

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|-----------------------------------|---|---------------------------|
| AZ SPE, LLC |) | |
| 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

3501 South Central, LLC
Attn: Perry Environmental, Inc.
2803 Old Rochester Road, Suite A
Springfield, IL 62703
mkeebler@perryenvironmental.net

HeplerBroom
Attn: Jennifer M. Martin, Esq.
4340 Acer Grove Drive
Springfield, IL, 62711
Jennifer.Martin@heplerbroom.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: June 6, 2022

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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| AZ SPE, LLC |) | |
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| v. |) | PCB 22- |
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| 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 October 6, 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 June 1, 2022, the Illinois EPA issued a final decision to the Petitioner.
2. On July 5, 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 June 3, 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: July 6, 2022

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on July 6, 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

3501 South Central, LLC
Attn: Perry Environmental, Inc.
2803 Old Rochester Road, Suite A
Springfield, IL 62703
mkeebler@perryenvironmental.net

HeplerBroom
Attn: Jennifer M. Martin, Esq.
4340 Acer Grove Drive
Springfield, IL, 62711
Jennifer.Martin@heplerbroom.com

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



Melanie A. Jarvis
Associate Counsel
Division of Legal 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

Electronic Filing: Received, Clerk's Office 07/06/2022 **PCB 2023-006**

From: [Jennifer M. Martin](#)
To: [Jarvis, Melanie](#)
Cc: [Michael Keebler](#); [Katie J. Johnson](#)
Subject: [External] Cicero/AZ SPE, LLC - Request for 90 day extension
Date: Tuesday, July 5, 2022 8:40:38 AM
Attachments: [SKMBT_36322070108450.pdf](#)

Good afternoon Ms. Jarvis,

By this email, we are requesting a 90-day extension of the appeal period for the attached IEPA decision. AZ SPE, LLC and Perry Environmental will request a meeting with IEPA to discuss the attached decision. The appeal deadline is July 6, 2022, based on the date of the decision.

Thanks very much,

Jennifer Martin



Jennifer M. Martin

Licensed in Illinois and Missouri

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4340 Acer Grove Drive, Springfield, IL 62711

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Email communication is not a secure method of communication. Please contact me immediately if you want future communications to be sent via a different medium.



(217) 524-3300

CERTIFIED MAIL #

7011 1150 0001 0857 4652

JUN 01 2022

3501 South Central, LLC
Attn: Perry Environmental, Inc.
2803 Old Rochester Road, Suite A
Springfield, IL 62703

Re: 0310515205 -- Cook County
Cicero / AZ SPE, LLC
3501 South Central Avenue
Incident-Claim No.: 20210974 -- 72722
Queue Date: February\ 1, 2022
Leaking UST Fiscal File

Dear Mr. Zahdan:

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 January 31, 2022 and was received by the Illinois EPA on February 1, 2022. The application for payment covers the period from November 1, 2021 to January 28, 2022. The amount requested is \$90,162.05.

On February 1, 2022, 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 \$23,834.92 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.

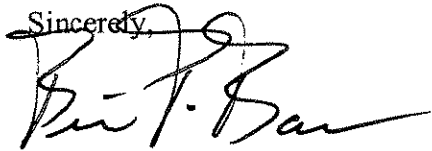
The deductible amount of \$5,000.00 was withheld from your payment. Pursuant to Section 57.8(a)(4) of the Act, any deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted 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.

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, appearing to read "Brian P. Bauer". The signature is written in a cursive style with a large, sweeping initial "B".

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

Attachment: A

c: Mr. Ahmad Zahdan
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: 0310515205 -- Cook County
Cicero / AZ SPE, LLC
3501 South Central Avenue
Incident-Claim No.: 20210974 -- 72722
Queue Date: February\ 1, 2022
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. \$1,276.77, deduction for costs for groundwater removal, 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 early action costs for groundwater removal 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(ee).

The documentation provided did not support the amount requested for reimbursement.

2. \$58,840.43, deduction for costs for field activities, 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 costs associated with the installation of new USTs, the repair of existing USTs, and/or removal and disposal of USTs determined to be ineligible by the Office of the State Fire Marshal. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(l). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they will 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 costs for activities and related services or materials that are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and/or will 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 costs for field activities, 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).

In addition, deduction for early action costs for field activities 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(ee).

Field activities for soil removal lack documentation, are associated with new UTS installation, and are inconsistent with generally accepted practices. Breakdown of the deduction are as follows:

Laboratory Analysis \$1,842.56
ET&D \$42,340.58
Backfill \$9,322.40
Groundwater Removal \$1,430.71
Personnel \$3,369.82
Consultant's Materials \$534.36

3. \$8.95, deduction for costs for consultant's materials, 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 early action costs for consultant's materials 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(ee).

Provided documentation did not support the amount of postage requested for reimbursement.

4. \$1,200.98, adjustment in the handling charges due to the deduction(s) of ineligible costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.635.

Handling is not eligible on costs that are not reimbursed.