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**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

FEB 23 2004

STATE OF ILLINOIS
Pollution Control Board

BRYANT AUTOMOTIVE,)
)
Petitioner,)
)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 04- 144
(LUST - Ninety Day Extension)

NOTICE

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Theresa Bryant
Bryant Automotive
416 Northwest Highway
Fox River Grove, IL 60021

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,
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
217/782-9143 (TDD)
Dated: February 17, 2004

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
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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

JAN 08 2004

Bryant Automotive
Attention: Theresa and/or David Bryant
416 Northwest Highway
Fox River Grove, IL 60021

Re: LPC #1110205020 -- McHenry County
Fox River Grove/Bryant Automotive
416 Northwest Highway
LUST Incident No. 20031127
LUST FISCAL FILE

~~GOFF~~

RECEIVED
1-13-04

Dear Mr. and/or Ms. Bryant:

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 November 7, 2003 and was received by the Agency on November 10, 2003. The application for payment covers the period from July 29, 2003 to August 20, 2003. The amount requested is \$53,188.89.

The deductible amount to be assessed on this claim is \$10,000.00, which is being deducted from this payment. In addition to the deductible, 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.

On December 23, 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 \$20,745.76 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,

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-2760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4010
EQUIP - 593 South State, Egin, IL 60123 - (847) 608-2131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-3463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5000
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6882 • 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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A

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 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:

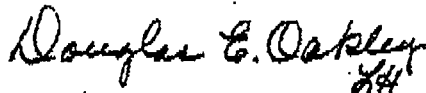
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

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 Doug Tolan 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: Superior Environmental Corporation

Attachment A
Accounting Deductions

Re: LPC #1110205020 -- McHenry County
Fox River Grove/Bryant Automotive
416 Northwest Highway
LUST Incident No. 20031127
LUST Fiscal File

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

Item # Description of Deductions

1. \$4,778.14, deduction for costs for the removal, disposal, or abandonment of an underground storage tank that was removed or abandoned, or permitted for removal or abandonment, by the Office of the State Fire Marshal before the owner or operator provided notice to the Illinois Emergency Management Agency of a release of petroleum (Section 57.8(j) of the Act and 35 Ill. Adm. Code 732.606(k)).
 - a) Mankoff Industries - Subcontractors - Witvoet & Company Invoice #14396 July 30, 2003 tank removal = \$1,768.14
 - b) Mankoff Industries - Subcontractors - DSC Trucking Invoice #19496 August 7, 2003 tank disposal = \$930.00
 - c) Mankoff Industries - Subcontractors - Effluent Technology, Inc. July 29 and 30, 2003 cleaning tanks = \$2,080.00

2. \$289.39, deduction for costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs were not used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).
 - a) Mankoff Industries - Subcontractors - Great Lakes Analytical Invoice B308046-MANI landfill soil test no receipts nor invoices; \$389.00 - \$100.00 = \$289.00
 - b) The D-1 indicates the requesting of \$53,188.89. However, the summary forms total only \$53,188.50. Therefore, \$53,188.89 - \$53,188.50 = \$0.39.

3. \$76.13

Deduction for costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs were not used for activities in excess of those necessary to

meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).

Deduction for costs associated with stand-by charges. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(m))

- a) Mankoff Industries – Subcontractors – Barge Terminal Trucking Invoice #100800 August 21, 2003 Cartage? Stand-by Time? $1(?) \times \$70.00(?) = \70.00 ; $\$70.00 + \6.13 (sales tax) = \$76.13

4. \$15,686.57, deduction for costs for the removal of more than four feet of fill material from the outside dimensions of the UST during early action activities conducted pursuant to Section 57.6(b) of the Act and 35 Ill. Adm. Code 732.202(f). (Section 57.7(a)(1)(B) of the Act and 35 Ill. Adm. Code 732.606(a))

- a) Mankoff Industries – Subcontractors – Onyx Waste Service Invoice #4714 contaminated backfill disposal; the maximum allowed for Early Action for 1 – 3,000 gallon tank and 1 – 4,000 gallon tank is 318 CY; \$315 per load/15 CY = \$21/CY; therefore, 318 CY x \$21/CY = \$6,678.00; $\$12,915.00 - \$6,678.00 = \$6,237.00$.
- b) Mankoff Industries – Personnel Site Supervisor (PM) oversight for contaminated and clean backfill August 13, 14 and 15, 2003 = 25 hours; 318 CY contaminated backfill allowed/615 CY contaminated backfill removed = 0.52 or 52% (eligible); $100\% - 52\% = 48\%$ (ineligible); 359 CY of clean backfill allowed/508.09 CY (762.13 tons/1.5 conversion factor) = 0.71 or 71% (eligible); $100\% - 71\% = 29\%$ (ineligible); costs associated with contaminated backfill are 3/1 of the costs associated with clean backfill; therefore, $48\% + 48\% + 29\% = 173\%$; $173\%/4 = 43.25\%$; 25 hours x 43.25% = 10.81 hours; 10.5 hours x \$65/hour = \$682.50.
- c) Mankoff Industries – Subcontractors – Barge Terminal Trucking Invoice #100801 contaminated backfill hauling; 15 loads x \$185.00/load = \$2,775.00.
- d) Mankoff Industries – Subcontractors – Barge Terminal Trucking Invoice #100800 purchase and hauling 673.53 tons of clean backfill; the maximum allowed for Early Action for 1 – 3,000 gallon tank and 1 – 4,000 gallon tank is 359 CY or 538.50 tons (359 CY x 1.5); 673.53 tons – 538.50 tons = 135.03 tons of clean backfill (pea gravel and CA-06); 45.45 tons (pea gravel) x \$8.20/ton = \$372.69; 89.58 tons (CA-06) x \$11.75/ton = \$1,052.57; plus sales tax (8.75%) = \$124.71; $\$372.69 + \$1,052.57 + \$124.71 = \$1,549.97$.
- e) Mankoff Industries – Subcontractors – Barge Terminal Trucking Invoice #100967 purchase and haul clean backfill; 88.60 tons pea gravel x \$8.20/ton = \$726.52.
- f) Mankoff Industries – Subcontractors – Barge Terminal Trucking Invoice #100967 contaminated backfill hauling; 5 loads x \$185/load = \$925.00.

- g) Mankoff Industries – Subcontractors – Witvoet & Co., Inc. Invoice #314454 August 13, 14 and 15, 2003 loading contaminated backfill; 318 CY (maximum allowed); 615 CY disposed, therefore, 318 CY/615 CY = 0.52 or 52%; 100% - 52% = 48%; $\$3,874.12 \times 0.48 = \$1,859.58$.
- h) Superior Environmental – Personnel – August 13 and 14, 2003 contaminated and clean backfill oversight; costs associated with contaminated backfill are 3 to 1 with costs associated to clean backfill; therefore, 48% + 48% + 48% + 29% = 173%; $173\%/4 = 43.25\%$.
 J. Plazbacker 10 hours $\times .4325 = 4.33$ hours; 4 hours $\times \$95/\text{hour} = \380.00
 S. Cuplin 22.5 hours $\times .4325 = 9.73$ hours; 9.5 hours $\times \$58/\text{hour} = \551.00 .

5. \$70.00, deduction for costs associated with stand-by charges. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(nm))

- a) Mankoff Industries – Subcontractors – Barge Terminal Trucking Invoice #100492 contaminated backfill hauling (waiting time) 1 hour $\times \$70.00/\text{hour} = \70.00 .

6. \$1,542.90, adjustment in the handling charges due to the deduction(s) of ineligible costs (Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607).

- a) Mankoff Industries and Superior Environmental – Subcontractors – handling charge adjustment; $\$3,662.61 - \$2,119.71 = \$1,542.90$.

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February 4, 2004

Mr. John Kim
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, IL 62794-9276

Re: Appeal Extension Request
LPC No. 1110205020 – McHenry County
Fox River Grove/Bryant Automotive
418 Northwest Highway
LUST Incident No. 20031127

Dear Mr. Kim:

I am writing to request a 90-day extension of the 35-day appeal period for a reimbursement application received by the IEPA on November 10, 2003. A copy of the final decision dated January 8, 2004 and received January 12, 2004 is attached. Thank you for your attention to this matter.

Sincerely,



Theresa Bryant
Bryant Automotive

Attachment

B


CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on February 17, 2004, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, by placing true and correct copies 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 Certified Mail 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

Theresa Bryant
Bryant Automotive
416 Northwest Highway
Fox River Grove, IL 60021

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
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