

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SCHULTZ WILBERT VAULT CO.,)	
Petitioner,)	
)	
v.)	PCB 24-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

NOTICE

Don Brown, Clerk
Illinois Pollution Control Board
60 East Van Buren St., Suite 630
Chicago, IL 60605
don.brown@illinois.gov

Schultz Wilbert Vault Co., Inc
c/o: Midwest Environmental
P.O. Box 614
Tremont, IL 61568

Robert M. Riffle, Esq.
133A S. Main Street
Morton, IL 61550
riffle@rmreenterprises.net
tricia@rmreenterprises.net

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
Deputy Chief Counsel – Land Enforcement
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
melanie.jarvis@illinois.gov
Dated: March 11, 2024

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SCHULTZ WILBERT VAULT CO.,)	
Petitioner,)	
)	
v.)	PCB 24-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
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 June 13, 2024, 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 February 5, 2024, the Illinois EPA issued a final decision to the Petitioner.
2. On March 8, 2024, 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 February 9, 2024.

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
Deputy Chief Counsel – Land Enforcement
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: March 11, 2024

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on March 11, 2024, 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
60 East Van Buren St., Suite 630
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don.brown@illinois.gov

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Springfield, Illinois 62794-9276
217/782-5544
866/273-5488 (TDD)
melanie.jarvis@illinois.gov

March 8, 2024

VIA E-MAIL AND REGULAR MAIL

Nachal.meyyappan@illinois.gov

Nachal Meyyappan
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 61794-9276

Re: 0994905084 – LaSalle County
Streator/Keen's Service
408 N. Bloomington Street
Incident – Claim No.: 992809--74253
Queue Date: October 13, 2023
Leaking UST Fiscal File

AND

0994905084 – LaSalle County
Streator/Keen's Service
408 N. Bloomington Street
Incident – Claim No.: 992809--74255
Queue Date: October 13, 2023
Leaking UST Fiscal File

Dear Nachal:

I am writing on behalf of my client, Midwest Environmental Consulting and Remediation Services, Inc. ("MERCs"), and Schultz Wilbert Vault Co., Inc., with respect to the two Denials of Application for Payment which were received from Brian Bauer of the IEPA, Interim Section Manager, Leaking Underground Storage Tank Section, Bureau of Land, dated July 31, 2017 (copies of which are attached hereto). We are hereby respectfully requesting a ninety (90) day extension to file Petitions for Hearing appealing the IEPA's decision denying the Application for Payment in this matter. During this period of time, it is the intention of MERCs and Schultz Wilbert Vault Co., Inc. to continue to seek resolution of the issues related to the Denial of Application for Payment.

Thank you in advance for your processing and consideration of this request. If you have any questions, please do not hesitate to contact me.

Very truly yours,
Robert M. Riffle
Robert M. Riffle

RMR:tj

cc: Mr. Al Green
Mr. Brian Bauer, Interim Section Manager, IEPA (brian.bauer@illinois.gov)
Attachment/Enclosure



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 #

9589 0710 5270 1326 4555 71

FEB 05 2024

Schultz Wilbert Vault Co, Inc
C/O Midwest Environmental
PO Box 614
Tremont, IL 61568

Re: 0994905084 -- LaSalle County
Streator / Keen's Service
408 N Bloomington Street
Incident-Claim No.: 992809 -- 74255
Queue Date: October 13, 2023
Leaking UST Fiscal File

Dear Mr. George Schultz:

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 July 13, 2023, and was received by the Illinois EPA on October 13, 2023. The application for payment covers the period from January 4, 2022, to May 10, 2023. The amount requested is \$10,787.22.

On October 13, 2023, the Illinois EPA received your application for payment for this claim. As a result of the Illinois EPA's review of this application for payment, a voucher cannot be prepared for submission to the Comptroller's office for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date 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 for this claim is \$10,000.00, which was previously withheld from your payment(s). 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.

2125 S. First Street, Champaign, IL 61820 (217) 278-5800
1101 Eastport Plaza Dr., Suite 100, Collinsville, IL 62234 (618) 346-5120
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

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 Nachal Meyyappan of my staff at (217) 786-0754 or at Nachal.Meyyappan@illinois.gov.

Sincerely,

A handwritten signature in blue ink that reads "Brian P. Bauer". The signature is stylized with a large "B" and "P" and a cursive "Bauer".

Brian P. Bauer
Interim Section Manager
Leaking Underground Storage Tank Section
Bureau of Land

Attachments: A
Appeal Rights

c: Schultz Wilbert Vault Co, Inc
Leaking UST Claims Unit

Attachment A
Accounting Deductions

Re: 0994905084 -- LaSalle County
Streator / Keen's Service
408 N Bloomington Street
Incident-Claim No.: 992809 -- 74255
Queue Date: October 13, 2023
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).

The application for payment in its entirety is denied because it contains costs which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 734.630(cc). Without additional 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. The documentation listed below in items 1 through 6 is necessary to support this claim submitted to the Illinois EPA.

Further, pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 734.605(a), an owner or operator seeking payment from the Fund must submit to the Illinois EPA an application for payment on forms prescribed and provided by the Illinois EPA. The claim submitted did not include the forms listed below in items 1 and 6.

In addition, the application for payment requests handling charges for subcontractor costs when the contractor has not submitted proof of payment of the subcontractor costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 734.630(ii). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable. The application for payment failed to include sufficient documentation that the contractor paid the applicable subcontractor invoices. The Illinois EPA is requesting the affidavits referenced in item 6 below be completed and submitted.

Moreover, in accordance with 35 Ill. Adm. Code 734.665, an owner or operator that submits an application for payment must maintain all books, records, documents, and other evidence directly pertinent to the application for payment, including but not limited to all financial information and data used in the preparation or support of applications for payment. All books, records, documents, and other evidence must be maintained in accordance with accepted business practices and appropriate accounting procedures and practices. (Sections 57.6(a) and 57.15 of the Act)

Pursuant to 35 Ill. Adm. Code 734.605(b)(9) and (10), a complete application for payment must contain:

1. An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed; and
2. Proof of payment of subcontractor costs for which handling charges are requested. Proof of payment may include cancelled checks, lien waivers, or affidavits from the subcontractor.

The following information is needed to complete the review of the claim:

1. A breakdown of consulting personnel time requested for payment. Specifically requested are the *Consulting Personnel Costs Form* for the above-referenced claim and the companion *Personnel Weekly Work Sheet* that includes the days and times of day worked for each employee. Both forms are accessible on the Illinois EPA's Leaking UST Program Web page at www.epa.state.il.us/land/lust/forms/budget-forms/forms-1/table-of-contents.html under the Application for Payment Forms.
 2. A copy of all employees' time sheets for the period for which consulting personnel time was requested for payment.
 3. A copy of all contracts signed by the UST owner or operator for the above-referenced claim.
 4. A copy of all contracts and agreements between the consultant and all subcontractors.
 5. Documentation that the UST owner or operator paid the applicable deductible. Documentation could include a copy of the canceled check (front and back).
 6. Affidavit(s) —completed, signed, and sealed—for the subcontractor(s) for the work completed pursuant to the above-referenced claim.
- The Illinois EPA has determined that a complete application for payment has not been submitted and the completed information listed above in items 1 through 6 is needed for a complete application for payment. The Private Insurance Affidavit, Owner/Operator and License Professional Engineer/Geologist Billing Certification Form, and Payment Certification Form are not signed by the owner/operator. In accordance with 35 Ill. Adm. Code 734.135(c), all forms must be signed by the owner or operator.

Additionally, the application for payment requests payment be made to Schultz Wilbert Vault Co., Inc. The Office of State Fire Marshal (OSFM) has deemed Schultz Wilbert Vault Co., Inc. eligible to access the Fund for the Underground Storage Tanks relating to Leaking UST Incident No. 992609. However, there is insufficient documentation that Schultz Wilbert Vault Co., Inc. incurred the requested costs. 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) 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.

- All provided invoices indicate that the costs were billed to Keen Service Station, the previous eligible party. The Illinois EPA cannot reimburse an entity that did not incur costs.

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
60 East Van Buren Street, Ste. 630
Chicago, IL 60605
(312) 814-3461

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



(217) 524-3300

CERTIFIED MAIL #

9589 0710 5270 1326 4555 88

FEB 05 2024

Schultz Wilbert Vault Co, Inc
C/O Midwest Environmental
P.O. Box 614
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Re: 0994905084 -- LaSalle County
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408 N Bloomington Street
Incident-Claim No.: 992809 -- 74253
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This information is dated July 13, 2023, and was received by the Illinois EPA on October 13, 2023. The application for payment covers the period from March 10, 2021, to January 13, 2022. The amount requested is \$1,009.70.

On October 13, 2023, the Illinois EPA received your application for payment for this claim. As a result of the Illinois EPA's review of this application for payment, a voucher cannot be prepared for submission to the Comptroller's office for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date 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.

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Sincerely,



Brian P. Bauer
Interim Section Manager
Leaking Underground Storage Tank Section
Bureau of Land

Attachments: A
Appeal Rights

c: Schultz Wilbert Vault Co
Leaking UST Claims Unit

Attachment A
Accounting Deductions

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