

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOE'S MIDTOWN AUTO REPAIR, )  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

PCB NO. 07-143  
(UST Appeal)

**RECEIVED**  
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SEP 10 2007  
STATE OF ILLINOIS  
Pollution Control Board

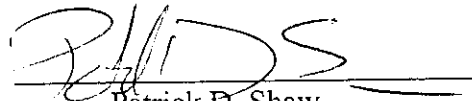
NOTICE OF FILING AND PROOF OF SERVICE

TO: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
State of Illinois Building, Suite 11-500  
Chicago, IL 60601

William D. Ingersoll  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

PLEASE TAKE NOTICE that on September 7<sup>th</sup>, 2007, we sent to the Clerk of the Illinois Pollution Control Board the originals and nine (9) copies each, via U.S. Mail, of a Petition for Review of Underground Storage Tank Fund Reimbursement Decision, for filing in the above-entitled cause, copies of which are attached hereto.

The undersigned hereby certifies that true and correct copies of the Notice of Filing, together with copies of the documents described above, were served upon the Respondent by enclosing same in envelopes addressed to said Respondent by U.S. Mail by depositing said envelopes in a United States Post Office Mail Box at Springfield, Illinois, with postage fully prepaid, on the 7<sup>th</sup> of September, 2007.

  
Patrick D. Shaw

MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 N. Old Capitol Plaza, Suite 325  
Springfield, IL 62701-1323  
Tel: (217) 528-2517  
Fax: (217) 528-2553

THIS FILING SUBMITTED ON RECYCLED PAPER

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**PETITION FOR REVIEW OF UNDERGROUND  
STORAGE TANK FUND REIMBURSEMENT DECISION**

NOW COMES Petitioner, Joe's Midtown Auto Repair, by its undersigned attorneys, and pursuant to 415 ILCS 5/40 and 57.8, hereby petitions the Pollution Control Board for review of the final determination of Respondent, Illinois Environmental Protection Agency (hereinafter "the Agency"), with respect to the Agency's May 9, 2007, payment determination under the Illinois Underground Storage Tank Fund ("UST Fund"). In support, Petitioner states:

1. Petitioner is the owner of a automobile repair shop located at 1 S. Main Street, Princeton, Illinois. This facility has been designated LPC #0110855048 by the Agency.
2. Petitioner notified the Illinois Emergency Management Agency of a release of waste oil from an underground storage tank at the facility, to which IEMA assigned Incident No. 970927.
3. On May 8, 2006, a High Priority Corrective Action Plan for this clean-up was approved and a related budget was approved with modifications.
4. On December 23, 2006, Petitioner submitted to the Agency an application for payment in the amount of \$12,145.39 for work performed from December 21, 2004 to August 14,

2006.

6. On May 9, 2007, the Agency rendered its final determination on Petitioner's application. A true and correct copy of the subject Agency decision is attached and made part hereof as Exhibit A.

7. Petitioner prays that the Board reverse the Agency's final determination and approve the amount requested without assessment of a deductible. A deductible has already been charged for this project and the Agency is without legal authority to charge another deductible.

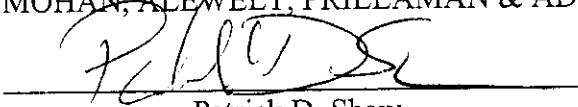
8. This Petition is timely as the Board has previously extended the appeal period until September 11, 2007, pursuant to the parties request for a 90-day extension of time.

WHEREFORE, Petitioner respectfully requests that the Board grant a hearing in this matter and reverse the Agency's May 9, 2007 decision and remand this matter to the Agency with instructions to approve the amount requested, and grant such other and further relief as the Board deems appropriate, including legal costs for seeking payment under Title XVI of the Illinois Environmental Protection Act, pursuant to 415 ILCS 5/57.8(1).

Respectfully submitted,

JOE'S MIDTOWN AUTO REPAIR, Petitioner,

By: MOHAN, ALEWELT, PRILLAMAN & ADAMI

By:   
Patrick D. Shaw

MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 N. Old Capitol Plaza, Suite 325  
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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

217/782-6762 ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

CERTIFIED MAIL #

MAY 09 2007

7004 2510 0001 8623 6263

Joe's Midtown Auto Repair
Attention: Joe Warren
CSD Environmental Services, Inc.
Springfield, Illinois 62708-2736

Re: LPC #0110855048 -- Bureau County
Princeton/Joe's Midtown Auto Repair
1 South Main Street
Leaking UST Incident No. 982038
Leaking UST FISCAL FILE

Dear Mr. Warren:

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 December 23, 2006 and was received by the Agency on January 10, 2007. The application for payment covers the period from December 21, 2004 to August 14, 2006. The amount requested is \$12,145.39.

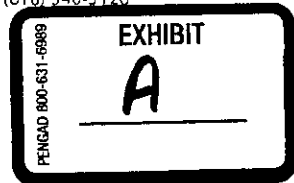
The deductible amount to be assessed on this claim is \$10,000.00, which is being deducted from this payment. In addition to the deductible, there are costs from this claim that are not being paid. Listed in Attachment A are the costs that are not being paid and the reasons these costs are not being paid.

On January 10, 2007, the Agency received your application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher for \$2,078.89 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 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

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

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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:

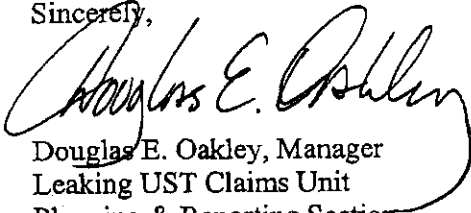
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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:bjh\072423.doc

Attachment

cc: CSD Environmental Services, Inc.

Attachment A  
Accounting Deductions

Re: LPC #0110855048 -- Bureau County  
Princeton/Joe's Midtown Auto Repair  
1 South Main Street  
Leaking UST Incident No. 982038  
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. \$66.50, deduction for corrective action costs for personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh).

A deduction is being made in the amount of \$66.50 fro the Personnel costs. The Sr. Professional Engineer was approved in the budget at the rate of \$130.00 per hour not \$137.00 per hour.

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