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JUN 15 2007
STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 12, 2007

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Strata Geologic Services, Inc.***
PCB No. 06-119

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of Complainant's MOTION FOR SUMMARY JUDGMENT in regard to the above-captioned matter. Please file the original and return a file-stamped copy to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Raymond J. Callery". The signature is fluid and cursive, with a large initial "R" and "C".

Raymond J. Callery
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

RJC/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,
Complainant,
vs.
STRATA GEOLOGIC SERVICES, INC.,
an Illinois corporation,
Respondent.

PCB No. 06-119
(Enforcement)

RECEIVED
CLERK'S OFFICE

JUN 15 2007

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: Charles E. Miller III
President
Strata Geologic Services, Inc.
8281 N. Unity Road
Lena, IL 61048

Roseanne M. Miller
Registered Agent
Strata Geologic Services, Inc.
8281 N. Unity Road
Lena, IL 61048

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois Complainant's MOTION FOR SUMMARY JUDGMENT, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: [Signature]
RAYMOND J. CALLERY
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: June 12, 2007

CERTIFICATE OF SERVICE

I hereby certify that I did on June 12, 2007, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING and MOTION FOR SUMMARY JUDGMENT

To:	Charles E. Miller III President Strata Geologic Services, Inc. 8281 N. Unity Road Lena, IL 61048	Roseanne M. Miller Registered Agent Strata Geologic Services, Inc. 8281 N. Unity Road Lena, IL 61048
-----	--	--

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794



RAYMOND J. CALLERY
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
STRATA GEOLOGIC SERVICES, INC.,)
an Illinois corporation,)
)
Respondent.)

No. PCB 06-119
(Enforcement-UST)
RECEIVED
CLERK'S OFFICE
JUN 15 2007
STATE OF ILLINOIS
Pollution Control Board

MOTION FOR SUMMARY JUDGMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Section 2-1005 of the Code of Civil Procedure, 735 ILCS 5/2-1005 (2004), and Section 101.516 of the Board's Procedural Rules, 35 Ill. Adm. Code 101.516, hereby moves for Summary Judgment against the Respondent, STRATA GEOLOGIC SERVICES, INC. ("Strata"). No Answer or responsive pleadings to the Complaint or Amended Complaint have been filed and, therefore, no affirmative defenses have been pleaded. Complainant relies upon uncontroverted facts in the attached exhibits and in the Request for Admission of Facts Directed toward Strata mailed to Respondent on April 2, 2007. In support of this Motion, Complainant states as follows:

STATEMENT OF UNCONTESTED FACTS

1. Strata is an Illinois corporation in good standing.
2. Charles E. Miller III is president of the corporation and Roseanne M. Miller is the corporation's registered agent. The address for both the president and registered agent is

8281 N. Unity Road, Lena, Illinois 61048.

3. On August 28, 2000, Strata reported to the Illinois Emergency Management Agency ("IEMA") the release of gasoline from an underground storage tank owned by it and located at 3801 14th Avenue, Rock Island, Rock Island County, Illinois. During a tank removal, it was determined that there had been a release of gasoline from one or more of four underground tanks. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

4. Strata did not submit the required 20-Day Certification concerning the August 28, 2000 release within 20 days after confirmation of the release. Illinois EPA did not receive from Strata the 20-Day Certification until October 10, 2000. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

5. Strata did not submit the required 45-Day Report concerning the August 28, 2000 release within the 45 days after confirmation of the release. Illinois EPA did not receive from Strata the 45-Day Report until November 30, 2000. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

6. By letter dated May 30, 2001, Illinois EPA approved the Site Classification Work Plan and notified Strata that the Site Classification Completion Report was due by no later than August 28, 2001. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

7. By letter dated February 26, 2002, Illinois EPA notified Strata that the Site Classification Completion Report had not been received and that this report was now due by no later than March 15, 2002. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

8. On April 18, 2002, the Illinois EPA sent a Violation Notice ("VN") to Strata concerning the August 28, 2000 release. The VN requested a response by no later than June 2, 2002. Strata never responded to the VN. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

9. Strata did not submit the required Site Classification Report concerning the August 28, 2000 release within either the August 28, 2001 or the March 15, 2002 deadlines. Illinois EPA did not receive from Strata a Site Classification Completion Report until August 30, 2002. This initial Site Classification Completion Report was rejected. On October 24, 2002, Illinois EPA received from Strata an Amended Site Classification Completion Report which was approved. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

10. On October 30, 2002, the Illinois EPA sent Strata a Notice of Intent to Pursue Legal Action ("NIPLA") concerning the August 28, 2000 release pursuant to Section 31(b) of the Act. Strata never responded to the NIPLA. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

11. To date, Strata has not submitted to Illinois EPA the required Corrective Action Completion Report concerning the August 28, 2000 release. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

12. Concerning the August 28, 2000 release, Strata exceeded the applicable deadlines for submitting the 20 Day Certification and the 45 Day Report and exceeded two deadlines for submitting the Site Classification Complete Report. See Exhibit A (Affidavit of Wayne Zuehlke) and Exhibit B (Request for Admission of Fact Directed toward Strata).

13. On June 12, 2003, Strata reported to the IEMA the release of gasoline from an underground storage tank owned by it and located at 210 East 1st Street, Milan, Rock Island County, Illinois. The extent of release was unknown, but the tank system at the site included one 4000 gallon gasoline tank and one 6000 gallon gasoline tank, as well as a 4000 gallon diesel tank and an 8000 gallon kerosene tank. See Exhibit B (Request for Admission of Fact Directed toward Strata) and Exhibit C (Affidavit of James Malcom).

14. Strata never submitted to Illinois EPA the required 20-Day Certification concerning the June 12, 2003 release. See Exhibit B (Request for Admission of Fact Directed toward Strata) and Exhibit C (Affidavit of James Malcom).

15. Strata never submitted to Illinois EPA the required 45-Day Report concerning the June 12, 2003 release. See Exhibit B (Request for Admission of Fact Directed toward Strata) and Exhibit C (Affidavit of James Malcom).

16. On October 8, 2003, Illinois EPA sent a Violation Notice ("VN") to Strata concerning the June 12, 2003 release. Strata never responded to the VN. See Exhibit B (Request for Admission of Fact Directed toward Strata) and Exhibit C (Affidavit of James Malcom).

17. On June 14, 2003, Illinois EPA sent Strata a Notice of Intent to Pursue Legal Action ("NIPLA") concerning the June 12, 2003, pursuant to Section 31(b) of the Act. Strata never responded to the NIPLA. See Exhibit B (Request for Admission of Fact Directed toward Strata) and Exhibit C (Affidavit of James Malcom).

18. On December 29, 2005, Complainant filed its complaint.

19. On April 2, 2007, Complainant mailed to Respondent a Request for Admission of Fact.

20. Respondent has failed to respond to the Complaint or Amended Complaint and has failed to provide a valid, sworn response to the Request for Admission of Fact.

ARGUMENT

A. August 2000 Release-Count I of the Amended Complaint.

The Respondent violated Section 57.6(a) of the Act, 415 ILCS 5/57.6(a) (2004) and Sections 732.100(c), 732.200, 732.202(c), and 732.202(e) of the Board's Underground Storage Tank Regulations, 35 Ill. Adm. Code 732.100(c), 732.200, 732.202(c), and 732.202(e), for failing to comply with the applicable statutory and regulatory reporting and response requirements concerning the August 2000 release from Respondent's underground storage tank located at 3801 14th Avenue, Rock Island, Illinois. There are no genuine issues of material fact as to the following violations:

- 1) Sections 57.6(a) of the Act: Strata exceeded the deadline for the 20-Day Certification, exceeded the deadline for the 45-Day Report, exceeded two deadlines for the Site Classification Completion Report, and failed to proceed in a timely manner to complete remediation.
- 2) 35 Ill. Adm. Code 732.100(c): Strata exceeded the deadline for the 20-Day Certification, exceeded the deadline for the 45-Day Report, exceeded two deadlines for the Site Classification Completion Report, and failed to proceed in a timely manner to complete remediation.
- 3) 35 Ill. Adm. Code 732.200: Strata exceeded the deadline for the 20-Day Certification, exceeded the deadline for the 45-Day Report, exceeded two deadlines for the Site Classification Completion Report, and failed to proceed in a timely manner to complete remediation.
- 4) 35 Ill. Adm. Code 732.202(c): Illinois EPA did not receive a 20-Day Certification from Strata concerning the August 28, 2000 release until October 10, 2000. The 20-Day Certification was due by no later than September 17, 2000.

- 5) 35 Ill. Adm. Code 732.202(e): Illinois EPA did not receive a 45-Day Report from Strata concerning the August 28, 2000 release until November 30, 2000. The 45-Day Report was due by no later than October 15, 2000.

B. June 2003 Release-Count II of the Amended Complaint.

The Respondent violated Section 57.6(a) of the Act, 415 ILCS 5/57.6(a) (2004) and Sections 732.100(c), 732.200, 732.202(c) and 732.202(e) of the Board's Underground Storage Tank Regulations, 35 Ill. Adm. Code 732.100(c), 732.200, 732.202(c) and 732.202(e), for failing to comply with the applicable statutory and regulatory reporting and response requirements concerning the June 2003 release from Respondent's underground storage tank located at 210 East 1st Street, Milan, Illinois. There are no genuine issues of material fact as to the following violations:

- 1) Sections 57.6(a) of the Act: Strata never submitted the 20-Day Certification or the 45-Day Report, and failed to proceed in a timely manner to complete remediation.
- 2) 35 Ill. Adm. Code 732.100(c): Strata never submitted the 20-Day Certification or the 45-Day Report, and failed to proceed in a timely manner to complete remediation.
- 3) 35 Ill. Adm. Code 732.200: Strata never submitted the 20-Day Certification or the 45-Day Report, and failed to proceed in a timely manner to complete remediation.
- 4) 35 Ill. Adm. Code 732.202(c): Strata never submitted to Illinois EPA the 20-Day Certification concerning the June 12, 2003 release. The 20-Day Certification was due by no later than July 2, 2003.
- 5) 35 Ill. Adm. Code 732.202(e): Strata has never submitted to Illinois EPA the 45-Day Report concerning the June 12, 2003 release. The 45-Day Report was due by no later than July 27, 2003.

C. All Facts Stated Within the Request for Admission of Fact Are Admitted.

Supreme Court Rule 216 and Section 101.618 of the Board's Procedural Rules, 35 Ill. Adm. Code 101.618, state that each of the matters of fact of which admission is requested is admitted unless the party directed the admission files a sworn response within 28 days. A denial must fairly address the substance of the requested admission. Charles E. Miller, the Respondent's president, provided to Complainant ambiguous and unsworn handwritten responses dated April 19, 2007. See Exhibit B (Request for Admission of Fact Directed toward Strata).

The Board's procedural rules incorporate the requirement under Section 1 of the Illinois Attorney Act (705 ILCS 205/1 (2004) and Section 1 of the Corporation Practice Law Prohibition Act (705 ILCS 220/1 (2004), that anyone other than an individual "must appear through an attorney-at-law licensed and registered to practice law." 35 Ill. Adm. Code 101.400(a)(2). No Answer or responsive pleading to the Complaint or Amended Complaint has ever been filed on behalf of the Respondent by counsel and Mr. Miller is prohibited from representing the Respondent before the Board. Mr. Miller's purported responses to the Request for Admission of Fact Directed toward Strata are invalid and can not be considered as a denial of any requested admission.

Moreover, both Section 101.618 of the Board's Procedural Rules and Supreme Court Rule 216 require that any denial of a request for admission be done with specificity. Both Section 101.618 of the Board's Procedural Rules and Supreme Court Rule 216 further require that any denial of a request for admission be sworn. Ambiguous and unsworn responses to requests for admission do not serve as a denial of any requested admission. *Robbins v. Allstate Ins. Co.*, 362 Ill. App. 3d 540, 543-544, 841 N.E.2d 22, 25-26 (2nd Dist. 2005).

In his purported response to requests 4 and 5 (misnumbered as 3 and 4), Mr. Miller does not deny that the 20-Day and 45-Day reports were late concerning the August 2000 release. For request 8 (misnumbered as 7) he admits that Respondent missed two deadlines concerning the Site Classification Reports concerning the August 2000 release.¹ Mr. Miller's responses to requests 13 and 14 (misnumbered as 10 and 11) are ambiguous. In his response to request 14 he claims the reports were submitted but in response to request 13 states only that the 20-Day Certification "does not show on computer." What does and does not show on the Illinois EPA's computer system is clearly not something within Mr. Miller's personal knowledge. The response to request 14 further suggests that because a No Further Remediation letter was issued three years later Mr. Miller assumes the reports were filed. That these reports were not submitted is attested to in the sworn affidavit of James Malcom. See Exhibit C (Affidavit of James Malcom).

As the purported responses to the Request for Admission of Fact Directed toward Strata are ambiguous, unsworn, and were not submitted by counsel authorized to represent the Respondent, all facts stated within the request must be considered admitted.

VI. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

After the Board finds a violation, the Board considers the factors set forth in Section 33(c) of the Act, 415 ILCS 5/33(c) (2004), to create an appropriate remedy. Those factors are:

¹ Mr. Miller's claim that Respondent submitted a Corrective Action Completion Report is simply false (par. 10). A Corrective Action Plan and Budget was submitted but no Corrective Action Completion Report has been submitted for the August 2000 release.

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Complainant states the following:

1. Human health and the environment were threatened by Respondent's failure to comply with the applicable statutory and regulatory reporting requirements and by its failure to proceed in a timely manner to complete remediation concerning the August 2000 and June 2003 releases.
2. There was a social and economic benefit to the Respondent's business.
3. Respondent's underground storage tanks were suitable for the area in which they were operating.
4. Complying with the applicable statutory and regulatory reporting requirements and proceeding in a timely manner to complete remediation were technically practicable and economically reasonable.
5. Respondent has not subsequently complied with the Act and the Board Regulations. Respondent has still not completed remediation concerning the August 2000 release.

VII. CONSIDERATION OF SECTION 42(h) FACTORS

To impose a civil penalty, the Board must consider the factors contained within Section 42(h) of the Act, 415 ILCS 5/42(h) (2004). Those factors are:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the Complainant states as follows:

1. The Respondent failed to comply with the applicable statutory and regulatory reporting requirements and failed to proceed in a timely manner to complete remediation concerning the August 2000 and June 2003 releases. A No Further Remediation letter was issued in October 2006 concerning the June 2003 release but remediation has not been completed concerning the August 2000 release.

2. Respondent was not diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations.

3. There was a nominal economic benefit in Respondent's delay in coming into compliance with the reporting requirements and completing remediation concerning the August 2000 and June 2003 releases.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Six Thousand Five Hundred Dollars (\$6,500) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. Respondent did self report the initial releases.

7. The adjudication of this matter does not include a supplemental environmental project.

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board enter a final order:

A) Granting Complainant's motion for summary judgment;

B) Finding that the Respondent, STRATA GEOLOGIC SERVICES, INC., violated Section 57.6(a) of the Act, 415 ILCS 5/57.6(a) (2004), and Sections 732.100(c), 732.200, and

732.202 of the Board's Underground Storage Tank Regulations, 35 Ill. Adm. Code 732.100(c), 732.200, 732.202;

C) Order the Respondent, STRATA GEOLOGIC SERVICES, INC., to complete remediation concerning the August 2000 release and submit a Corrective Action Completion Report to Illinois EPA.

D) Order the Respondent, STRATA GEOLOGIC SERVICES, INC., to cease and desist from any further violations of the Act and associated regulations;

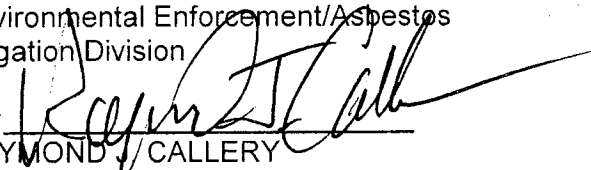
E) Award the Complainant a penalty of \$6,500 for the violations of the Act;

F) Grant such other relief as the Board deems appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
RAYMOND J. CALLERY
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

Dated: June 12, 2007

3. I have a Bachelor's of Science degree in chemistry from Grand Valley State University in Michigan.

4. I am familiar with the Illinois Attorney General's case involving Strata Geologic Services, Inc. ("Strata") and the reports, correspondence, and notices kept as Illinois EPA's records concerning the August 28, 2000 release. In support of the People's Motion for Summary Judgment, I provide the following factual statements, opinions, and conclusions based upon my experience and expertise.

5. On August 28, 2000, Strata reported to the Illinois Emergency Management Agency ("IEMA") the release of gasoline from an underground storage tank owned by it and located at 3801 14th Avenue, Rock Island, Rock Island County, Illinois. During a tank removal, it was determined that there had been a release of gasoline from one or more of four underground tanks. Attached as Exhibit A is a true and correct copy of Illinois HazMat Report, Incident # 2001644.

6. Illinois EPA did not receive a 20-Day Certification from Strata concerning the August 28, 2000 release until October 10, 2000. Pursuant to 35 Ill. Adm. Code 732.202(c) (as in effect prior to March 1, 2006) the owner or operator shall submit the 20-Day Certification to Illinois EPA within 20 days after confirmation of the release. The 20-Day Certification was due by no later than September 17, 2000.

7. Illinois EPA did not receive a 45-Day Report from Strata concerning the August 28, 2000 release until November 30, 2000. Pursuant to 35 Ill. Adm. Code 732.202(e) (as in effect prior to March 1, 2006) the owner or operator shall submit the 45-Day Report to Illinois

EPA within 45 days after confirmation of the release. The 45-Day Report was due by no later than October 15, 2000.

8. By letter dated May 30, 2001, Illinois EPA approved the Site Classification Work Plan and notified Strata that the Site Classification Completion Report was due by no later than August 28, 2001, pursuant to 35 Ill. Adm. Code 732.301. Attached as Exhibit B is a true and correct copy of the May 30, 2001 letter.

9. By letter dated February 26, 2002, Illinois EPA notified Strata that the Site Classification Completion Report had not been received and that this report was now due by no later than March 15, 2002. Attached as Exhibit C is a true and correct copy of the February 26, 2002

10. On April 18, 2002, the Illinois EPA sent a Violation Notice ("VN") to Strata concerning the August 28, 2000 release. The VN requested a response by no later than June 2, 2002. Strata never responded to the VN.

11. On August 30, 2002, Illinois EPA received a Site Classification Completion Report from Strata concerning the August 28, 2000 release. On September 27, 2002, the Illinois EPA rejected the report. On October 24, 2002, the Illinois EPA received an Amended Site Classification Completion Report. The amended report was approved on December 10, 2002.

12. Strata exceeded the deadline for the 20-Day Certification, exceeded the deadline for the 45-Day Report, and exceeded two deadlines for the Site Classification Completion

Report.

13. To date, Strata has not submitted to Illinois EPA the required Corrective Action

Completion Report concerning the August 28, 2000 release.

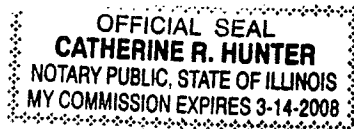
FURTHER AFFIANT SAYETH NOT.

Subscribed and Sworn to before me

this 14th day of March, 2007.

Catherine R. Hunter
NOTARY PUBLIC

Wayne Zuehlke
WAYNE ZUEHLKE



161 065 6036 - Rock Island
 Strat Geologic Services Inc
 LUST



Incident

EM/2000
 Incident Recorder

Illinois HazMat Report Incident #: H 2000 1644
 Entered by Jack DeHeva on 08/28 at 10:57

Incident Type: Illinois HazMat Report
 Data Input Status: Open Close
 Incident Level: Main Incident Sub-Incident

1. Caller: CHARLES MILLER	14. On Scene Contact: #1
2. Call back phone#: 815/369-2197	On Scene Phone #: #2
3. Caller Represents: STRATA GEOLOGIC SERVICES INC.	15. No. Injured: NONE
4. Type of Incident: LEAK OR SPILL	Where Taken:
5. Incident Location Street: 3801 14TH AVE. City: ROCK ISLAND IN County: ROCK ISLAND Milepost: Sec.: Twp.: Range: 61201	16. Public health risks and/or precautions taken, including # evacuated: NONE
	17. Assistance needed from State Agencies: NONE
6. Area Involved: FIXED FACILITY	
7. Material (s) Involved: GASOLINE Material Type: LIQUID CAS#: UN/NA#: Is this a 302 (a) Extremely Hazardous Substance? Is this a RCRA Hazardous Waste? Is this a RCRA regulated facility?	18. Containment/cleanup actions and plans: NOT AT THIS POINT
	19. Weather: NONE Temp.: deg. f/ Wind Dir. / Speed m.p.h.
8. Container: UNDERGROUND TANK Container Size: 1-1,000, 1-3,000, 1-4,000 & 1-500 GALS	20. Responsible Party: #3 Contact Person: #1 Phone #: #2 Mailing Address: 8281 N. UNITY RD, LENA, IL. 61048
9. Amount Released: UNKNOWN Rate of Release: N/A/min.	
10. Cause of Release: LUST	
11. Estimated Spill Extent: N/A	Notifications: IEPA, OSFM, REG 2
12. Occurred - Date: Time: Discovered - Date: 08/28/2000 Time: 00:30	
13. Emergency Units Contacted - NO Fire: - Police: - Sheriff: - ESDA: - Other: -	On Scene - NO Fire: - Police: - Sheriff: - ESDA: - Other: -

21. Narrative / Comments:

Illinois HazMat Report Incident #: 1644

RELEASABLE

SEP 25 2000

REVIEWER MD



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

THOMAS V. SKINNER, DIRECTOR

217/782-6762

MAY 30 2001

Strata Geologic Services, Inc.
Attn Charles Miller
8281 N. Unity Road
Lena, IL 61048

CERTIFIED MAIL

0004 1557 0814

Re: LPC# 1610656036 – Rock Island
Rock Island / Strata Geologic Services, Inc.
3801 14th Avenue
LUST Incident No. 20001644
LUST Technical File

Dear Mr. Miller:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Physical Soil Classification and Groundwater Investigation Plan (Plan) submitted for the above-referenced LUST incident pursuant to 35 Illinois Administrative Code (35 IAC) Section 732.305(a) or 732.312(c) and Section 57.7(a) of the Illinois Environmental Protection Act (Act). This information was dated 13 February 2,001 and was received by the Illinois EPA on 26 February 2,001.

The Illinois EPA is approving the Physical Soil Classification and Groundwater Investigation Plan. The Illinois EPA has determined that the activities proposed in this plan are appropriate to demonstrate compliance with 35 IAC Part 732 and Title XVI of the Act (35 IAC Section 732.305(c) or 732.312(j) and Section 57.7(a)(1) of the Act).

In addition, the Illinois EPA is modifying the proposed budget for the Physical Soil Classification and Groundwater Investigation Plan (35 IAC Section 732.305(c) or 732.312(j) and Section 57.7(a)(1) of the Act). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A have been approved. Please note that the costs must be incurred in accordance with the Illinois EPA approved plan. Be aware that the amount of reimbursement may be limited by 35 IAC Sections 732.604, 732.606(s), and 732.611 as well as Sections 57.8(e), 57.8(g), and 57.8(d) of the Act.

RELEASEABLE

JUL 18 2001

Exhibit B

VIEWER MM

An owner or operator may elect to incorporate modifications required by the Illinois EPA and shall do so by submitting an amended plan and associated budget within 35 days of receipt of this letter. If the Illinois EPA does not receive an amended plan and associated budget, the Illinois EPA will deem the Illinois EPA modified plan and budget the approved plan and budget. Please note that if the owner or operator agrees with the Illinois EPA's modifications, an amended plan and/or budget does not need to be submitted (Section 57.7(c)(4)(D) of the Act and 35 IAC Section 732.503(f)).

Please note if additional costs will be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted with the amended plan pursuant to 35 IAC Section 732.305(e) or 732.312(l) and Section 57.8(a)(5) of the Act.

Pursuant to 35 IAC Section 732.301 the Illinois EPA is requiring a Site Classification Completion Report be submitted within 90 days of the date of this letter to:

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

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

Within 35 days after the date of mailing of this final decision, the owner or operator may petition for a hearing before the Illinois Pollution Control Board (Board) to contest the decision of the Illinois EPA. (For information regarding the filing of an appeal, please contact the Board at 312/814-3620.) However, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the owner or operator and the Illinois EPA within the 35-day initial appeal period. (For information regarding the filing of an extension, please contact the Illinois EPA's Division of Legal Counsel at 217/782-5544.)

Page 3.

If you have any questions or need further assistance, please contact the Illinois EPA project manager, George Lambert, at 217/557-6937.

Sincerely,

A handwritten signature in cursive script that reads "Clifford L. Wheeler".

Clifford L. Wheeler
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

CLW: GL

cc: Division File

Attachment: 1

Attachment A

Re: LPC# 1610656036 – Rock Island
Rock Island / Strata Geologic Services, Inc.
3801 14th Avenue
LUST Incident No. 20001644
LUST Technical File

NOTE: Citations in this attachment are from 35 Illinois Administrative Code (35 IAC) and the Environmental Protection Act.

SECTION 1

As a result of the Illinois EPA's modification(s) in Section 2 of this Attachment , the following amounts have been approved:

Investigation Costs	\$ 8,800.00
Analysis Costs	\$ 2,250.00
Personnel Costs	\$13,400.00
Equipment Costs	\$ 1,000.00
Field Purchases & Other Costs	\$ None
Handling Charges	<u>\$ None</u>
Total	\$25,450.00

SECTION 2

\$990.00 for an adjustment in costs from the total Investigation costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 IAC Section 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities and services are reasonable (35 IAC Section 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs submitted are reasonable.

\$2,215.00 for an adjustment in total personnel costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 IAC Section 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities and services are reasonable (35 IAC Section 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs submitted are reasonable.

\$210.00 for an adjustment in costs from the Equipment costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 IAC Section 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities and services are reasonable (35 IAC Section 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs submitted are reasonable.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL

7099-3400-0014-9525-3827

FEB 26 2002

Stratra Geologic Services
Attn: Charles Miller
8281 North Unity Rd.
Lena, IL 61048

Re: LPC #1610656036 – Rock Island
Rock Island/Strata Geologic Services
3801 North Utility Rd
LUST Incident No. 20001644
LUST Technical File

Dear Charles Miller :

The Illinois Environmental Protection Agency (Illinois EPA) is in receipt of the Site Classification Work Plan dated February 13, 2001 and received by the Illinois EPA February 26, 2001 regarding the above-referenced incident. The incident was reported to the Illinois Emergency Management Agency on August 28, 2000. As a result, corrective action for this incident shall be performed in accordance with Title XVI: Petroleum Underground Storage Tanks of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 IAC) Part 732.

The Site Classification Work Plan was approved in the IEPA Letter dated May 30, 2001. To date, no Site Classification Completion Report has been submitted to the Agency. The Agency is requesting a Site Classification completion Report for the above referenced incident.

Pursuant to 35 IAC Sections 732.301 and 732.309 and Section 57.7(a) of the Act, the Illinois EPA is requiring a Site Classification Completion Report to be submitted by March 15, 2002. The plan must be prepared in accordance with 35 IAC Part 732, Subpart C and should be submitted to:

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

RELEASABLE

MAR 12 2002

REVIEWER MM

Exhibit C

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

Further, take notice that non-compliance with the requirements of the Environmental Protection Act and the rules and regulations adopted thereunder may be the subject of enforcement action pursuant to the Environmental Protection Act 415 ILCS 5 et seq. or the Federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Sec. 6991 et seq.

If you have any questions or need further assistance, please contact Wayne Zuehlke at 217/557-6937.

Sincerely,

Clifford L. Wheeler

Clifford L. Wheeler
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

CLW:WZ\20001644SCCRrequest.doc

cc Division File

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
STRATA GEOLOGIC SERVICES, INC.,)
an Illinois corporation,)
)
Respondent.)

No. PCB 06-119
(Enforcement-UST)

REQUEST FOR ADMISSION OF FACT

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Supreme Court Rule 216 and Section 101.618 of the Board's Procedural Rules, 35 Ill. Adm. Code 101.618 submits to STRATA GEOLOGIC SERVICES, INC. ("Strata") this request for the admission of the truth of the following specified relevant facts within 28 days after service hereof. Failure to respond to the following requests to admit within 28 days may have severe consequences. Failure to respond to the following requests will result in all the facts requested being deemed admitted as true for this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding or an attorney:

1. Strata is an Illinois corporation in good standing. *YES*
2. Charles E. Miller III is president of the corporation and Roseanne M. Miller is the corporation's registered agent. The address for both the president and registered agent is 8281 N. Unity Road, Lena, Illinois 61048. *YES RECIEVE MAIL AT THIS ADDRESS*
2. On August 28, 2000, Strata reported to the Illinois Emergency Management

Agency ("IEMA") the release of gasoline from an underground storage tank owned by it and located at 3801 14th Avenue, Rock Island, Rock Island County, Illinois. *YES*

3. Strata did not submit a 20-Day Certification concerning the August 28, 2000 release within 20 days of notifying IEMA of the release. *20-DAY 10-10-2000*

4. Strata did not submit a 45-Day Report concerning the August 28, 2000 release within 45 days of notifying IEMA of the release. *45 11-30-2000*

5. By letter dated May 30, 2001, Illinois EPA approved the Site Classification Work Plan and notified Strata that the Site Classification Completion Report was due by no later than August 28, 2001. *YES*

6. By letter dated February 26, 2002, Illinois EPA notified Respondent that the Site Classification Completion Report had not been received and that this report was now due by no later than March 15, 2002. *YES*

7. Strata did not submit a Site Classification Completion Report concerning the August 28, 2000 release within either the August 28, 2001 or March 15, 2002 deadlines. *YES*

8. On April 18, 2002, Illinois EPA sent a Violation Notice ("VN") to Strata concerning the August 28, 2000 release. The VN requested a response by no later than June 2, 2002. Strata never responded to the VN. *SPOKE WITH VALARIE AND TOLD HER STRATA DID NOT HAVE FUNDS TO COMPLETE DRILLING FOR SITE CLASSIFICATION*

9. On October 30, 2002, Illinois EPA sent Strata a Notice of Intent to Pursue Legal Action ("NIPLA") concerning the August 28, 2000 release. Strata never responded to the NIPLA. *SPOKE WITH VALARIE AND TOLD HER FUNDS WERE STILL NOT AVAILABLE. SITE CLASSIFICATION WAS EVENTUALLY COMPLETED AS FUNDS BECAME AVAILABLE*

10. To date, Strata has not submitted to Illinois EPA a Corrective Action Completion Report concerning the August 28, 2000 release. *PLAN SUBMITTED 3-15-07*

9. On June 12, 2003, Strata reported to the IEMA the release of gasoline from an underground storage tank owned by it and located at 210 East 1st Street, Milan, Rock Island County, Illinois. *NOT APPROVED YES*
YES

10. Strata has never submitted to Illinois EPA a 20-Day Certification concerning the June 12, 2003 release. *DOES NOT SHOW ON COMPUTER*

11. Strata has never submitted to Illinois EPA a 45-Day Report concerning the June 12, 2003 release. *20 AND 45 DAY REPORTS WERE SUBMITTED BUT DO NOT SHOW ON COMPUTER FOR SOME REASON. I DON'T THINK THEY WOULD ISSUE NFA LETTER WITHOUT THEM.*

12. On October 8, 2003, Illinois EPA sent a Violation Notice ("VN") to Strata concerning the June 12, 2003 release. Strata never responded to the VN.

13. On June 14, 2003, Illinois EPA sent Strata a Notice of Intent to Pursue Legal Action ("NIPLA") concerning the June 12, 2003 release. Strata never responded to the NIPLA.

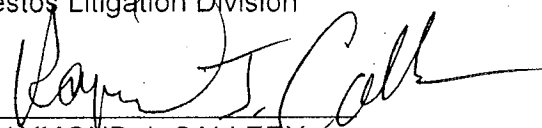
SPOKE WITH VALARIE CONCERNING VN AN NIPLA TOLD HER FUNDS WERE NOT AVAILABLE TO COMPLETE DRILLING.

Respectfully Submitted,

SITE CLASSIFICATION WAS EVENTUALLY COMPLETED

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

By: 
RAYMOND J. CALLERY
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62076
(217) 782-9031

Dated: March 30, 2007

RESPONSE BY
Charles E. Miller
4-19-07

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
)	
v.)	PCB 06-119
)	(Enforcement - UST)
STRATA GEOLOGIC SERVICES, INC.,)	
an Illinois corporation,)	
Respondent.)	
)	

AFFIDAVIT OF JAMES MALCOM

Upon penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that I verily believe the same to be true:

1. I, James Malcom, am employed by the Illinois Environmental Protection Agency ("Illinois EPA") as an Environmental Protection Specialist III ("EPS III") in the Leaking Underground Storage Tank ("LUST") Section of the Bureau of Land. I have been employed by the Illinois EPA for eight years and have been employed as an EPS III with the LUST section for six years.

2. As part of my duties as an EPS III for the LUST Section, I am responsible for reviewing and acting upon all reports, correspondence, and notices required to be kept by the Illinois Environmental Protection Act and related regulations concerning LUST releases for which I am assigned. I am also responsible for being familiar with the pertinent statutes and regulatory provisions.

3. I have a Bachelor's Degree in Biology from the University of Illinois.

4. I am familiar with the Illinois Attorney General's case involving Strata Geologic Services, Inc. ("Strata") and the reports, correspondence, and notices kept as Illinois EPA's record concerning the June 12, 2003 release. In support of the People's Motion for Summary Judgment, I provide the following factual statements, opinions, and conclusions based upon my experience and expertise.

5. On June 12, 2003, Strata reported to the Illinois Emergency Management Agency the release of gasoline from an underground storage tank owned by it and located at 210 East 1st Street, Milan, Rock Island County, Illinois. The extent of release was unknown, but the tank system at the site included one 4000 gallon gasoline tank and one 6000 gallon gasoline tank, as well as a 4000 gallon diesel tank and an 8000 gallon kerosene tank. Attached as Exhibit A is a true and correct copy of Illinois HazMat Report, Incident #20030870.

6. Strata has never submitted to Illinois EPA the 20-Day Certification concerning the June 12, 2003 release. Pursuant to 35 Ill. Adm. Code 732.202(c) (as in effect prior to March 1, 2006) the owner or operator shall submit the 20-Day Certification to Illinois EPA within 20 days after confirmation of the release. The 20-Day Certification was due by no later than July 2, 2003.

7. Strata has never submitted to Illinois EPA the 45-Day Report concerning the June 12, 2003 release. Pursuant to 35 Ill. Adm. Code 732.202(e) (as in effect prior to March 1, 2006) the owner or operator shall submit the 45-Day Report to Illinois EPA within 20 days after confirmation of the release. The 45-Day Report was due by no later than July 27, 2003.


8. On October 8, 2003, Illinois EPA sent a Violation Notice ("VN") to Strata. Strata never responded to the VN.

9. On October 5, 2006, Illinois EPA received from Strata a Corrective Action

Completion Report concerning the June 12, 2003 release.

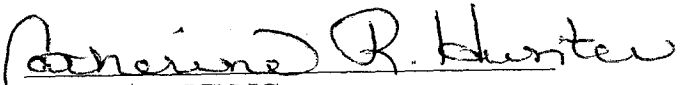
10. On October 23, 2006, Illinois EPA issued a No Further Remediation Letter concerning the June 12, 2003 release.

FURTHER AFFIANT SAYETH NOT.

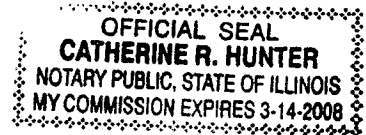
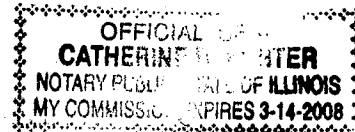


JAMES MALCOM

Subscribed and sworn to before me this 26th day of March, 2007.



NOTARY PUBLIC



1610405087 - Rock Island
Strata Geologic Services Inc
FAXED
GK WST Tech

Incident

EM/2000
Incident Recorder

Illinois HazMat Report Incident #: H 20030870

Entered by Hugo Sullan on 06/12/2003 at 15:48

Incident Type: Illinois HazMat Report
Data Input Status: Open Close
Incident Level: Main Incident Sub-Incident

1. Caller: CHARLES MILLER	14. On Scene Contact: N/A On Scene Phone #: N/A
2. Call back phone#: 815/369-2197	15. No. Injured: NONE
3. Caller Represents: STRATA GEOLOGIC SERVICES INC.	Where Taken:
4. Type of Incident: LEAK OR SPILL	16. Public health risks and/or precautions taken, including # evacuated: NONE
5. Incident Location Street: 201 EAST 1ST STREET City: MILAN IN County: ROCK ISLAND Milepost: Sec.: Twp.: Range:	17. Assistance needed from State Agencies: NONE
6. Area Involved: FIXED FACILITY	18. Containment/cleanup actions and plans: CALLER IS CONTRACTOR
7. Material (s) Involved: GASOLINE Material Type: LIQUID CAS#: UNK UN/NA#: UNK Is this a 302 (a) Extremely Hazardous Substance? NO Is this a RCRA Hazardous Waste? UNKNOWN Is this a RCRA regulated facility? NO	19. Weather: SUNNY Temp.: 70 deg. f/ Wind Dir. UNK / Speed UNK m.p.h.
8. Container: UNDERGROUND TANK Container Size: 1-4000 GALS. GASOLINE 1-6000 GALS. GASOLINE 1-4000 GALS DIESEL 1-8000 GALS KEROSENE	20. Responsible Party: STRATA GEOLOGIC SERVICES INC. Contact Person: CHARLES MILLER Phone #: 815/369-2197 Mailing Address: 8281 NORTH UNITY ROAD, LENA, IL 61048
9. Amount Released: UNKNOWN Rate of Release: /min.	Notifications: IEPA/OSFM/NRTP/REGION 6
10. Cause of Release: LEAKING SYSTEM	
11. Estimated Spill Extent: UNKNOWN	
12. Occurred - Date: Time: Discovered - Date: 06/12/2003 Time: 09:00	
13. Emergency Units Contacted - NONE Fire: - Police: - Sheriff: - ESDA: - Other: -	On Scene - NONE Fire: - Police: - Sheriff: - ESDA: - Other: -

RELEASABLE

21. Narrative / Comments:

JUN 25 2003

REVIEWER MM