surge/purging. Order anti-biofouling agent. Check/adjust pumps.	10	
1/20/03	Check/adjust pumps. Disassemble RW-6 pump. Clean valves in RW-6. Check/drain passive bailer assemblies. Approx. 7 gal product in O/W Sep.	10	
1/22/03	Check/adjust pumps. Two regulators seized due to cold temp. RW-6 pump discharge is frozen. Add LBA to RW-8. Develop & surge RW-8.	10	7
1/23/03	System frozen on arrival. Heat discharge and air lines.	4	5
1/27/03	Install portable heater. Attempt to restart system.	5	7
1/29/03	Start heater. Dethaw frozen discharge lines. Heat individual well heads with heat gun. Attempt to restart system.	10	

00795D
Wm. E. Wright
4343 North Ravenswood Ave.
Chicago, IL
Summary of Available Field Notes

1/30/03	Pumped discharge begins in some wells. Heat tank. Restart system. Remove ice from tank. Five pumps operating properly on completion.	5	
1/31/03	All pumps brought into operation. Sample MW-8, 9, 10. Check operation of pumps. Adjust pumps.	10	6
2/5/03	Dethaw frozen discharge line. Dethaw RW-6 and 11 discharge lines. Restart system. Check operation of pumps. Adjust pumps.	10	
2/7/03	Dethaw RW-6 and 11 discharge lines. Check operation of pumps. Adjust pumps.	10	6
2/10/03	Dethaw RW-6 and 11 discharge lines. Check operation of pumps. Heat O/W Separator. Dethaw discharge line. Heat all pumps.	10	6
2/13/03	Dethaw all pump discharge lines. Dethaw O/W Separator. Northern pumps fully operational.	10	
2/14/03	Dethaw RW-6 and 11 discharge lines. Restart system. Dethaw O/W Separator. Adjust pumps. Remove ice from tank. Repair broken discharge hoses. Order tank heater for O/W Separator. All pumps brought into operation.	10	6
2/18/03	Dethaw O/W Separator. Restart system. Check operation of pumps. Adjust pumps.	10	
2/19/03	Install tank heater. Check operation of pumps. Adjust pumps. Heat tank to temp which dethaws ice.	10	
2/21/03	Vac. Truck event. Approx. 350 gal in tank (20 gal product) Remove all pumps. Install all drop pipes. Vac total of 1500 gallons.	7	9.25

00795D
Wm. E. Wright
4343 North Ravenswood Ave.
Chicago, IL
Summary of Available Field Notes

2/24/03	Measure DTP/DTW in all wells Reinstall all pumps. Dethaw pump discharge lines. Adjust pumps. Check operation of pumps.	10	
2/25/03	Dethaw five frozen pump discharge lines. Adjust pumps. Check operation of pumps.	10	
2/26/03	RW-3 filter/regulator not functioning. Dethaw all pump discharge lines. Restart system. Check operation of pumps.	6	
2/28/03	Dethaw pumps RW-6 and 11. Compressor fails to cycle properly. Troubleshoot compressor & order parts. Shut system down to prevent failure.	10	
3/3/03	Install compressor switch & filter/regulator.		9.25
3/5/03	Dethaw RW-6 and 11 discharge lines. Check operation of pumps. Adjust pumps. Dethaw O/W Separator.	10	
3/7/03	Check operation of pumps. Clean exterior check valves. Adjust pumps.	6	
3/11/03	Dethaw compressed air lines. Dethaw pump discharge lines. Check operation of pumps. Adjust pumps.	8	
3/12/03	Dethaw RW-6 and 11 discharge lines. Dethaw O/W Separator. Check operation of pumps. Adjust pumps.	6	
3/13/03	Repair/clean RW-11 pump. Check operation of pumps. Adjust pumps.	8	3
3/17/03	Approx. 350 gal in tank (20 gal product) Compressor fails to cycle properly. Compressor motor draws excessive current. Order new compressor. Check operation of pumps. Adjust pumps.	7	
3/18/03	Pickup/Install new compressor. Restart system. Check operation of pumps. Adjust pumps. Replace defective pressure guage at RW-6.	8	

00795D
Wm. E. Wright
4343 North Ravenswood Ave.
Chicago, IL
Summary of Available Field Notes

3/19/03	Check operation of pumps. Check compressor operation.	3	4
3/25/03	Approx. 400 gal in tank (20 gal product) Check operation of pumps. Adjust pumps. Clean check valves on RW-11. Check/drain passive recovery canisters.	6	
3/27/03	Vac. Truck event. Approx. 400 gal in tank (20 gal product) Remove all pumps. Install all drop pipes. Treat RW-9 with LBA. Surge well.	5	10.5
3/31/03	Measure DTP/DTW in all wells Reinstall all pumps. Adjust pumps. Check operation of pumps. Treat RW-9 with LBA. Surge well.	8	5.5
4/3/03	Check operation of pumps. Adjust pumps. Remove pump at RW-11. Adjust/clean valves in RW-11 pump. Check/drain passive recovery canisters.	6	6
4/4/03	Check operation of pumps. Adjust pumps.	8	6
4/8/03	Check operation of pumps. Adjust pumps.	6	6
4/10/03	Check operation of pumps. Adjust pumps. Treat RW-8 with LBA. Surge well.	10	8
4/11/03	Check operation of pumps. Adjust pumps.	8	2.5
4/28/03	Check operation of pumps. Adjust pumps. Adjust/clean valves in RW-4 pump. Treat RW-9 with LBA. Surge well. Check/drain passive recovery canisters.	10	10.25
4/30/03	Check operation of pumps. Adjust pumps. Clean check valves on RW-4.	6	8
5/1/03	Check operation of pumps. Treat RW-8 & RW-9 with LBA. Surge wells. Shut system down to document product.	10	11
5/5/03	Measure DTP/DTW in all wells Check operation of pumps. Dissassemble RW-2 pump and clean.	10	20.25

00795D
Wm. E. Wright
4343 North Ravenswood Ave.
Chicago, IL
Summary of Available Field Notes

5/6/03	Adjust pumps. Check operation of pumps.	10	10
	Adjust pumps.		
5/8/03	Replace broken well riser at RW-3. Check operation of pumps.	8	
	Adjust pumps.		
5/12/03	Check/drain passive recovery canisters. Check operation of pumps.	10	12
	Adjust pumps.		
5/15/03	Treat RW-8 & RW-9 with LBA. Surge wells. Check operation of pumps.	10	12
	Adjust pumps.		
	Drain condensor water.		
5/19/03	Shut system down to document product. Measure DTP/DTW in all wells	10	11.25
	Reinstall all pumps.		
	Check operation of pumps.		
	Adjust pumps.		
5/20/03	Check operation of pumps.	8	3
	Adjust pumps.		
	Replace well riser at RW-11 and MW-1.		
5/21/03	Check operation of pumps.	8	
	Adjust pumps.		
	Check/drain passive recovery canisters.		
5/23/03	Check operation of pumps.	10	14
	Adjust pumps.		
5/27/03	Check operation of pumps.	8	8
	Adjust pumps.		
5/28/03	Check operation of pumps.	8	9
	Adjust pumps.		
	Switch pump locations.		

ATTACHMENT 3

December 18, 2003 Illinois Environmental Protection Agency Final Determination Letter



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BIAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL

7002315000000250849

DEC 18 2003

WEWS, L.P.

Attention: Rocco Martino

70 West Madison Street, Suite 5710

Chicago, IL 60602

Re: LPC #0316005567 -- Cook County
Chicago/Boye Needle Facility
4343-4357 North Ravenswood
LUST Incident Number 20010347
LUST FISCAL FILE

Dear Mr. Martino:

On July 21, 2003, the Agency sent you a letter regarding the site referenced above. Upon further review, an additional voucher for \$3,267.00 will be prepared for submission to the Comptroller's Office for payment as funds become available.

An underground storage tank owner or operator may appeal this decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) and Section 40 of the Illinois Environmental Protection Act. An owner or operator who seeks to appeal the Agency's decision may, within 35 days after the notification of the final Agency decision, petition for a hearing before the Board; however, the 35-day period may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the 35-day initial appeal period.

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, Illinois 60601
312/814-3620

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

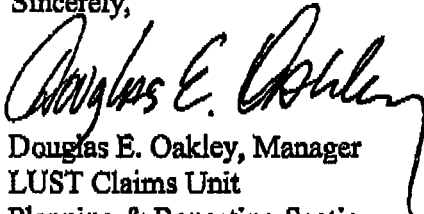
Page 2

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

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

If you have any questions, please contact Jason Donnelly of Harry Chappel's staff or myself at 217/782-6762.

Sincerely,


Douglas E. Oakley, Manager
LUST Claims Unit
Planning & Reporting Section
Bureau of Land

DEO:LH:jk\030157.doc

Attachment

cc: Pioneer Engineering and Environmental Services, Inc.

Attachment A
Technical Deductions

Re: LPC #031605567 -- Cook County
 Chicago/William Wright Ltd., Partnership
 4343 North Ravenwood
 LUST Incident No. 20010347
 LUST Fiscal File

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

Item #	Description of Deductions
--------	---------------------------

- | | |
|----|--|
| 1. | \$42,852.00, deduction for costs which are unreasonable as submitted. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)) |
|----|--|

The above deduction is associated with Field Technician and Project Engineer costs that were unreasonable for operation and maintenance (O&M) of the free product recovery system.

HAC:JD\010347-billing.pack#4.A

ATTACHMENT 4

February 5, 2004 Illinois Pollution Control Board Order

February 5, 2004

PCB 04-128
(UST Appeal)
(90-Day Extension)

¹ Pioneer Engineering & Environmental Services filed with the Board on January 20, 2004, a copy of its request to the Agency on behalf of Boye Needle Facility for an extension of the 35-day filing period.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**WEWS, L.P., WITH RESPECT TO
THE BOYE NEEDLE FACILITY,**

Petitioner

v.

**ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,**

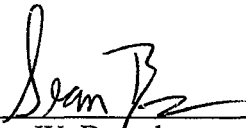
Respondent

**PCB 04-128
(UST APPEAL)**

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached APPEARANCE and PETITION FOR APPEAL OF ILLINOIS ENVIRONMENTAL PROTECTION AGENCY DETERMINATION REGARDING UST FUND REIMBURSEMENT AND HEARING by U.S. Mail, upon the following persons:

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276



Sean W. Bezark
for Greenberg Traurig, LLP

Date: April 22, 2004

Sean W. Bezark
GREENBERG TRAURIG, LLP
77 West Wacker Drive
Suite 2500
Chicago, Illinois 60601
(312) 476-5027

RECEIVED
CLERK'S OFFICE

APR 22 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WEWS, L.P., WITH RESPECT TO
THE BOYE NEEDLE FACILITY,

Petitioner

v.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent

PCB 04-128
(UST APPEAL)

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of Petitioner, WEWS, L.P. with respect to the Boye Needle Facility.



Sean W. Bezark
for Greenberg Traurig, LLP

Sean W. Bezark
GREENBERG TRAURIG, LLP
77 West Wacker Drive
Suite 2500
Chicago, Illinois 60601
(312) 476-5027