

**RECEIVED**  
CLERK'S OFFICE

**JUN 24 2005**

STATE OF ILLINOIS  
Pollution Control Board

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

13 EAST QUICK STOP,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 05- 218
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

**TO:** John Kim  
Special Assistant Attorney General  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

**PLEASE TAKE NOTICE** that on June 24, 2005, filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original, executed copy of a Petition for Review of Illinois Environmental Protection Agency Decision.

Dated: June 24, 2005

Respectfully submitted,

**13 East Quick Stop**

By: Carolyn S. Hesse  
One of Its Attorneys


Carolyn S. Hesse  
**Barnes & Thornburg LLP**  
One North Wacker Drive  
Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313  
277869v1

**CERTIFICATE OF SERVICE**

I, on oath state that I have served the attached Petition for Review of Illinois Environmental Protection Agency Decision by placing a copy in an envelope addressed to:

John Kim  
Special Assistant Attorney General  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

from One North Wacker Drive, Suite 4400, Chicago, Illinois, before the hour of 5:00 p.m., on this 24<sup>th</sup> Day of June, 2005.

  
\_\_\_\_\_  
Carolyn S. Hesse

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

JUN 24 2005

STATE OF ILLINOIS  
Pollution Control Board

13 EAST QUICK STOP, )  
)  
Petitioner, )  
)  
v. ) PCB 05-218  
) (UST Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

PETITION FOR REVIEW OF ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY DECISION

13 East Quick Stop, by its attorney, Carolyn S. Hesse of Barnes & Thornburg, pursuant to the Illinois Environmental Protection Act, 415 ILCS 5/1 *et. seq.* (the "Act") and 35 Illinois Administrative Code Section 105.400 *et. seq.*, hereby appeals certain decisions by the Illinois Environmental Protection Agency (the "Agency").

1. 13 East Quick Stop is the owner of underground storage tanks (USTs) at a former gasoline service station located on Route 13 East, Crab Orchard, Williamson County, Illinois (the "Station"). The address is 19200 Crab Orchard Road. The USTs stored gasoline.
2. LUST Incident Number 20030299 was obtained following a site investigation. The site has also been assigned LPC #1998545006-Williamson County.
3. On January 24, 2005, the Agency received a Corrective Action Plan (the "Plan") and Corrective Act Plan Budget (the "Budget") to perform corrective action at the Station.

4. By letter dated May 23, 2005 (the "Letter"), the Agency modified the Plan and rejected the entire Budget. *See* Exhibit A.
5. In Attached A to the Letter, the Agency requests detailed information about various elements of the Budget. This detailed information is typically not obtained when a Budget is developed. Rather, Petitioner's consultant uses its experience to make the cost estimates necessary to develop the Budgets.
6. The Agency has historically approved budgets containing the same amount of detail as in the Budget.
7. The Agency is not authorized under the Environmental Protection Act or current regulations at 35 Ill. Admin. Code 732 to request the detailed information that is requested in the Letter and, thus, the Agency is exceeding its statutory authority.
8. The Agency's actions are arbitrary and capricious and without authority under the Environmental Protection Act.

WHEREFORE, 13 East Quick Stop respectfully requests that the Board enter an order requiring the Agency to approve the Budget that was denied in the May 23, 2005 letter and for Petitioner's attorneys' fees and costs in bringing this appeal.

Respectfully submitted,

**13 East Quick Stop**

By: Carolyn S. Hesse  
One of Its Attorneys

Carolyn S. Hesse, Esq.  
Barnes & Thornburg LLP  
One North Wacker Drive  
Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313  
277867v1



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-1400  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-874-6026

ROD R. BLAGOJEVICH, GOVERNOR RENEI CIPRIANO, DIRECTOR

217/782-6762

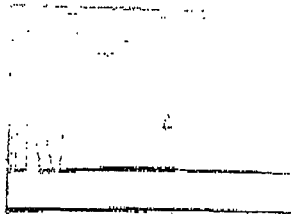
CERTIFIED MAIL

MAY 23 2005

7004 2510 0001 8651 606A

13 East Quick Stop  
Attn: James D. Lawrence  
P.O. Box 3  
Cambria, Illinois 62915

Re: LPC #1998545006 -- Williamson County  
Crab Orchard/13 East Quick Stop  
Rt. 13 East  
LUST Incident No. 20030299  
LUST Technical File



Dear Mr. Lawrence:

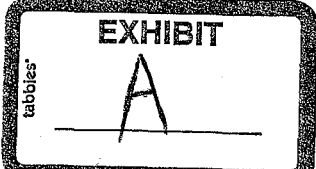
The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated January 24, 2005, was received by the Illinois EPA on January 24, 2005. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The Illinois EPA requires modification of the plan; therefore, the plan is conditionally approved with the Illinois EPA's modifications. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act (Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 732.503(b)):

1. The plan proposes installing two 15-foot monitoring wells and reinstalling seven 15-foot monitoring wells; however, the groundwater level has been identified as historically being 12 feet below ground surface. The generally accepted engineering practice has been to install the monitoring well screens so that it is bisected by the groundwater table. Based on this practice the proposed depth of 15 feet may not be deep enough to achieve the proper screen depth for the expected groundwater table.
2. The plan proposes the removal of seven monitoring wells from the area to be excavated. Once the area is backfilled, the plan proposes that these seven monitoring wells be reinstalled in the approximate vicinity of the wells locations prior to their removal. The Illinois EPA approves the installation of proposed monitoring well MW-1R within the backfilled area as a reference point for the source area. This monitoring well must be installed in a location at the approximate center of the excavation and screened such that the well monitors the groundwater and the native soil beneath the backfill material.

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 60120 (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 East Street, Champaign, IL 61820 (217) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 (217) 786-6892 • COLLINGSVILLE - 2089 East Street, Collinsville, IL 62334 (618) 346-5120  
MADISON - 2309 W. Main St., Suite 116, Madison, IL 62959 (618) 993-7200

PRINTED ON RECYCLED PAPER



Page 2

Monitoring well MW-9 is approved, to the west of the proposed location outside the excavation area. Monitoring well MW-3R is approved to the south east of the original location, outside the excavation area. Monitoring wells MW-2R, 4R, 5R, 6R and 7R are denied.

Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, the budget is rejected for the reason(s) listed in Attachment A (Sections 57.7(b)(3) and 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b)).

If the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f)). Additionally, pursuant to Section 57.8(a)(5) of the Act, if reimbursement will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted.

NOTE: Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be reimbursable.

Pursuant to Sections 57.7(b)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 732.100 and 732.105, the Illinois EPA requires that a Corrective Action Completion Report that achieves compliance with applicable remediation objectives be submitted within 30 days after completion of the plan 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

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

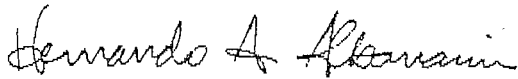
Please note that, if within four years after the approval of this plan, compliance with the applicable remediation objectives has not been achieved and a Corrective Action Completion Report has not been submitted, the Illinois EPA requires the submission of a status report pursuant to Section 57.7(b)(6) of the Act.

Page 3

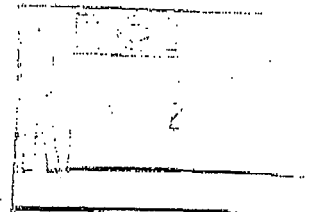
An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

If you have any questions or need further assistance, please contact Jay F. Gaydos at 217-785-0231.

Sincerely,



Hernando A. Albarracin  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land



HAA:JFG\20030299 CAP & Budget Review Letter

Attachment: Attachment A  
Appeal Rights

cc: CW3M Company  
Division File



### Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4)(D) 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 owner or operator 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, IL 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  
Post Office Box 19276  
Springfield, IL 62794-9276  
217/782-5544

## Attachment A

Re: LPC #1998545006 -- Williamson County  
Crab Orchard/13 East Quick Stop  
Rt. 13 East  
LUST Incident No. 20030299  
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).

The plan budget is rejected for the following reason(s):

The budget includes costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). A corrective action plan budget must include, but not be limited to, an accounting of all costs associated with the implementation and completion of the corrective action plan (Section 57.7(b)(3) of the Act). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used 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) and 732.606(o)).

In order to conduct a full financial review of proposed costs for corrective action, the Agency requests the following information be submitted:

1. Provide an explanation for each personnel title the responsibilities involved with "Site Investigation/MW Replacement/Sample/Survey", "Excavation Activities", "Backfill Activities", "IEPA Rep./Data Management/CAP/CAR/BIs/WCRS", and "Reimbursement Claim Preparation".
2. Provide an explanation for each personnel title regarding the number of hours proposed for the completion of the tasks identified in number 1.
3. Provide a copy of the subcontractor cost estimates for excavation, transportation, disposal and backfilling activities. Explain what factors were used in determining the subcontractor's cost estimate. This explanation must be provided in a time and materials format.
4. Provide the address of the landfill to be contracted for soil disposal along with a cost estimate from the landfill for disposal of 5.856.11 tons of soil.
5. Provide a copy of subcontractor cost estimates associated with concrete replacement in a time and materials format.
6. The plan proposes mileage, Per Diem and overnight accommodations for CW3M personnel. Provide documentation justifying the proposed mileage costs in addition to per diem and motel stays. Equipment operator costs are normally

addition to per diem and motel stays. Equipment operator costs are normally included within the estimates for subcontractor quotes regarding the completion of subcontracted work. Explain, to the Illinois EPA, why operator mileage, per diem and motel costs are included Other Costs.

7. Provide documentation supporting the use and quantity of truck liners for hauling clean backfill.

HAA:JFG\20030299 CAP & Budget Review Letter Attachment A