

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SPEED LUBE XIV,)	
Petitioner,)	
)	
v.)	PCB 24-
)	(LUST – 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

Speed Lube, Inc.
Attn: Mr. Mark Allen
924 East Eldorado
Decatur, IL 62521

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: May 7, 2024

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SPEED LUBE XIV,)	
Petitioner,)	
)	
v.)	PCB 24-
)	(LUST – 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 August 7, 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 April 1, 2024, the Illinois EPA issued a final decision to the Petitioner.
2. On April 30, 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 April 4, 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: May 7, 2024

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on May 7, 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
Chicago, IL 60605
don.brown@illinois.gov

Speed Lube, Inc.
Attn: Mr. Mark Allen
924 East Eldorado
Decatur, IL 62521

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



Melanie A. Jarvis
Deputy Chief Counsel – Land Enforcement
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

April 30, 2024

Illinois Environmental Protection Agency
Bureau of Land #24/ Lust Claims Unit
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
Attn: Ms. Nicole Howland

Re: Corrective Action Billing Package – Claim #8
LPC # 0190105086 – Champaign County
Speed Lube XIV – Champaign, IL
901 West Springfield Avenue
LUST incident No. 991213

Dear Ms. Howland:

On behalf of the UST owner, Speed Lube, Inc., I am requesting a 60-day extension to review and possibly appeal the Illinois Environmental protection Agency's Attachment A Accounting Deductions of the April 1, 2024, review letter. I wish to discuss the personnel deductions in Items #1 and #2. Please grant the extension so we have a few extra days to discuss the claim review. Thank you.

If you have any questions, please contact me at the phone number below.

Sincerely,



Robert Rogers, P.E.
217-519-5120

cc: Mr. Mark Allen, Speed Lube, Inc.

RECEIVED
APR 30 2024
IEPA/BOL



(217) 524-3300

CERTIFIED MAIL #

9589 0710 5270 1326 4521 81

APR 01 2024

Speed Lube, Inc.
Attn: Mr. Mark Allen
924 East Eldorado
Decatur, IL 62521

Re: 0190105086 -- Champaign County
Champaign / Speed Lube XIV
901 West Springfield Avenue
Incident-Claim No.: 991213 -- 74456
Queue Date: January 5, 2024
Leaking UST Fiscal File

Dear Mr. Allen:

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 3, 2024 and was received by the Illinois EPA on January 5, 2024. The application for payment covers the period from March 13, 2019 to February 3, 2020. The amount requested is \$8,465.30.

On January 5, 2024, 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 \$7,273.74 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 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.

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 or at Nicole.Howland@illinois.gov.

Sincerely,

 for J. Rossi

Jennifer Rossi
Interim Unit Manager
Special Projects and Financial Unit
Leaking Underground Storage Tank Section
Bureau of Land

Attachments: Attachment A
Appeal Rights

c: Enviroserve, Inc.
Leaking UST Claims Unit

Attachment A
Accounting Deductions

Re: 0190105086 -- Champaign County
Champaign / Speed Lube XIV
901 West Springfield Avenue
Incident-Claim No.: 991213 -- 74456
Queue Date: January 5, 2024
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. \$372.30, deduction for a reduction in the personnel title listed in Section 734.APPENDIX E Personnel Titles and Rates. Pursuant to Section 734.850(b) personnel costs must not exceed the amounts set forth in Appendix E and the personnel costs must be based on the work performed, regardless the title of the person performing the work. The Project Manager rate has been reduced to a Senior Technician rate of \$82.15 per hour.

The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and 35 Ill. Adm. Code 734.630(dd).

In addition, deduction for costs associated with any corrective action activities, services, or materials that exceed the maximum payment amounts approved by the Illinois EPA. The Senior Administrative Assistant rate has been reduced to \$54.67 per hour. For costs approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the Illinois EPA received the budget in which the costs were proposed. Once the Illinois EPA approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g., by proposing the cost in a subsequent budget). Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.870(d)(1). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

In addition, deduction for costs for personnel, 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) 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.

Additionally, deduction for site investigation or corrective action costs for personnel 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).

Project Manager task was approved in the budget as a Senior Technician. In addition, the Senior Administrative Assistant rate was reduced to the proposed and approved rate used in the budget.

2. \$618.80, deduction for costs for personnel that were not approved in a budget. The overall goal of the financial review must be to assure that costs associated with materials, activities, and services must be reasonable, must be consistent with the associated technical plan, must be incurred in the performance of corrective action activities, must not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H. 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) and 35 Ill. Adm. Code 734.605(a).

Pursuant to 35 Ill. Adm. Code 734.605(a), costs for which payment is sought must be approved in a budget, provided, however, that no budget must be required for early action activities conducted pursuant to 35 Ill. Adm. Code 734.Subpart B other than free product removal activities conducted more than 45 days after confirmation of the presence of free product. The costs associated with personnel were not approved in a budget and are, therefore, ineligible for payment.

In addition, deduction for costs for personnel, 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) 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.

Additionally, deduction for site investigation or corrective action costs for personnel 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).

Scientist I and subsequent task were not in the approved budget.

3. \$150.00, deduction for costs for consultant's materials that were not approved in a budget. The overall goal of the financial review must be to assure that costs associated with materials, activities, and services must be reasonable, must be consistent with the associated technical plan, must be incurred in the performance of corrective action activities, must not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H. 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) and 35 Ill. Adm. Code 734.605(a).

Pursuant to 35 Ill. Adm. Code 734.605(a), costs for which payment is sought must be approved in a budget, provided, however, that no budget must be required for early action activities conducted pursuant to 35 Ill. Adm. Code 734.Subpart B other than free product removal activities conducted more than 45 days after confirmation of the presence of free product. The costs associated with consultant's materials were not approved in a budget and are, therefore, ineligible for payment.

In addition, 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 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.

Additionally, deduction for site investigation or corrective 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(dd).

PID was not approved in the budget.

4. \$50.46, deduction for handling charges for subcontractor costs when the contractor has not submitted proof of payment for subcontractor costs. Such costs are ineligible for payment from the Fund pursuant to 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.

There was no proof of payment for Pace Analytical or Advanced Disposal.

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, Suite 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
PO Box 19276
Springfield, IL 62794-9276
(217) 782-5544