

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

VILLAGE OF WILMETTE,	)	
Petitioner,	)	
	)	PCB No. 07-
v.	)	
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**PETITION FOR REVIEW OF  
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY DECISION**

The Village of Wilmette (“Village”), a municipal corporation, by and through its attorney and pursuant to the Illinois Environmental Protection Act and the Illinois Administrative Code, hereby appeals a certain decision of the Illinois Environmental Protection Agency (IEPA) as set forth below:

1. The Village, as owner of a former underground leaking storage tank, performed and completed all investigative and/or remedial activities required by IEPA at the Village’s site located at 710 Ridge Road, Wilmette, Illinois 60091. The Site was referred to as IEPA #0313305091 and LUST Incident #982714.
2. The Village was issued a No Further Remediation (NFR) letter for the site, and thereafter, filed its final reimbursement request with IEPA. (Exhibit A).
3. This Petition involves a final application for payment that was less than the IEPA approved budget amount and arises from the IEPA’s final decision denying certain costs contained within the Village’s final application for payment. The IEPA’s

decision, by letter dated November 13, 2006, states that its decision was final and appealable. (Exhibit B).

4. The Village requested that IEPA join in an appropriate request to the Illinois Pollution Control Board for a 90-day extension of the 35-day appeal period. (Exhibit C). By letter dated November 22, 2006, EPA denied the Village's request. (Exhibit D).
5. The Village is appealing the IEPA's decision of November 13, 2006, and also requests that, given the public policy issues raised by this appeal, that IEPA be deemed to have joined in this appeal notwithstanding IEPA's refusal to join in this appeal. This Petition for Review is timely filed.

WHEREFORE, the Village respectfully requests that the Board: 1) enter an order directing the IEPA to approve the Billing Package for final reimbursement, as set forth in Exhibit A hereto; 2) approve the Village's attorney's fees and costs in bringing this appeal.

Respectfully submitted,



VILLAGE OF WILMETTE,  
Respondent

Dated: December 15, 2006

Mary Beth Cyze  
Assistant Corporation Counsel  
Village of Wilmette  
1200 Wilmette Avenue  
Wilmette, IL 60091  
847/853-7505



engineering and constructing a better tomorrow

August 4, 2006

Ms. Valerie Davis  
Illinois Environmental Protection Agency  
LUST Claims Unit, Planning & Reporting Section  
Bureau of Land  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276

**RE: LPC #0313305091 – Cook County  
Wilmette/Wilmette, Village of  
710 Ridge Road (Police Station)  
LUST Incident No. 982714  
LUST Technical File  
MACTEC Project No. 3205050405.03**

Dear Ms. Davis:

Enclosed please find an original and one (1) copy of two (2) different sets of Illinois Environmental Protection Agency (IEPA) Budget and Billing Form for Leaking Underground Storage Tank Sites for the above referenced LUST incident. One set of forms represents **Budget Amendment No. 3** and the other set represents a **Billing Package** for the final reimbursement request for the implementation of the Corrective Action at the site. MACTEC Engineering and Consulting, Inc. (MACTEC) is submitting these forms on behalf of the Village of Wilmette (Wilmette). The budget amendment is being submitted along with the final reimbursement request in an effort to *simplify and expedite the review and approval process.*

The total approved budget is currently \$607,703.08 which was approved by IEPA via the letter dated July 11, 2002. The budget amendment is requesting an increase of **\$12,109.25** in the "Personnel Costs" category and an increase of **\$2,728.31** in the "Handling Charges" category of the previous budget plan. Therefore, Wilmette is requesting that IEPA approve a total budget increase of **\$14,837.56**. The billing package is requesting reimbursement of **\$132,632.58**.

As part of this currently approved budget, to date IEPA has reimbursed Wilmette \$426,950.91. (Note, an additional \$3,597.89 was reimbursed, for a total to date reimbursed amount of **\$430,548.80**, but this additional amount was not covered by the currently approved budget.) Therefore, of the total approved budget of \$607,703.08, the total reimbursement amount (including the current request) is \$559,583.49, which is **\$48,119.59** less than the currently approved budget.

Ex. A

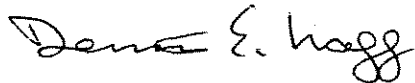
Ms. Valerie Davis  
Illinois Environmental Protection Agency  
August 4, 2006  
Page 2

The attached spreadsheet shows a summary of the categorical breakdown of the budget and reimbursement amounts.

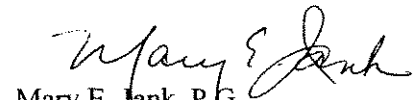
Please feel free to contact either of us if you have any questions or require any additional information.

Sincerely,

**MACTEC Engineering and Consulting, Inc.**



Dennis E. Nagg  
Principal Scientist



Mary E. Jank, P.G.  
Principal Geologist

Enclosure

cc: Brigitte Mayerhofer, Wilmette  
Paul Hahn, Wilmette  
Mary Beth Cyze, Wilmette

TOTAL IEPA BUDGET AND REIMBURSEMENT AMOUNTS

VILLAGE OF WILMETTE  
 POLICE STATION/HOWARD PARK LUST SITE  
 IEMA NO. 982714

CATEGORY	CURRENTLY APPROVED BUDGET	BUDGET AMENDMENT NO. 3	TOTAL REQUESTED BUDGET	PREVIOUSLY REIMBURSED	CURRENT REIMBURSEMENT REQUEST	TOTAL PREVIOUS & CURRENT REIMBURSEMENT	DIFFERENCE (BUDGET MINUS REIMBURSED)
Investigation Costs	\$5,493.00	\$0.00	\$5,493.00	\$4,944.88	\$279.12	\$5,224.00	\$269.00
Analysis Costs	\$17,988.00	\$0.00	\$17,988.00	\$2,571.00	\$8,259.00	\$10,830.00	\$7,158.00
Personnel Costs	\$147,903.50	\$12,109.25	\$160,012.75	\$97,647.50	\$62,364.50	\$160,012.00	\$0.75
Equipment Costs	\$5,627.00	\$0.00	\$5,627.00	\$0.00	\$4,311.04	\$4,311.04	\$1,315.96
Field Purchases and Other Costs	\$416,389.79	\$0.00	\$416,389.79	\$309,867.21	\$52,309.14	\$362,176.35	\$54,213.44
Handling Charges	\$14,301.79	\$2,728.31	\$17,030.10	\$11,920.32	\$5,109.78	\$17,030.10	\$0.00
<b>TOTAL</b>	<b>\$607,703.08</b>	<b>\$14,837.56</b>	<b>\$622,540.64</b>	<b>\$426,950.91</b>	<b>\$132,632.58</b>	<b>\$559,583.49</b>	<b>\$62,957.15</b>



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 #

NOV 13 2006

7004 2510 0001 8622 7803

Village of Wilmette  
Attn: Paul Hahn, Building and Grounds Supervisor  
1200 Wilmette Road  
Wilmette, IL 60091

Re: LPC #0313305091 -- Cook County  
Wilmette/Wilmette, Village of  
710 Ridge Rd.  
Leaking UST Incident No. 982714  
Leaking UST FISCAL FILE

Dear Mr. Hahn:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced Leaking UST 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 August 2, 2006 and was received by the Agency on August 7, 2006. The application for payment covers the period from June 29, 2002 to May 26, 2006. The amount requested is \$132,632.58.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the billing submittal received by the Agency on March 22, 2001 for \$14,146.24. 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 August 7, 2006, 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 \$117,795.77 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.

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

Exhibit B

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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:

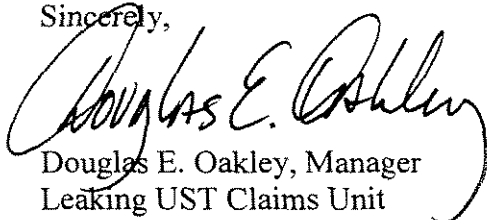
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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 Niki Weller of my staff at 217/782-6762.**

Sincerely,



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

DEO:NW:mls\060523.doc

Attachment

cc: MACTEC Engineering & Consulting, Inc.

Attachment A  
Accounting Deductions

Re: LPC #0313305091 -- Cook County  
Wilmette/Wilmette, Village of  
710 Ridge Rd.  
Leaking UST Incident No. 982714  
Leaking UST FISCAL FILE

Citations in this attachment are from the Environmental Protection Act (Act) in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$14,836.81, deduction for costs associated with free product removal, site investigation or corrective action. The billings submitted exceed the approved budget amounts. The Illinois EPA is unable to approve billings that exceed the approved budget amounts pursuant to Section 57.8(a)(1) of the Act and 35 Ill. Adm. Code 732.601(g) and 732.606(m).

A deduction is being made in the amount of \$12,108.50 from the Personnel costs. The costs are over the approved budget amount.

A deduction is being made in the amount of \$2,728.31 from the Handling Charges. The costs are over the approved budget amount.

NW:mls/060524.doc





November 16, 2006

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

**RE: LPC #0313305091 – Cook County  
Wilmette/Wilmette, Village of  
710 Ridge Road (Police Station)  
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MACTEC Project No. 3205050405.03**

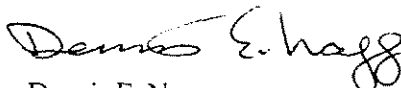
To Whom It May Concern:

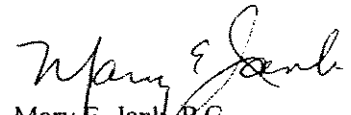
Pursuant to Sections 57.8(i) and 40 of the Illinois Environmental Protection Act (Act) and on behalf of the Village of Wilmette, MACTEC Engineering and Consulting, Inc. (MACTEC) hereby requests a 90-day extension to the 35-day appeal period for the rejection of the full amount of the reimbursement request for the above-referenced site. An amended budget, to which this reimbursement request is related, is currently under appeal with the Illinois Pollution Control Board. The subject reimbursement request was dated August 2, 2006. The final decision letter issued by IEPA was dated November 13, 2006 (copy attached) and was received by MACTEC on November 15, 2006.

Accordingly, we request that the Agency prepare and file with the Illinois Pollution Control Board the appropriate request for a 90-day extension of the 35-day appeal period for this purpose. Please send the Village of Wilmette and MACTEC a copy of the extension request that the Agency files with the Pollution Control Board for this purpose.

Please let either of us know if you need any additional information. Thank you for your assistance with this matter.

Sincerely,  
**MACTEC Engineering and Consulting, Inc.**

  
Dennis E. Nagg  
Principal Scientist

  
Mary E. Jank, P.G.  
Principal Geologist

Enclosure

cc: Brigitte Mayerhofer, Wilmette  
Paul Hahn, Wilmette  
Mary Beth Cyze, Wilmette



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ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

(217)782-5544  
(TDD: 217-782-9143)

Author's Direct Line: (217)782-9827  
E-Mail: william.ingersoll@epa.state.il.us  
Telefax: 217-782-9807

November 22, 2006

Post-it® Fax Note	7671	Date	11-22-06	# of pages	1
To	Dennis Nagg		From	Bill Ingersoll	
Co./Dept.			Co.	IEPA	
Phone #	773-693-6030	Phone #	217-782-9827		
Fax #	773-693-6039	Fax #			

Mr. Dennis E. Nagg  
MACTEC Engineering and Consulting, Inc.  
5440 N. Cumberland Avenue, Suite 250  
Chicago, Illinois 60656

Re: #0313305091 - Cook County  
Wilmette/Wilmette, Village of  
710 Ridge Road (Police Station)  
LUST Incident No. 982714

Dear Mr. Nagg:

I am in receipt of your letter dated November 16, 2006 requesting an extension of the time in which to appeal the Illinois EPA's November 13, 2006 decision regarding the above incidents and site. Since the issues relating to the decision are not likely to be resolved through the additional time, please be advised that the request for an extension of time is DENIED. Your time to appeal the earlier decision is not extended.

If you have any questions, please feel free to contact me.

Sincerely,

William D. Ingersoll, Manager  
Enforcement Programs

cc: Clifford L. Wheeler, BOL/LUST Section

Exhibit D