

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

| | | |
|------------------------------|---|--------------------------------------|
| FIRST NATIONAL BANK OF BARRY |) | |
| Petitioner, |) | |
| v. |) | PCB No. 09- |
| ILLINOIS ENVIRONMENTAL |) | (LUST Appeal – Ninety Day Extension) |
| PROTECTION AGENCY, |) | |
| Respondent. |) | |

**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 August 30, 2009, or any other date not more than a total of one hundred twenty-five (125) days from the date of service of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

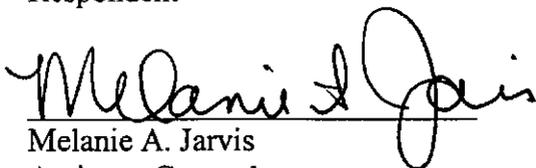
1. On April 22, 2009, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On May 22, 2009, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. Tracking information from the Certified Mail number on the final decision indicates the final decision was received on April 27, 2009.

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,
Respondent



Melanie A. Jarvis
Assistant Counsel
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: May 22, 2009



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-2829
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

APR 22 2009

CERTIFIED MAIL #

7008 1140 0004 7344 3972

The First National Bank of Barry
Attn: Mark Herrmann
c/o CSD Environmental Services, Inc.
P.O. Box 20912
Springfield, Illinois 62708-0912

Re: LPC #0170250002 -- Cass County
Virginia/Nelson Oil Co.
Southeast Corner of IL Rt. 125 & 78
Incident-Claim No.: 20000811 - 55899
Queue Date: December 29, 2008
Leaking UST FISCAL FILE

Dear Mr. Herrmann:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), and 35 Ill. Adm. Code 732, Subpart F. This information is dated November 24, 2008 and was received by the Agency on December 29, 2008. The application for payment covers the period from February 29, 2008 to November 12, 2008. The amount requested is \$195,676.16.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated February 21, 2001. Listed in Attachment A are the costs which are not being paid and the reasons these costs are not being paid.

On December 29, 2008, the Agency received your application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher for \$34,494.66 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Agency 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 Agency. This constitutes the Agency's final action with regard to the above application(s) for payment.

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An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) and Section 40 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 applicant 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 request for an extension, please contact:

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

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

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

If you have any questions or require further assistance, please contact Theresa Sitton of my staff at 217/782-6762.

Sincerely,



John Sherrill, Manager
Financial Management Unit
Bureau of Land

JS:TS:mis\092583.doc

Attachment

cc: CSD Environmental Services, Inc.
LCU File
Theresa Sitton

Attachment A
Accounting Deductions

Re: LPC #0170250002 -- Cass County
Virginia/Nelson Oil Co.
Southeast Corner of IL Rt. 125 & 78
Incident-Claim No.: 20000811 -- 55899
Queue Date: December 29, 2008
Leaking UST FISCAL FILE

Citations in this attachment are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$12.60, deduction for site investigation or corrective action costs for mileage 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).

Mileage has been reduced to the approved state rate for the travel dates.

2. \$161,168.90, deduction for costs for field purchases, 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.

Deduction for costs 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).

Documentation is needed for all the trucking companies.

T8:m1s\092584.doc



FRED C. PRILLAMAN
PAUL E. ADAMI
CHERYL S. NEAL
PATRICK D. SHAW
JOEL A. BENOIT*

*ALSO ADMITTED IN MISSOURI

MOHAN, ALEWELT, PRILLAMAN & ADAMI

LAWYERS

SUITE 325

1 NORTH OLD CAPITOL PLAZA

SPRINGFIELD, ILLINOIS 62701-1323

www.mohanlaw.com

JAMES T. MOHAN
1927-2004

EDWARD J. ALEWELT
OF COUNSEL

TEL (217) 528-2517
FAX (217) 528-2553

E-MAIL info@mohanlaw.com

May 22, 2009

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

Re: Request for Ninety Day Extension of Appeal Period for First National Bank of Barry, LPC
#0170250002 -- Cass County (LUST rejection letter dated April 22, 2009)

Dear Bill:

We are the attorneys for First National Bank of Barry. Attached to this letter is a rejection letter written by the Agency dated April 22, 2009, deducting \$161,181.50 from my client's application for payment. 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, we hereby request that you obtain from the Illinois Pollution Control Board ("Board") an extension of the thirty-five day period for petitioning for a hearing to August 25, 2009, or to any other date not more than a total of 125 days from the date of service of the Illinois EPA's final decision. We believe that the issue presented in this case is one that, if the additional time requested is granted, could be resolved without the need for a hearing, or at least could result in limiting the scope of any hearing that may be necessary to resolve this matter.

If you need any further information regarding this request, please advise. Please note that the application to the Board must be made by May 27, 2009.

Thank you.

Very truly yours,

MOHAN, ALEWELT, PRILLAMAN & ADAMI

BY:

Fred C. Prillaman
WRITER'S EMAIL: prillaman@mohanlaw.com

FCP/trg
Enclosure (exhibit)



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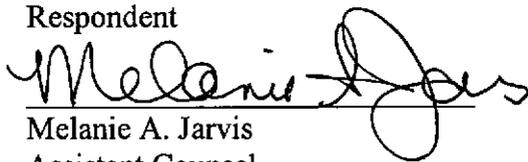
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on May 22, 2009, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, via the Board's COOL system and by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class postage affixed thereto, upon the following named persons:

John Therriault, Acting Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Fred C. Prillaman
Mohan, Alewelt, Prillaman & Adami
1 North Old Capitol Plaza,
Suite 325
Springfield, IL 62701-1323

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Respondent



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