

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ASSUMPTION COOPERATIVE GRAIN)	
COMPANY,)	
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

Jennifer Martin
HeplerBroom
4340 Acer Grove Drive
Springfield, Illinois 62711

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



James G. Richardson
Deputy General Counsel
Dated: November 18, 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

ASSUMPTION COOPERATIVE GRAIN)	
COMPANY,)	
Petitioner,)	
)	
v.)	PCB No. 22-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL)	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, 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 February 17, 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:

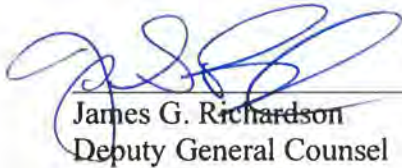
1. On or about October 13, 2021, the Illinois EPA issued a final decision to the Petitioner.
2. On November 16, 2021, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board 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 October 15, 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



James G. Richardson
Deputy General Counsel

Dated: November 18, 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 1810 0001 8769 2783

OCT 13 2021

Assumption Cooperative Grain Company
Attention: Randall Sexton
104 West North Street
Assumption, Illinois 62510

Re: 0210050001 -- Christian County
Assumption/Assumption Cooperative Grain Company
407 South Business Route 51
Leaking UST Incident 20150036
Leaking UST Technical File

Dear Mr. Sexton:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated July 9, 2021, was received by the Illinois EPA on July 12, 2021. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

The Illinois EPA requires modification of the plan; therefore, the plan is conditionally approved with the Illinois EPA's modifications. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act (Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)):

1. On May 16, 2013, the Illinois Pollution Control Board added the indoor inhalation exposure route to its tiered approach to corrective action objectives regulations at 35 Ill. Adm. Code 742. These amendments were effective on July 15, 2013. For information on the exposure route, please see the fact sheets at www.epa.state.il.us/land/taco/indoor-inhalation-amendments.html, especially the one entitled *Petroleum Vapor Intrusion Assessment for Leaking UST Program Sites*.

Results of investigation of the release and the site characterization for the above-referenced incident indicate there is not an interval of at least five feet of uncontaminated soil between contaminated groundwater and the lowest point of an overlying receptor (or ground surface if there is no overlying receptor). Therefore, an evaluation of the indoor inhalation exposure route in accordance with 35 Ill. Adm. Code 742 is required. In an effort to address the pathway, collection and analysis of a soil gas sample is requested as part of site investigation. The soil gas sample should be collected from native soil at a

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depth of three feet below ground surface and above the saturated zone in the area representative of the most soil contamination. The soil gas sample should be collected in the following location: within five feet of RMW-5 on the southern property boundary of the site in addition to the proposed SG-1 soil gas boring near RMW-2 on the eastern property boundary of the site.

The soil gas sampling requirements are at 35 Ill. Adm. Code 742.227. See the *Soil Gas Sampling Protocol* fact sheet at the above Web address for guidance on soil gas sampling. It is suggested that contact be made with the laboratory to ensure that the laboratory detection limits are equal to or less than the indoor air remediation objectives calculated using Equation J&E1 or J&E2. (See the *Petroleum Vapor Intrusion Assessment for Leaking UST Program Sites* fact sheet for the link to the indoor air remediation objectives.) The use of indoor air remediation objectives as soil gas remediation objectives carries with it no institutional controls.

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.

Further, the Illinois EPA has determined that the use of a project labor agreement (PLA) is required, as set forth in Attachment A. A *Standard Project Labor Agreement for UST Fund Corrective Action Work* (model PLA) is available on the Illinois EPA's Leaking UST Program Web site. This model PLA has been reviewed and approved by the AFL-CIO Statewide PLA Committee, which is the central committee authorized by all respective crafts to negotiate and sign PLAs on behalf of the crafts (PLA Committee). Please submit a signed copy of a PLA to the PLA Committee for the Committee's execution at the following address:

Tim Drea, President
Illinois AFL-CIO
534 South Second Street, Suite 200
Springfield, IL 62701-1764

Once the PLA is fully executed, a copy will be returned to the environmental consultant retained by the UST owner or operator so the environmental consultant will know when work conducted under the PLA may begin. Please note that, as more fully set forth in Attachment A, when submitting an application for payment from the UST Fund, the UST owner or operator will be required to certify that work for which a PLA is required was performed under a PLA. The environmental consultant should provide a copy of the fully executed PLA to the UST owner or operator so the UST owner or operator will be able to make the certification.

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 B, the amounts listed in Section 1 of Attachment B have been approved. Please note

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that the costs must be incurred in accordance with the approved plan. Be aware that the amount of payment from the Fund may be limited by Sections 57.7(c), 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

If the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c) of the Act).

NOTE: Pursuant to Section 57.8(a)(5) of the Act, if payment from the Fund will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted. Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs that have not been approved prior to the issuance of an NFR Letter will not be paid from the Fund.

In the event that the use of a PLA will impact the project costs set forth in the approved or modified budget, a revised budget may be submitted for Illinois EPA review and decision. As set forth at 35 Ill. Adm. Code 734.800(a)(2), if the revised costs exceed the maximum payment amounts at 35 Ill. Adm. Code 734.Subpart H (Subpart H amounts), bidding is required in order for payment from the UST Fund to exceed the Subpart H amounts. Any bidding must be done in accordance with 35 Ill. Adm. Code 734.855, and the requirement for a PLA must be part of the invitation for bid.

Further, pursuant to 35 Ill. Adm. Code 734.145, it is required that the Illinois EPA be notified of field activities prior to the date the field activities take place. This notice must include a description of the field activities to be conducted; the name of the person conducting the activities; and the date, time, and place the activities will be conducted and shall be made to EPA.FieldNotifications@illinois.gov. This notification of field activities must be provided at least two weeks prior to the scheduled field activities. Besides providing at least two weeks' notice to Leaking UST Section staff in Springfield, notification must be provided to Rob Mileur either by telephone at (618) 993-7223 or by e-mail at Robert.Mileur@illinois.gov.

Pursuant to Sections 57.7(b)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires that a Corrective Action Completion Report that achieves compliance with applicable remediation objectives be submitted within 30 days after completion of the plan to:

Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

Page 4

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.

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 the undersigned at (217) 524-4647 or at melinda.weller@illinois.gov.

Sincerely,



Mindy (Melinda) Weller
Project Manager
Leaking Underground Storage Tank Section
Bureau of Land

Attachments: Attachment A
Attachment B
Appeal Rights



Shawn Wolfe, Green Wave Consulting, LLC (electronic copy),
shawnw@greenwavecon.com
BOL File

Attachment A

Re: 0210050001 -- Christian County
Assumption/Assumption Cooperative Grain Company
407 South Business Route 51
Leaking UST Incident 20150036
Leaking UST Technical File

NOTICE OF PROJECT LABOR AGREEMENT REQUIREMENT

Please be advised that, pursuant to Section 57.7(c)(3) of the Environmental Protection Act (415 ILCS 5/57.7(c)(3)), the Illinois EPA has determined that a project labor agreement (PLA) is required for the work included in the plan for which the UST owner or operator is seeking payment from the Underground Storage Tank (UST) Fund. The basis for the Illinois EPA's determination that a PLA is required for the project is set forth, as follows:

Use of a PLA will advance the State's interest in labor continuity and stability in completing the project work in accordance with the plan approved by the Illinois EPA.

Use of a PLA will advance the State's interest of advancing minority-owned and women-owned business and minority and female employment.

A PLA is not required for project work for which no payment from the UST Fund is being requested.

Pursuant to Section 57.8 of the Environmental Protection Act (415 ILCS 5/57.8), applications for payment from the UST Fund must include a certification signed by the UST owner or operator stating that the work was (i) performed under a PLA that meets the requirements of Section 25 of the Project Labor Agreements Act and (ii) implemented in a manner consistent with the terms and conditions of the Project Labor Agreements Act and in full compliance with all statutes, regulations, and Executive Orders as required under that Act and the Prevailing Wage Act (820 ILCS 130).

Attachment B

Re: 0210050001 -- Christian County
Assumption/Assumption Cooperative Grain Company
407 South Business Route 51
Leaking UST Incident 20150036
Leaking UST Technical File

SECTION 1

As a result of Illinois EPA's modification(s) in Section 2 of this Attachment B, the following amounts are approved:

\$5,007.74	Drilling and Monitoring Well Costs
\$17,376.86	Analytical Costs
\$361,294.79	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$2,235.75	Paving, Demolition, and Well Abandonment Costs
\$63,308.95	Consulting Personnel Costs
\$2,608.88	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

SECTION 2

1. The Illinois EPA has added costs to the Drilling and Monitoring Wells Costs, Analytical Costs, and Consultant's Personnel Costs due to the corrective action plan modification by the Illinois EPA. The additional costs make the budget consistent with the associated modified technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated technical plan. 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).

Per email received from Jeff Wienhoff, P.E. of Green Wave Consulting, LLC on August 23, 2021, the Illinois EPA has added the costs identified in the email for the associated modified corrective action plan. The additional costs outlined in the email include:

1. Drilling and Monitoring Well Costs Form: 3.5 PUSH @ \$24.39 = \$85.37
2. Analytical Costs Form: 1 Soil Gas sample @ \$245 = \$245.00
3. Consulting Personnel Costs Form: 1 hour each Sr. PM @ \$135.48 and Scientist III @ \$94.83 = \$230.31

Deductions

1. Personnel Lacking Supporting Documentation

\$10,431.30 for costs for personnel hours requested under the Scientist III title, that 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 exceeding the minimum requirements of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

In addition, without supporting documentation, the personnel hours for Scientist III are unreasonable 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). Furthermore, the request appears to be for activities and related services or materials that are unnecessary. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa).

In a October 8, 2021 phone conference with Jeff Wienhoff, P.E. of Green Wave Consulting, LLC, the Illinois EPA discussed the fact that the task of conducting backfill oversight does not require two personnel onsite. Jeff Wienhoff concurred with this determination. Therefore, the Illinois EPA has deducted 110 hours at \$94.83 from the category CCA-Field, for the Scientist III.

2. \$750.00 for costs for PID, 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 and 35 Ill. Adm. Code 734.630(o).

Pursuant to 35 Ill. Adm. Code 734.850(b), costs associated with activities that do not have a maximum payment amount set forth pursuant to 35 Ill. Adm. Code 734.Subpart H must be determined on a site-specific basis and the owner or operator must demonstrate to the Illinois EPA the amounts sought for reimbursement are reasonable.

In addition, without supporting documentation for the rate requested, the PID costs 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).

In a October 8, 2021 phone conference with Jeff Wienhoff, P.E. of Green Wave Consulting, LLC, the Illinois EPA discussed the fact that the use of a PID was not warranted for backfill activities, as proposed in the associated budget. Jeff Wienhoff concurred with this determination. Therefore, the Illinois EPA has deducted 10 days at \$75.00 for PID under the category CCA-Field.

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

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on November 18, 2021 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

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

USPS First Class Mail

Jennifer Martin
HeplerBroom
4340 Acer Grove Drive
Springfield, Illinois 62711

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
Division of Legal Counsel
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