

MAR 26 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **STATE OF ILLINOIS**
Pollution Control Board

WEBB & SONS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB No. 04-105
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

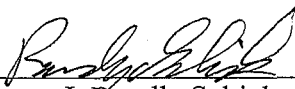
TO: Ms. Dorothy M. Gunn	John J. Kim, Esq.
Clerk of the Board	Division of Legal Counsel
Illinois Pollution Control Board	Illinois Environmental Protection Agency
100 West Randolph Street	1021 North Grand Avenue East
Suite 11-500	Post Office Box 19276
Chicago, Illinois 60601	Springfield, Illinois 62794-9276
(VIA FIRST CLASS MAIL)	(VIA FIRST CLASS MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies each of an **ENTRY OF APPEARANCE OF J. RANDLE SCHICK** and **PETITION FOR REVIEW OF LUST FUND REIMBURSEMENT DECISION**, copies of which are herewith served upon you.

Respectfully submitted,

WEBB & SONS, INC.,
Petitioner,

Dated: March 23, 2004

By: 
J. Randle Schick

J. Randle Schick
Of Counsel
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois
(217) 523-4900

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

MAR 26 2004

STATE OF ILLINOIS
Pollution Control Board

WEBB & SONS, INC.,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

PCB No. 04-105
(UST Appeal)

ENTRY OF APPEARANCE OF J. RANDLE SCHICK

NOW COMES J. Randle Schick, of the law firm of HODGE DWYER ZEMAN,
and hereby enters his appearance on behalf of Petitioner, WEBB & SONS, INC., in the
above-referenced matter.

Respectfully submitted,

WEBB & SONS, INC.,
Petitioner,

By: *Randy Schick*
J. Randle Schick

Dated: March 23, 2004

J. Randle Schick
Of Counsel
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

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4. By letter dated November 24, 2003, the Agency denied the request for reimbursement, stating that the "Agency has deducted \$70,167.22 as unreasonable and excessive cost associated with soil removal." (The Agency's letter is attached as Exhibit A). The letter further stated that "[A]n owner or operator who seeks to appeal the Agency's decision may, within 35 days after the notification of the final Agency decision, petition for a hearing before the Board."

5. By an order entered on January 8, 2004, the Board extended the 35-day appeal period until March 29, 2004.

6. Petitioner is seeking review of the Agency's November 24, 2003, determination rejecting reimbursement for the above-referenced matter. The Agency's determinations are arbitrary, capricious, and without statutory authority. Furthermore, the Agency is bound on review by its cited reasons.

WHEREFORE, for the above and foregoing reasons, Petitioner, WEBB & SONS, INC., respectfully requests that the Illinois Pollution Control Board grant the following relief:

1. Find that the Agency's November 24, 2003, decision is arbitrary and capricious, and without statutory authority;
2. Reverse the Agency's decision regarding reimbursement;
3. Remand this matter to the Agency with instructions to approve the reimbursement;



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

NOV 24 2003

Webb & Sons, Inc.
Attention: Joe Webb
1201 DeWitt Avenue
Mattoon, IL 61938

Re: LPC #0290255079 -- Coles County
Mattoon/Webb & Sons, Inc.
1201 DeWitt Avenue
LUST Incident Number 931126
LUST FISCAL FILE

Dear Mr. Webb:

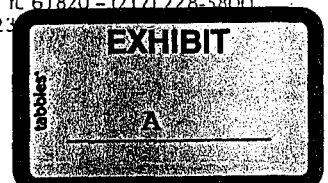
On May 19, 2003, the Agency sent you a letter regarding the site referenced above. Upon further review, an additional voucher for \$7,050.00 will be prepared for submission to the Comptroller's Office for payment as funds become available.

An underground storage tank owner or operator may appeal this decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) and Section 40 of the Illinois Environmental Protection Act. An owner or operator who seeks to appeal the Agency's decision may, within 35 days after the notification of the final Agency decision, petition for a hearing before the Board; however, the 35-day period may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the 35-day initial appeal period.

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

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 62231
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200



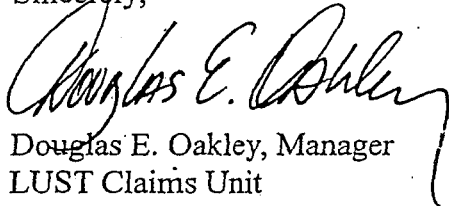
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For information regarding the filing of an extension, please contact:

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 Diana Gobelman of my staff, James Malcom of the LUST Section technical staff or myself at 217/782-6762.

Sincerely,



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

DEO:DLG:jk\030418.doc

cc: HDC Engineering

Attachment A
Technical Deductions

Re: LPC #0290255079 -- Coles County
Mattoon/ Webb & Sons
1201 DeWitt Avenue
LUST Incident No. 20021577 & 931126
LUST FISCAL FILE

Item # Description of Deductions

1. \$ 70,167.22 deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

Based on the information provided to the Agency 2,780.56 tons of predominantly clay soil was removed during excavation activities. The Agency has used a conversion factor of 1.5 in lieu of the previously used factor of .633 in order to convert the tons of soil to cubic yards, based on this new conversion an additional \$7,050.00 is being approved. The Agency has deducted \$70,167.22 as unreasonable and excessive cost associated with soil removal.

jrm