

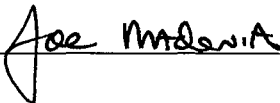
**BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD**

MARTIN OIL MARKETING, LTD., )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

No. PCB 0468  
(UST - Fund)

**APPEARANCE**

Joseph F. Madonia of the law firm, WILDMAN HARROLD, ALLEN & DIXON LLP, enters his appearance as counsel for Petitioner, Martin Oil Marketing, Ltd.

  
\_\_\_\_\_

Joseph F. Madonia  
WILDMAN HARROLD ALLEN & DIXON, LLP  
225 West Wacker Drive, Suite 3000  
Chicago, IL 60606  
T: 312-201-2000  
F: 312-201-2555  
madonia@wildmanharrold.com

**BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD**

MARTIN OIL MARKETING, LTD., )

Petitioner, )

v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )

Respondent. )

No. PCB 04-68  
(UST - Fund)

**PETITION FOR REVIEW AND APPEAL HEARING**

Martin Oil Marketing, Ltd., through its attorneys, Wildman, Harrold, Allen & Dixon LLP, respectfully submits this Petition for Review and requests a hearing to appeal IEPA's September 10, 2003 final decision to reject the amended budget for the following location: LPC # 0316715025 – Cook County, Chicago/Martin Co., 8100 South Ashland Avenue, LUST Incident No. 940705.

In support of this Petition, Martin states that: (i) the grounds for this appeal are that the IEPA's rejection of line item amendments to a previously-approved budget associated with a previously-approved corrective action plan is unreasonable, arbitrary and not in accordance with the law, and that Petitioner's reliance upon the IEPA's prior budget and corrective action plan approvals act as an estoppel which precludes the rejection which is the subject matter of this appeal; (ii) a copy of IEPA's September 10, 2003 final action is attached as Exhibit A; and (iii) this Petition follows the Board's November 6, 2003 Order (PCB 04-68) which granted Petitioner's and Respondent's joint notice to extend the appeal period until January 15, 2004 (see Order, attached as Exhibit B).

Respectfully submitted,

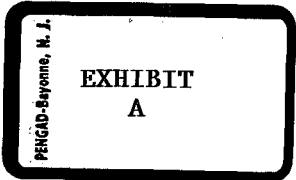
MARTIN OIL MARKETING, LTD.

By: \_\_\_\_\_

*Joe Madonia*  
One of its attorneys

Joseph F. Madonia  
WILDMAN HARROLD ALLEN & DIXON, LLP  
225 West Wacker Drive, Suite 3000  
Chicago, IL 60606  
T: 312-201-2000  
F: 312-201-2555  
madonia@wildmanharrold.com

**THIS FILING IS MADE ON RECYCLED PAPER**



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

CERTIFIED MAIL #  
70012510000212805893

SEP 10 2003

Martin Oil Marketing, Ltd.  
Attention: Donald E. Waterlander  
4501 West 127th Street  
Alsip, IL 60658

Re: LPC #0316715025 -- Cook County  
Chicago/Martin Co.  
8100 South Ashland Avenue  
LUST Incident No. 940705  
LUST FISCAL FILE

Dear Mr. Waterlander:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced LUST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), and 35 Ill. Adm. Code 732, Subpart F. This information is dated July 15, 2003 and was received by the Agency on August 8, 2003. The application for payment covers the period from July 23, 1998 to July 31, 2003. The amount requested is \$11,900.80.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated September 18, 1996. Listed in Attachment A are the costs which are not being paid and the reasons these costs are not being paid.

On August 8, 2003, the Agency received your complete application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher for \$4,708.86 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 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 Agency. This constitutes the Agency's final action with regard to the above application(s) for payment.

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) 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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463  
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

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from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the applicant 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:

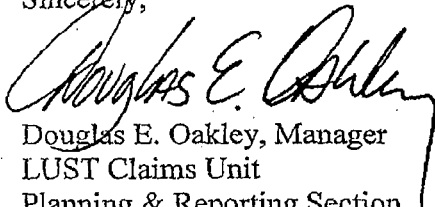
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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 or require further assistance, please contact Bill Richards of my staff at 217/782-6762.**

Sincerely,

  
Douglas E. Oakley, Manager  
LUST Claims Unit  
Planning & Reporting Section  
Bureau of Land

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Attachment

cc: ESG, Inc.

Attachment A  
Accounting Deductions

Re: LPC #0316715025 -- Cook County  
Chicago/Martin Co.  
8100 South Ashland Avenue  
LUST Incident No. 940705  
LUST Fiscal File

Citations in this attachment are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$1,435.94, deduction of costs due to the owner or operator receiving an excess payment from the Fund. (35 Ill. Adm. Code 732.612(c)(2))

While reviewing your recent claim submittal, the Agency became aware of an error made on the claim submittal received August 27, 1998 for \$47,408.90. A payment for \$44,671.13 was made on the Agency's Final Decision Letter dated November 20, 1998. The excess payment was made on two different line items, Report Preparation Costs - \$861.00 and Other Costs - \$574.94. The Agency is seeking recovery of \$1,435.94 utilizing the High Priority claim submittal received on August 8, 2003 in the amount of \$11,900.80 and are reapplying it to the line item breakdowns for Field Purchases and Other Costs to balance this account.

2. \$5,756.00, deduction for costs associated with High Priority site activities. The billings submitted exceed the approved budget amounts. The Illinois EPA is unable to approve billings that exceed the approved budget amounts. (Section 57.8(a)(1) of the Act and 35 Ill. Adm. Code 732.601(f))

Report Preparation costs exceed the approved budget by \$5,650.00.  
Other Costs line item exceed the approved budget by \$106.00.

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September 30, 2003

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276

RE: LPC #0316715025 – Cook County  
Chicago/Martin Oil  
8100 South Ashland Avenue  
LUST Incident No. 940705  
LUST FISCAL FILE

REQUEST FOR 90 – DAY EXTENSION

Martin Oil Marketing, Ltd., by representative for Petitioner, Donald Waterlander, files this request for a 90 – day extension on Tuesday, September 30, 2003. Martin Oil has received IEPA's submittal review on September 12<sup>th</sup>, 2003 and because this review reversed an previous decision on a claim from August 27, 1998, Martin Oil is reviewing all the claims on this location in regards to the approved budget with its consultant, ESG, Inc.

Martin Oil after this review and discussing information with IEPA's LUST Claims Unit as needed, Martin will determine if an appeal will be needed to be filed within this 90 – day extension.

Thank you in regards to this issue, and please call me with any questions or comments, at (708) 385-6500, ex 18.

Very truly yours,

MARTIN OIL MARKETING, LTD.

Donald E. Waterlander  
General Manager,  
Engineering, Construction, and Maintenance

Enclosure

CC: ESG, Inc.

ILLINOIS POLLUTION CONTROL BOARD  
 November 6, 2003

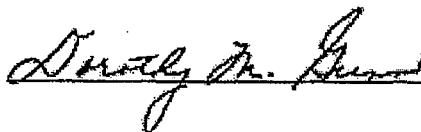
MARTIN OIL MARKETING, LTD.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 04-68
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	(90-Day Extension)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On October 20, 2003, the parties timely filed a joint notice to extend the 35-day period within which Martin Oil Marketing, Ltd. (Martin Oil Marketing) may appeal a September 10, 2003 determination of the Illinois Environmental Protection Agency (Agency). See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402, 105.406. Because the postmark date of the joint request is within the time for filing, the joint request was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. At issue is the Agency's approved reimbursement of requested corrective action costs, with modifications, for Martin Oil Marketing's leaking underground petroleum storage tank facility located at 8100 South Ashland Avenue, Chicago, Cook County. The Board extends the appeal period until January 15, 2004, as the parties request. See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. If Martin Oil Marketing fails to file an appeal on or before that date, the Board will dismiss this case and close the docket.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 6, 2003, by a vote of 6-0.



Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board