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MAR 29 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

GREAT LAKES DREDGE &)
DOCK COMPANY, a New Jersey)
Corporation,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 04-145

NOTICE OF FILING

TO: Ms. Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(VIA FIRST CLASS MAIL)

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
(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 **AMENDED PETITION FOR REVIEW OF AGENCY DETERMINATION REGARDING THE CORRECTIVE ACTION PLAN AND ASSOCIATED BUDGET**, copies of which are herewith served upon you.

Respectfully submitted,

GREAT LAKES DREDGE &
DOCK COMPANY,
Petitioner,

Dated: March 26, 2004

By: 
J. Randle Schick

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


CERTIFICATE OF SERVICE

I, J. Randle Schick, the undersigned, certify that I have served the attached
ENTRY OF APPEARANCE OF J. RANDLE SCHICK and AMENDED PETITION
FOR REVIEW OF AGENCY DETERMINATION REGARDING THE CORRECTIVE
ACTION PLAN AND ASSOCIATED BUDGET upon:

Ms. Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

by depositing said documents in the United States Mail in Springfield, Illinois, postage
prepaid, on March 26, 2004.



J. Randle Schick

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAR 29 2004

STATE OF ILLINOIS
Pollution Control Board

GREAT LAKES DREDGE &)
 DOCK COMPANY, a New Jersey)
 Corporation,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

PCB No. 04-145

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, GREAT LAKES DREDGE &
DOCK COMPANY.

Respectfully submitted,

GREAT LAKES DREDGE &
DOCK COMPANY,
Petitioner,

By: 
J. Randle Schick

Dated: March 26, 2004

J. Randle Schick
Of Counsel
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

GREAT LAKES DREDGE &
DOCK COMPANY, a New Jersey
Corporation,)

Petitioner,)

v.) PCB No. 04-145

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,)

Respondent.)

**AMENDED PETITION FOR REVIEW
OF AGENCY DETERMINATION REGARDING THE
CORRECTIVE ACTION PLAN AND ASSOCIATED BUDGET**

NOW COMES Petitioner, GREAT LAKES DREDGE & DOCK COMPANY ("Petitioner"), by and through its attorneys, HODGE DWYER ZEMAN, and pursuant to Sections 40 and 57.7(c)(4)(D) of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/40 and 5/57.7(c)(4)(D)), and 35 Ill. Admin. Code Part 105, hereby requests review of the decision by the Respondent, Illinois Environmental Protection Agency ("Agency"), regarding Petitioner's Corrective Action Plan and associated Budget. In support of this Petition, the Petitioner states as follows:

1. Petitioner is the owner of certain property located at 9320 South Ewing Avenue, Chicago, Illinois, hereinafter referred to as "the site."
2. Petitioner is the owner of underground storage tanks ("USTs") formerly located at the site.

3. On October 24, 2003, Petitioner submitted its Corrective Action Plan for LUST Incident No. 921587.

4. By letter dated February 9, 2004, the Agency rejected the Corrective Action Plan and associated budget. (The Agency's letter is attached as Exhibit A). The letter further stated that "[A]n underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board."

5. Petitioner is seeking review of the Agency's February 9, 2004, determination rejecting Petitioner's Corrective Action Plan and associated budget for the above-referenced LUST incident. The Agency's determination is arbitrary, capricious, and without statutory authority. Furthermore, the Agency is bound on review by its cited reasons.

6. On March 4, 2004, the Illinois Pollution Control Board entered an order reserving docket PCB 04-145 for the review of the Agency's February 9, 2004, determination, and directed Petitioner to file an amended petition under this docket number by April 8, 2004.

WHEREFORE, for the above and foregoing reasons, Petitioner, GREAT LAKES DREDGE & DOCK COMPANY, respectfully requests that the Illinois Pollution Control Board grant the following relief:

1. Find that the Agency's February 9, 2004, decision is arbitrary and capricious, and without statutory authority;

2. Reverse the Agency's decision rejecting Petitioner's Corrective Action Plan and associated Budget;

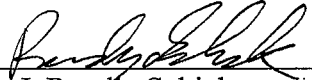
3. Remand this matter to the Agency with instructions to approve the Corrective Action Plan and associated Budget as submitted, as provided by the Act, but not inconsistent with the Illinois Pollution Control Board's Order;

4. Award Petitioner reasonable attorney's fees and expenses incurred in bringing this action; and

5. Award such further relief as deemed just and equitable in these premises.

Respectfully submitted,

GREAT LAKES DREDGE &
DOCK COMPANY,
Petitioner,

By: 
J. Randle Schick

Dated: March 26, 2004

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

GLDD:001/Fil/Petition for Review-04-145



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

7002 3150 0000 1255 0953

FEB 09 2004

Great Lakes Dredge & Dock
Attention: Glenn Dawson
9320 South Ewing Avenue
Chicago, Illinois 60617

Re: LPC #0316525013 -- Cook County
Chicago / Great Lakes Dredge & Dock
9320 South Ewing Avenue
LUST Incident No. #921587
LUST Technical File

Dear Mr. Dawson:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated October 24, 2003, was received by the Illinois EPA on October 30, 2003. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Sections 57.7(b) and 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b), the Corrective Action Plan is rejected for the reasons listed in Attachment A.

Pursuant to Sections 57.7(c)(4)(D) of the Act and 35 Ill. Adm. Code 732.503(b), the associated budget is rejected for the reasons listed in Attachment B.

Pursuant to Sections 57.7(b) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 732.100 and 732.105, a plan and/or budget must be submitted within «Days» days of the date of this letter to:

Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

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) 609-3131 • PEORIA - 5113 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 279-5600
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6992 • COLLINGSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5121
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 991-7200



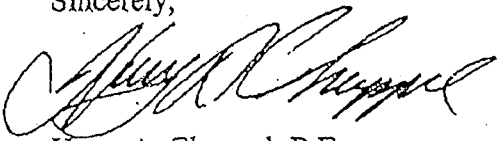
Page 2

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

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 need further assistance, please contact the Illinois EPA project manager, Eric Kuhlman, at 217/785-5715.

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC:EK:EK\

Attachment: A and B
Appeal Rights

c: Remediation Technologies, Ltd
Division File

Attachment A

Re: LPC #0316525013 -- Cook County
Chicago / Great Lakes Dredge & Dock
9320 South Ewing Avenue
LUST Incident No. #921587
LUST Technical File

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

1. The plan does not address the soil contamination encountered by S-10 beneath the former pump island along the northern wall of the former paint shop. Therefore, the Illinois EPA will require the soil contamination beneath the former pump island be remediated.
2. The plan also includes investigative activities and related services or materials for developing this corrective action plan, which are not necessary or inconsistent with generally accepted practices. Since these activities are in excess of those required to meet the minimum requirements of the Act, they are therefore, unreasonable and ineligible for reimbursement from the Fund (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.505(c), 732.606(o), and 732.606(hh)).
3. The plan also includes the excavation of contaminated soil that the Illinois EPA believes to be unrelated to the above-referenced site. For the purpose of reimbursement, since these activities are in excess of those necessary to meet the minimum requirements of Title XVI of the Act; costs for such activities are not reimbursable (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).

EK:EK\

Attachment B

Re: LPC #0316525013 -- Cook County
Chicago / Great Lakes Dredge & Dock
9320 South Ewing Avenue
LUST Incident No. #921587
LUST Technical File

Citations in this attachment are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

1. The Illinois EPA has not approved the plan with which the budget is associated. Therefore, the Illinois EPA cannot determine whether these costs are for activities in excess of those required to meet the minimum requirements of Title XVI of the Act (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.505(c)). Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for reimbursement from the Fund (35 Ill. Adm. Code 732.606(o)). It also cannot be determined whether the costs are corrective action costs. "Corrective action" means an activity associated with compliance with the provision of Section 57.6 and 57.7 of the Act (Section 57.2 of the Act and 35 Ill. Adm. Code 732.103). One of the eligibility requirements for accessing the Fund is that costs are associated with "corrective action" (Section 57.9(a)(7) of the Act and 35 Ill. Adm. Code 732.505(c)). In addition, it cannot be determined whether these costs are reasonable as submitted (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.505(c) and 732.606(hh)).

EK:EK\