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BEFORE THE POLLUTION CONTROL BOARD OF THE STATE OF ILLINOIS

OCT 23 2003

STATE OF ILLINOIS
Pollution Control Board

CLEARING DISPOSAL,)	Pollution Control Board
Petitioner,)	. de
v.	•)	PCB No. 04- 7 4
ILLINOIS ENVIRONMENTAL)	(UST Fund – Ninety Day Extension)
PROTECTION AGENCY,	•)	
Respondent.)	

NOTICE

Dorothy M. Gunn, Clerk Illinois Pollution Control Board James R. Thompson Center 100 West Randolph Street Suite 11-500 Chicago, IL 60601 F. Thomas DePaul DAI Environmental Polo Park Business Center 27834 North Irma Lee Circle Lake Forest, IL 60045-5130

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Assistant Counsel

Special Assistant Attorney General

Division of Legal Counsel

1021 North Grand Avenue, East

P.O. Box 19276

Springfield, Illinois 62794-9276

217/782-5544

217/782-9143 (TDD)

Dated: October 21, 2003

BEFORE THE POLLUTION CONTROL BOARD OF THE STATE OF ILLINOIS

OCT 23 2003

CLEARING DISPOSAL,)	Pollution Control Board
Petitioner,)	ad
v)	PCB No. 04-74
ILLINOIS ENVIRONMENTAL)	(UST Fund – Ninety Day 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, John J. Kim, Assistant Counsel and Special Assistant Attorney General, 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 January 22, 2004, or any other date not more than a total of one hundred twenty-five (125) days from September 19, 2003, the date of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

- 1. On September 19, 2003, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
- 2. On October 20, 2003, 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 join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The Petitioner did not represent when the final decision was received. (Exhibit B)
- 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,

Respondent

John J. Kim

Assistant Counsel

Special Assistant Attorney General

Division of Legal Counsel

1021 North Grand Avenue, East

P.O. Box 19276

Springfield, Illinois 62794-9276

217/782-5544

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Dated: October 21, 2003



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397 JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

SEP 1 9 2003

Waste Management of Illinois, Inc. Attention: Mike Tunney 3800 South Laramie Avenue Cicero, IL 60804

Re:

LPC #0310515095 -- Cook County

Cicero/Clearing Disposal 3800 South Laramie LUST Incident #891673 LUST FISCAL FILE

Dear Mr. Tunney:

The Agency has completed the review of the request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for the above-referenced facility. The invoices reviewed covered the period from June 1, 2002 to March 31, 2003. The amount requested was \$26,858.92.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated June 7, 2002. Listed in Attachment A are the costs which are not being reimbursed from this request and the reasons these costs are not being reimbursed.

On May 29, 2003, the Agency received your complete request for payment for this claim. As a result of the Agency's review of this claim, a voucher for \$11,088.06 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Agency received your complete request for payment of this claim. Subsequent claims that have been/are submitted will be processed based upon the date complete subsequent billings requests are received by the Agency.

This constitutes the Agency's final action with regard to the above invoices. An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 22.18b(g) and Section 40 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

PEORIA – 5415 N. University St., Peoria, IL 61614 – (309) 693-5463

CHARRIEN – 2135 South First Street, Champaign, IL 61820 – (217) 278-5800

nsville, IL 62234 – (618) 346-5120

DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000

A

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760

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, Illinois 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 Springfield, Illinois 62794-9276 217/782-5544

If you have any questions, please contact Kevin Mably of my staff or Melinda Friedel of Mike Lowder's staff at 217/782-6762.

Sincerely,

Douglas E. Oakley, Manager

LUST Claims Unit

Planning & Reporting Section

Bureau of Land

DEO:KM:jk\031079.doc

Attachment

cc: DAI Environmental

Attachment A Accounting Deductions

Re:

LPC #0310515095 -- Cook County

Cicero/Clearing Disposal 3800 South Laramie LUST Incident #891673 LUST FISCAL FILE

Description of Deductions Item#

\$111.25, deduction in costs that the owner/operator failed to demonstrate were 1. reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

DAI Environmental – Invoice #14584	\$9.75	Personnel
#14650	\$20.00	Equipment
#14715	\$18.00	Personnel
#14715	\$20.00	Equipment
#14771	\$31.50	Personnel
#14891	\$12.00	Personnel

\$111.25 Total Accounting Deductions

DEO:KM:jk\031079.doc

Attachment A Technical Deductions

Re: LPC #0310515095 -- Cook County

Cicero/Clearing Disposal 3800 South Laramie LUST Incident #891673 LUST FISCAL FILE

Item # Description of Deductions

- 1. \$5,663.03, deduction for an adjustment in costs due to a lack of supporting documentation. The owner/operator failed to demonstrate these costs were reasonable as submitted (Section 22.18b(d)(4)(C) of the Environmental Protection Act).
 - DAI Invoice #14650 -- \$497.28 (Enviro Monitor Inv. #106010 dated August 31, 2002 need more info on what these samples were for and when they were collected)
 - -- \$582.40 (Enviro Monitor Inv. #105999 dated August 31, 2002 need more info on what these samples were for and when they were collected)
 - -- \$38.90 (excessive cost for copies cut to \$50)
 - #14715 -- \$87.50 (Chris Cailles excessive hours for file organization)
 - -- \$1,067.50 (Chris C. TACO evaluation is to be performed during CACR preparation)
 - -- \$227.50 (David K. excessive hours for data edit and review)
 - -- \$428.00 (Tom DePaul senior personnel waiting and putting a report together)
 - #14771 -- \$380.00 (Chris C. excessive hours/clerical work)
 - -- \$52.50 (Chris C. excessive hours for edit/review)
 - -- \$262.50 (Chris C. TACO evaluation is to be performed during CACR preparation)
 - -- \$122.50 (Chris C. excessive hours for edits and mailing)
 - -- \$11.25 (Gina L. M. duplication of work)
 - -- \$837.50 (James O. excessive hours for drafting)
 - -- \$110.00 (Rick Vamos TACO evaluation)
 - -- \$909.50 (Tom D. senior staff assembly data, editing figures and performing TACO evaluation)
 - -- \$48.20 (excessive cost for copies cut to \$50)
- 2. \$4,889.00, deduction for an adjustment in costs due to a lack of supporting documentation. The owner/operator failed to demonstrate these costs were reasonable as submitted (Section 22.18b(d)(4)(C) of the Environmental Protection Act). Costs associated with a Phase II Investigation Report are not reimbursable since this report was never submitted. Please note that any such report would not be necessary since a Corrective Action Completion Report with a full TACO evaluation is to be submitted for this site showing the extent of contamination has been fully delineated.

DAI Invoice #14584 -- \$665.00 (Chris Cailles)
-- \$56.25 (Gina L. M.)
-- \$625.00 (James O.)
-- \$347.75 (Tom DePaul)
#14650 -- \$927.50 (Chris C.)
-- \$137.50 (James O.)
#14684 -- \$1,120.00 (Chris C.)
-- \$200.00 (James O.)
#14715 -- \$105.00 (Chris C.)
-- \$191.25 (Gina L. M.)
-- \$325.00 (James O.)
-- \$55.00 (Rick Vamos)
-- \$133.75 (Tom DePaul)

3. \$1,119.85, deduction for an adjustment in costs due to a lack of supporting documentation. The owner/operator failed to demonstrate these costs were reasonable as submitted (Section 22.18b(d)(4)(C) of the Environmental Protection Act). The last technical document submitted for this site was dated November 15, 2002. These costs may be eligible for reimbursement after additional technical documentation has been received

DAI Invoice #14814 -- \$207.42 (12/1/02 to 1/31/03) #14891 -- \$912.43 (2/1/03 to 3/31/03)

4. \$3,897.50, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act). The owner/operator has not shown that the charges associated with GPS activities are necessary or can be justified as reducing overall costs for the site.

DAI Invoice #14684 -- \$787.50 (Chris Cailles)
-- \$937.50 (James O.)
-- \$1,572.50 (John Houser)
-- \$600.00 (equipment costs)

5. \$90.23, deduction for costs which are not for Corrective Action activities. The owner/operator failed to demonstrate these costs were reasonable as submitted (Section 22.18(e)(1)(C) and 22.18b(a)(3) of the Environmental Protection Act).

DAI Invoice #14684 -- \$19.76 (batteries, rags and sponges are not considered corrective action costs)

-- \$20.07 (batteries)

#14715 -- \$50.40 (EDR Inv. #871693 - Sanborn search has not been shown to be a required corrective action cost)

Total Technical Deductions - \$15,659.61



Environmental Engineers, Geologists and Scientists

Tel 847.573.8900 Fax 847.573.8953 Polo Park Business Center 27834 N. Irma Lee Circle Lake Forest, Illinois 60045-5130

October 20, 2003

VIA FAXSIMILE AND UPS DELIVERY

Mr. John J. Kim, Esq. Division of Legal Counsel Illinois Environmental Agency 1021 N. Grand Ave. East Springfield, Illinois 62794-9276 PECEIVED
Division of Legal Counsel
OCT 21 2003
Environmental Protection
Agency

Re: Reimbursement Decision Appeal LPC #0310515095—Cook County Cicero/Clearing Disposal 3800 South Laramie LUST Incident #891673 LUST FISCAL FILE

Dear Mr. Kim:

This letter is to serve as a written request for a time extension for filing a petition before the Illinois Pollution Control Board regarding the Agency's final decision for reimbursement. This request is being filed on behalf of Waste Management of Illinois, Inc. (A copy of the decision is attached.)

Sincerely,

DAI Environmental, Inc.

F. Thomas DePaul

cc: Doug Oakley; LUST Claims Unit, IEPA

Lisa Grassl; Waste Management of Illinois, Inc.

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on October 21, 2003, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, by placing true and correct copies thereof in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class postage affixed thereto, upon the following named persons:

Dorothy M. Gunn, Clerk Illinois Pollution Control Board James R. Thompson Center 100 West Randolph Street Suite 11-500 Chicago, IL 60601 F. Thomas DePaul DAI Environmental Polo Park Business Center 27834 North Irma Lee Circle Lake Forest, IL 60045-5130

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

John J. Kim

Assistant Counsel

Special Assistant Attorney General

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