

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

OCT 11 2005

STATE OF ILLINOIS
Pollution Control Board

E & L TRUCKING COMPANY,)
Petitioner,)

V.)

PCB # 0650
(UST - Appeal)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

NOTICE

TO:

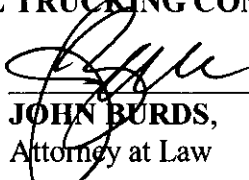
MS. DOROTHY GUNN, CLERK
Hearing Officer
Illinois Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, IL 60601

JOHN J. KIM
Special Assistant Attorney General
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, IL 62794-9276

PLEASE TAKE NOTICE that on this 11th of October, 2005, I have filed with the Office of the Clerk of the Pollution Control Board **E & L TRUCKING'S PETITION FOR REVIEW and APPEARANCE**, copies of which are herewith served upon you.

Submitted on behalf of:
E & L TRUCKING COMPANY, Petitioner

By:


JOHN BURDS,
Attorney at Law

1170 South Plymouth Court, Suite 2NE
Chicago, IL 60605
Phone: (312) 341-0037
Facsimile: (312) 341-9394

RECEIVED
CLERK'S OFFICE

OCT 11 2005

STATE OF ILLINOIS
Pollution Control Board

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

E & L TRUCKING COMPANY,)
Petitioner,)
)
V.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB # 0650
(UST – Appeal)

PETITION FOR REVIEW

NOW COMES Petitioner **E & L TRUCKING COMPANY** (“E & L Trucking”) by and through its Attorney, **John Burds**, and hereby petitions the Illinois Pollution Control Board for review of Respondent’s, Illinois Environmental Protection Agency’s (“Agency”), final determination dated September 14, 2005, denying E & L Trucking’s application for payment from the Underground Storage Tank Fund (“UST Fund”). In support thereof, Petitioner, E & L Trucking states as follows:

1. On October 20, 2004, E & L Trucking submitted High Priority Corrective Action Plan and Budget totaling \$45, 087.99, for corrective action activities..
2. On December 2, 2004, the Agency allegedly received E & L Trucking’s application for reimbursement.
3. By correspondence dated December 23, 2004, the Agency approved the High Priority Corrective Plan and Budget.
4. On May 19, 2005 the Agency allegedly received E & L Trucking’s application for reimbursement.
5. By correspondence dated September 14, 2005, the Agency issued a final determination “[f]or purposes of appeal . . .,” indicating that the application for reimbursement is


[THIS FILING SUBMITTED ON RECYCLED PAPER]

incomplete.

WHEREFORE, Petitioner, E & L Trucking, hereby respectfully requests that the Illinois Pollution Control Board enter an order reversing the final decision dated September 14, 2005, decision in which the Agency determined that E & L Trucking's application for payment dated May 05, 2005, seeking reimbursement from the Underground Storage Tank Fund for LUST Incident No. 20000517 was incomplete and any other relief the Illinois Pollution Control Board deems appropriate.

Respectfully Submitted on behalf of:
E & L TRUCKING COMPANY, Petitioner

By:


JOHN BURDS,
Attorney at Law

2347 Schiller Avenue
Wilmette, IL 60091
(847) 256-2913



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

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

CERTIFIED MAIL #

SEP 14 2005

7004 2510 0001 8646 1184

E & L Trucking
Attn: Tim Fay
14332 Maycliff Drive
Orland Park, IL 60462

Re: LPC #0310035175 -- Cook County
Alsip/E & L Trucking Company
12625 Hamlin Court
LUST Incident No. 20000517
LUST FISCAL FILE

Dear Mr. Fay:

The Illinois Environmental Protection Agency has reviewed the application for payment that was submitted for the above-referenced LUST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act). This information was dated May 5, 2005 and was received by the Agency on May 19, 2005. The application for payment covers the period from March 24, 2000 to January 21, 2005. The amount requested is \$45,087.99.

The Agency has determined that your application for payment is incomplete pursuant to Attachment A. Because your application for payment is incomplete, it is being returned with this letter and Attachments. In order to comply with the requirements of Title XVI, you must address the issue(s) set forth in the Items cited in Attachment A.

In accordance with Section 57.8(a)(1) of the Act, the Agency has 120 days from the date of receipt of a complete application for payment to make a payment determination. Because your application for payment was not complete, the 120-day clock has stopped. Upon receipt of a complete application for payment, the Agency will begin the 120-day time period again.

All future correspondence must be submitted to:

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 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

PRINTED ON RECYCLED PAPER

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

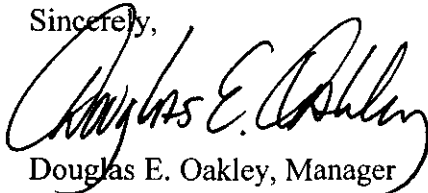
Please include the Re: block at the beginning of this letter on all future payment request submittals.

To ensure timely processing of your application for payment, please provide the missing items within 30 days of the date of this letter.

For purposes of appeal, this letter constitutes the Agency's final decision regarding the above matters.

Should you have any questions or require further assistance, do not hesitate to contact Catherine S. Elston of my staff at 217/782-6762.

Sincerely,



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

DEO:CSE:me\051152.doc

Attachment

cc: Dearborn Environmental Corp

ATTACHMENT A

Re: LPC 0310035175 - Cook County
Alsip/E & L Trucking Company
12625 Hamlin Company
LUST Incident No. 200004517
LUST TECH FILE

1. We are unable to determine which costs on the invoices are being submitted for reimbursement. When the claim is resubmitted please highlight which portion of the costs you are seeking reimbursement. As the claim is now we cannot determine which invoices are being submitted for partial payment and which invoices are being submitted for payment in full.

According to our records the following costs have been paid:

GeoResolution Services invoice #043003 - \$5,843.92
GeoResolution Services invoice #051601 - \$4,631.50
R.W. Collins invoice #10211 - \$2,105.17
Total - \$12,580.59
Costs applied to deductible - \$10,000.00
Payment received - \$2,580.59

2. The billing(s) submitted includes costs that lack supporting documentation. A corrective action plan billing(s) for a site classified as high priority 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(c)(1)(B) of the Act) Since there is no supporting documentation of costs, the Agency cannot determine if the minimum requirements have been exceeded. Therefore, these costs exceed the minimum requirements necessary to comply with Title XVI. (Section 57.5(a) of the Act)

7 Dearborn Environmental invoice #161-7-04 \$400.00.

Please provide backup documentation for the reproduction and shipping of documents.

GeoResolution invoice #071701 \$558.00.

Please provide backup documentation for drafting costs of \$180.00.

- mark up
Please provide backup documentation for the laboratory analysis. The invoice states the amount of \$1,900.00 for analysis but the backup invoice EMT #005592-IN has the total amount of \$1,582.00 for a difference of \$318.00.

Please provide backup documentation for the misc. expenses of \$60.00.

GeoResolution invoice #081101 \$1,810.00.

Please provide backup documentation for the subcontractor costs of \$800.00.

Please provide backup documentation for the laboratory analysis costs of \$900.00.

Please provide backup documentation for the misc. expenses of \$110.00.

CSE:me\051153.doc

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

OCT 11 2005

STATE OF ILLINOIS
Pollution Control Board

E & L TRUCKING COMPANY,)
Petitioner,)
)
V.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB # 0650
(UST - Appeal)

APPEARANCE

I hereby enter my **APPEARANCE** in this proceeding, on behalf of **E & L TRUCKING COMPANY, Petitioner.**

Submitted on behalf of:
E & L TRUCKING COMPANY, Petitioner

By:



JOHN BURDS,
Attorney at Law

1170 South Plymouth Court, Suite 2NE
Chicago, IL 60605
Phone: (312) 341-0037
Facsimile : (312) 341-9394

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that I have served true and correct copies of the attached documents, a **PETITION FOR REVIEW** and **APPEARANCE**, upon the following named persons to whom it is directed, by placing such copies thereof in properly sealed envelopes, plainly addressed as referenced below set forth and mailing it with sufficient postage first class mail, on this 17th of October, 2005.

JOHN J. KIM

Special Assistant Attorney General
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, IL 62794-9276

and upon the following named persons by personally delivering them to the address as set forth below on the 17th day of October, 2005:

MS. DOROTHY GUNN, CLERK

Illinois Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, IL 60601

Submitted On Behalf of:

E & L TRUCKING COMPANY, Petitioner,

By: _____

JOHN BURDS
Attorney at Law

1170 South Plymouth Court, Suite 2NE
Chicago, IL 60605
Phone: (312) 341-0037
Facsimile : (312) 341-9394

[THIS FILING IS SUBMITTED ON RECYCLED PAPER]