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MAR 13 2006

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

ARLYN D. FISK, d/b/a )  
 ARLYN FISK'S SERVICE CENTER, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

Case No. PLB06-145  
Permit Appeal

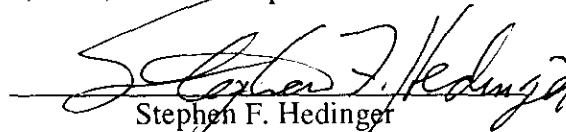
**NOTICE OF FILING AND PROOF OF SERVICE**

The undersigned certifies that an original and nine copies of Petitioner's Petition for Review of Site Investigation Plan Denial was served upon the Clerk of the Illinois Pollution Control Board, and one copy was served upon the following party of record in this cause by enclosing same in envelopes addressed to:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Suite 11-500  
Chicago, IL 60601

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Ave. East  
P.O. Box 19276  
Springfield, IL 62794-9276

with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office Mail Box in Springfield, Illinois on the 9<sup>th</sup> day of March, 2006, before 5:30 p.m..

  
Stephen F. Hedinger

HEDINGER LAW OFFICE  
2601 South Fifth Street  
Springfield, IL 62703  
(217) 523-2753 phone  
(217) 523-4366 fax  
hedinger@cityscape.net

*This Pleading is being submitted on recycled paper*

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ARLYN FISK'S SERVICE CENTER,	)
	)
Petitioner,	)
	)
v.	)
	)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)
	)
Respondent.	)

**PETITION FOR REVIEW OF SITE INVESTIGATION PLAN DENIAL**

NOW COMES Petitioner, ARLYN D. FISK, d/b/a ARLYN FISK'S SERVICE CENTER, through his undersigned attorney, and files this Petition for Review of Site Investigation Plan Denial pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act, 415 ILCS 5/40(a)(1), and pursuant to 35 Ill. Adm. Code, Part 105, Subpart B, and seeks this Board's reversal of the denial by the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (hereinafter "IEPA"), of a Site Investigation Plan and budget submitted by Petitioner. In support of this petition, Petitioner states as follows:

1. Petitioner is the owner and operator of an underground storage tank facility located at 210 East Pine Street in Percy, Randolph County, Illinois, given IEPA facility number LPC #1570355006.
2. One or more underground storage tanks at Petitioner's facility, eligible for remediation and for reimbursement from the Illinois Leaking Underground Storage Tank Fund pursuant to Title XVI of the Environmental Protection Act, were suspected of having released petroleum in or about February 2005. Petitioner timely reported the suspected release to the Illinois Emergency Management Agency, and the matter was given LUST Incident No. 2005-0237.
3. Following completion of early action in compliance with Title XVI of the Environmental Protection Act, Petitioner submitted to the IEPA his Site Investigation Plan and budget, as required by Section 57.7 of the Environmental Protection Act, 415 ILCS 5/57.7.

4. By letter dated February 2, 2006, also received by Petitioner on or after February 2, 2006, the IEPA denied the Site Investigation Plan and budget, and determined that the subject incident is not governed by Title XVI of the Environmental Protection Act, nor by 35 Ill. Adm. Code Part 731. A true and correct copy of the IEPA's February 2, 2006 letter is attached hereto as Exhibit A.

5. This appeal, being submitted on the 35<sup>th</sup> day following the mailing of the IEPA's denial letter, is timely.

6. Petitioner requests that this Board reverse the decision of the IEPA, and direct the IEPA to accept the Site Investigation Plan and budget, for one or more of the following reasons:

- A. The IEPA's decision is contrary to the factual evidence in the record before the IEPA at the time it rendered its decision;
- B. The IEPA's decision is contrary to the provisions of the Environmental Protection Act and/or this Board's regulations.

7. Petitioner reserves the right to add additional bases for reversal of the IEPA's decision, as any may become apparent.

WHEREFORE, Petitioner, ARLYN D. FISK, d/b/a ARLYN FISK'S SERVICE CENTER, requests that this Board accept this matter for hearing, and following notice and hearing, reverse the decision of the Respondent, Illinois Environmental Protection Agency, as expressed in its February 2, 2006 letter, and award to Petitioner all relief to which Petitioner is entitled.

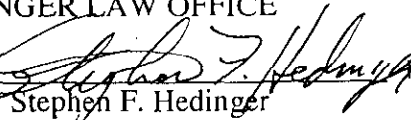
Respectfully submitted,

Aryln D. Fisk, d/b/a Arlyn Fisk's Service Center,  
Petitioner,

By his attorney,

HEDINGER LAW OFFICE

By

  
Stephen F. Hedinger

Hedinger Law Office  
2601 South Fifth St.  
Springfield, IL 62703  
(217) 523-2753 phone  
(217) 523-4366 fax  
hedinger@cityscape.net



## 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. BLAGOIEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

**CERTIFIED MAIL**

7004 2510 0001 8654 0896

FEB 02 2006

Arlyn Fisk's Service Center  
 Attention: Arlyn Fisk  
 P.O. Box 250  
 Percy, Illinois 62272

Re: LPC #1570355006 -- Randolph County  
 Percy / Arlyn Fisk's Service Center  
 210 East Pine Street  
 LUST Incident No. #20050237  
 LUST Technical File

Dear Mr. Fisk:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Site Investigation Plan (plan) and budget submitted for the above-referenced incident. This plan, dated October 20, 2005, was received by the Illinois EPA on October 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).

Based on the information made-available to the Illinois EPA, this incident is not subject to Title XVI of the Act or 35 Ill. Adm. Code 731, for the following reasons:

1. On February 15, 2005, the Illinois Emergency Management Agency (IEMA) was notified of a petroleum release at the above-referenced site. However, the Illinois EPA does not consider PID readings to be evidence of a release. Therefore, the IEPA cannot determine whether a release occurred at this time.
2. On February 25, 2005, IEMA should have been notified when soil contamination was discovered along the former product lines in referenced borings, PL-1, PL-2, and PL-3. However, since another LUST Incident Number has not been assigned to this site, the Illinois EPA cannot reimburse any activities, until IEMA is notified of another release.

Any future correspondence should be submitted to:

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 907-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 234-4000  
 ELGIN - 525 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5452  
 BUREAU OF LANDS - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5452 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 244-2000  
 SPRINGFIELD - 4500 S. South Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 244-2000  
 MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

EXHIBIT

A

Page 2

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.

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 require 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\

c: Environmental Management, Inc.  
Division File