

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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DEC 28 2004

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS STATE TOLL HIGHWAY)
AUTHORITY (Belvidere North Reimb.),)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 05- 118
(UST Appeal – 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

Kenneth W. Funk
Deutsch, Levy & Engel
225 West Washington Street
Suite 1700
Chicago, IL 60606

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: December 23, 2004

DEC 28 2004

STATE OF ILLINOIS
Pollution Control Board

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

ILLINOIS STATE TOLL HIGHWAY)
AUTHORITY (Belvidere North Reimb.),)
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ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
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**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 March 23, 2005, or any other date not more than a total of one hundred twenty-five (125) days from the date of service of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On November 16, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On December 16, 2004, 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 copy of the final decision provided by the Petitioner contains a "Received Nov. 18 2004" stamp. (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
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217/782-9143 (TDD)
Dated: December 23, 2004



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

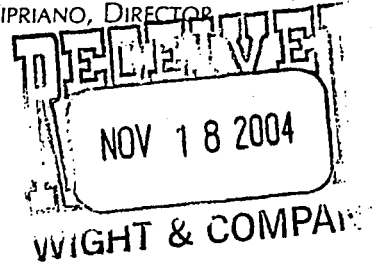
1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 1.1-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

NOV 16 2004



Illinois State Toll Highway Authority
Attn: Michael Colsch
2700 Ogden Avenue
Downers Grove, Illinois 60515

Re: LPC #0070057091 -- Boone County
Belvidere/Belvidere Oasis (Belvidere North)
Northwest Tollway Mile Post 54.7
LUST Incident No. 941815
LUST FISCAL FILE

Dear Mr. Colsch:

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 September 14, 2004 and was received by the Agency on September 20, 2004. The application for payment covers the period from January 1, 2002 to February 29, 2004. The amount requested is \$52,033.47.

The deductible amount for this claim is \$15,000.00, which was previously deducted from the billing submittal received by the Agency on August 22, 2001 in the amount of \$3,543.50 and September 7, 2001 in the amount of \$148,451.40. 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 September 20, 2004, 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 \$45,647.35 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.

EXHIBIT

A

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 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:

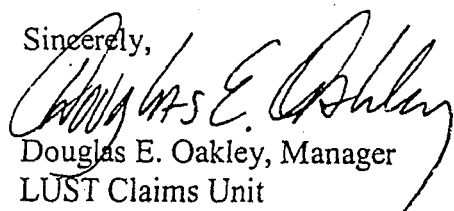
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

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 Lieura Hackman of my staff at 217/782-6762.

Sincerely,


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

DEO:LH:ct\040653.doc

Attachment

cc: Wight

Attachment A
Accounting Deductions

Re: LPC #0070057091 -- Boone County
Belvidere/Belvidere Oasis (Belvidere North)
Northwest Tollway Mile Post 54.7
LUST Incident No. 941815
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. \$1,021.12, 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))

A deduction of \$523.92 was made on the amount requested for Personnel Costs.

A deduction of \$497.20 was made on the amount requested for Analysis Costs.

2. \$5,365.00, 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 deduction in the amount of \$4,288.00 was made on invoices with billing period dates of 1996. This date was not included on the Billing Period Certification form.

A deduction in the amount of \$1,077.00 was made on the amount requested for the Analysis Costs because there were no invoices submitted with the claim.

EARL A. DEUTSCH
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TERRY L. ENGEL
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COUNSEL
MARSHALL D. KROLICK
ARTHUR J. SABIN

December 16, 2004

Via Facsimile: (217)782-9807

And Regular U. S. Mail

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Attention: John Kim, Esq.

RECEIVED
Division of Legal Counsel
DEC 20 2004
Environmental Protection
Agency

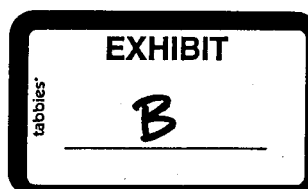
**Re: *LPC #0070057091 - Boone County
Belvidere/Belvidere Oasis (Belvidere North)
Northwest Tollway Mile Post 54.7
LUST Incident No. 941815
LUST Fiscal File***

Dear Mr. Kim:

The undersigned, as a Special Assistant Attorney General, represents the Illinois State Toll Highway Authority in connection with the referenced LUST Incident. I have received a copy of the Agency's letter, dated November 16, 2004, regarding the Authority's application for payment from Underground Storage Tank Fund for the above referenced LUST Incident previously submitted to the Agency. A copy of that letter is enclosed.

Please be advised that the Authority does not agree with the Agency's decision in regards to the deduction amounts set forth in its letter of November 16, 2004; however, in hopes of resolving the open issues with the Agency, and avoiding the necessity of an appeal to the Illinois Pollution Control Board, our client hereby requests an extension, pursuant to Sections 40 and 57.8 of the Illinois Environmental Protection Act, to extend the period within which it may appeal the Agency's decision for an additional ninety (90) days.

- 198075.1

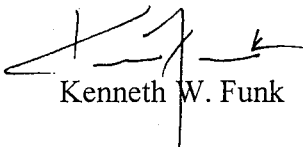


Illinois Environmental Protection Agency
December 16, 2004
Page Two

It is our understanding that upon receipt of this letter you will proceed to prepare the necessary motion for filing with Illinois Pollution Control Board to effectuate the extension. If your understanding is other than as indicated herein or if I can provide any further information, please let us know immediately.

Your assistance and cooperation is appreciated.

Very truly yours,



Kenneth W. Funk

KWF/alj

Enclosures

cc: Victor Azar, Esq.
Ms. Robin Martel

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on December 23, 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 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

Kenneth W. Funk
Deutsch, Levy & Engel
225 West Washington Street
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