

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

LESLIE C. KO,)	
)	
Petitioner,)	
)	
v.)	PCB 13-68
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

To:	Pollution Control Board, Attn: Clerk 100 West Randolph Street James R. Thompson Center, Suite 11-500 Chicago, Illinois 60601-3218	Melanie A. Jarvis Division of Legal Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue, East P.O. Box 19276 Springfield, Illinois 62794-9276
	Carol Webb Hearing Officer Illinois Pollution Control Board 1021 North Grand Avenue East P.O. Box 19274 Springfield, Illinois 62794-9274	

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Pollution Control Board Petitioner's Motion to Dismiss of Leslie C. Ko in the above matter. A copy of this document is hereby served upon you.

By: /s/William D. Ingersoll
One of Its Attorneys

Dated: August 5, 2013

BROWN, HAY & STEPHENS, LLP
William D. Ingersoll
Registration No. 6186363
205 S. Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459
(217) 544-8491
wingersoll@bhslaw.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

LESLIE C. KO,)	
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v.)	PCB 13-68
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

PETITIONER’S MOTION TO DISMISS

Petitioner, LESLIE C. KO, by her undersigned attorney, pursuant to the Board’s Procedural Rules at Section 101.500 hereby asks the Board to dismiss this matter, stating as follows:

1. This appeal was filed on June 4, 2013 seeking review of a May 2, 2013 determination by the Illinois Environmental Protection Agency (“IEPA” or “Agency”).
2. The IEPA issued a subsequent decision related to the same claims in July 24, 2013 (copy attached as Exhibit A). This decision letter purported to address all issues in this pending appeal, and act to approve all of the previously deducted or denied amounts.
3. Petitioner, LESLIE C. KO, wishes to voluntarily dismiss her petition.

Respectfully submitted,

Dated: August 5, 2013

LESLIE C. KO

BROWN, HAY & STEPHENS, LLP

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Registration No. 6186363
wingersoll@bhslaw.com
205 S. Fifth Street, Suite 700
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By: /s/William D. Ingersoll
William D. Ingersoll



Electronic Filing - Received, Clerk's Office : 08/05/2013
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

JUL 24 2013

CERTIFIED MAIL

7011 1150 0001 0862 5064

Ms. Leslie C. Ko
3082 Valcour Drive
Glenview, IL 60026

Re: LPC # 1990555122--Williamson
Marion/ Dr. Ko's Office
502 South Court St.
LUST Incident No. 992090/ 992254
LUST Technical File

RECEIVED
JUL 25 2013
BY: *cl*

Dear Ms. Ko:

The Illinois Environmental Protection Agency (Illinois EPA) has re-reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated April 5, 2013, was received by the Illinois EPA on April 8, 2013. Re-review of the May 2, 2013 decision is warranted under information presented in an appeal filed with the Illinois Pollution Control Board June 4, 2013 and assigned case number PCB 2013-068 pursuant to Sections 40 and 57.7(c)(4) of the Act. 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).

This letter addresses all issues presented in the aforementioned appeal in favor of the applicant. \$1175.81 has been added to Consulting Personnel Costs and \$129.00 has been added to Consultant's Materials Costs.

Pursuant to Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a), the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act. Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, the budget is modified pursuant to Sections 57.7(b)(3) 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 have been approved. Please note

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

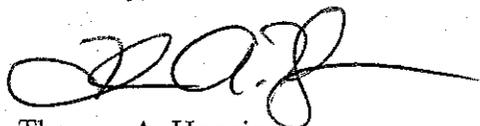
If within four years after the approval of this plan, compliance with the applicable remediation objectives has not been achieved and a Corrective Action Completion Report has not been submitted, the Illinois EPA requires the submission of a status report pursuant to Section 57.7(b)(6) of the Act.

Please be advised that, pursuant to Public Act 96-0908, effective June 8, 2010, all releases of petroleum from USTs are subject to Title XVI of the Act, as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Ill. Adm. Code 734. The regulations at 35 Ill. Adm. Code 732 no longer exist, and the only releases subject to 35 Ill. Adm. Code 731 are those from hazardous substance USTs.

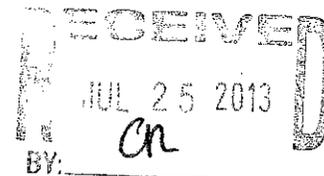
An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

If you have any questions or need further assistance, please contact Dave Myers at 217/785-7491.

Sincerely,



Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land



TAH:dm: \CAPappBUDmodappeal.doc

Attachments: A, Appeal Rights

c: CWM Company, Inc.
BOL File

2. \$215.26 for costs for Consulting Personnel Costs associated with 2 hours of drilling oversight by the Professional Geologist, 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).

Costs associated with a geotech boring were previously approved.

3. \$234.00 for costs for Consulting Personnel Costs associated with 2 hours of drilling and sampling oversight by the Engineer III, 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).

Costs associated with a geotech boring were previously approved.

4. \$117.00 for costs for Consulting Personnel Costs associated with 1 hour of analytical review by the Senior Project Manager, 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).

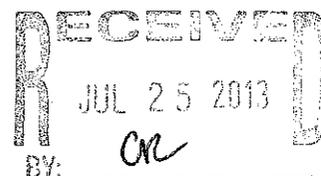
Costs associated with geotech review were previously approved.

5. \$117.00 for costs for Consulting Personnel Costs associated with 1 hour of field activity documentation by the Senior Project Manager, 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).

Costs associated with geotech documentation were previously approved.

6. \$234.00 for costs for Consulting Personnel Costs associated with 2 hours of boring log preparation by the Engineer III, 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).

Costs associated with geotech boring were previously approved.



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

RECEIVED
JUL 25 2013
BY: CR

CERTIFICATE OF SERVICE

I, William D. Ingersoll, certify that I have this date served the attached Notice of Filing and Petitioner's Motion to Dismiss, by means described below, upon the following persons:

To: Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218
(Via Electronic Filing)

Melanie A. Jarvis
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
(Via First Class Mail and Email)

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
(Via First Class Mail and Email)

Dated: August 5, 2013

By: /s/William D. Ingersoll
William D. Ingersoll

BROWN, HAY & STEPHENS, LLP

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