

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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DEC 26 2007

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS STATE TOLL HIGHWAY)
AUTHORITY (Belvidere Oasis- South Side CACR))
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Respondent.)

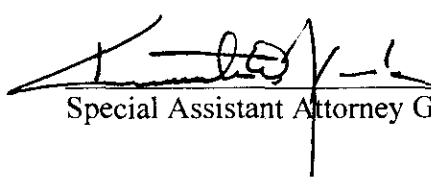
PCB - 08-041
(UST Appeal)

NOTICE OF FILING

To: Douglas P. Scott, Director
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794

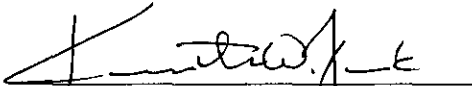
PLEASE TAKE NOTICE that on December 26, 2007 we filed with the Clerk of the Illinois Pollution Control Board the originals and nine (9) copies each, via personal delivery, of 1) **Appearance of Deutsch, Levy & Engel, Chartered** and 2) **Petition for Review of Agency Rejection of High Priority Corrective Action Completion Report for Belvidere Oasis South** for filing the above-entitled cause, copies of which are attached hereto.


Special Assistant Attorney General

Kenneth W. Funk
Karen Kavanagh Mack
Deutsch, Levy & Engel, Chartered
Special Assistant Attorneys General
225 W. Washington Street, Suite 1700
Chicago, IL 60606
(312) 346-146
Firm No. 90235

CERTIFICATE OF SERVICE

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 above-named Respondent by enclosing same in envelope addressed to said Respondent, certified mail, return receipt requested, and by depositing said envelopes in a U.S. Post Office Mail Box at Chicago, Illinois, with postage fully prepaid on the 26th day of December, 2007.


Special Assistant Attorney General

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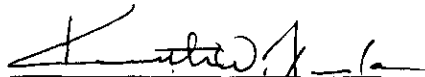
PCB - 08041
(UST Appeal)

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)

Respondent.)

APPEARANCE

We, Kenneth W. Funk and Karen Kavanagh Mack, hereby file the appearance of Deutsch, Levy & Engel, Chartered in this proceeding on behalf of the Illinois State Toll Highway Authority.



Special Assistant Attorney General

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Deutsch, Levy & Engel, Chartered
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PCB - 08-041
(UST Appeal)

**PETITION FOR REVIEW OF AGENCY REJECTION OF HIGH PRIORITY
CORRECTIVE ACTION COMPLETION REPORT**

Petitioner, the Illinois State Toll Highway Authority ("ISTHA") by its attorneys, Kenneth W. Funk and Karen Kavanagh Mack, as Special Assistant Attorneys General, petitions the Illinois Pollution Control Board, pursuant to 415 ILCS 5/57.7(c)(4)(D) and 415 ILCS 5/40, for review of the final determination of Respondent, the Illinois Environmental Protection Agency (the "Agency"), with respect to Petitioner's High Priority Corrective Action Completion Report., dated on or about September 26, 2007, relating to its Belvidere Oasis South facility, and in support thereof, states:

1. ISTHA is the owner of the facility, including underground storage tanks ("UST") and related piping, commonly known as the Belvidere Oasis South located on the I-90 Tollway in Belvidere, Illinois.

2. In or about 1994, Wight & Company performed a Contaminated Soils Determination to confirm results of investigations near the existing and former UST dispensing systems and the former vehicle repair/service station at the Belvidere Oasis South facility. In or about 1994, Wight & Company, on ISTHA's behalf, notified the Illinois Emergency Management Agency (IEMA) that various gasoline, diesel, and waste oil target analytes were

detected above the Tier I Remediation Objectives, to which the IEMA assigned LUST incident number 94-1816.

3. In or about August of 2002, at the Office of the State Fire Marshall's (OSFM) request, Wight and Company, on ISTHA's behalf, notified IEMA of a release from the USTs, to which the IEMA assigned Incident No. 2002-1277, and is considered a re-reporting of Incident No. 94-1816 since the release was reported during the removal of the tank system associated with Incident No. 94-1816.

4. On or about September 26, 2007, ISTHA submitted a Combined High Priority Corrective Action Plan, Budget and Completion Report ("Report") to the Agency in accordance with the requirements of Title XVI of the Act and 35 Ill. Adm. Code 732.409(c); and, on or about November 20, 2007, the Agency approved with modification the Corrective Action Plan ("CAP") and the Budget portions of the Report.

5. On or about November 20, 2007, the Agency also responded by rejecting the Corrective Action Completion Report (CACR) portions of the Report. A true and complete copy of that rejection is attached hereto as Exhibit "1".

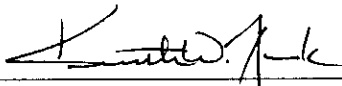
6. ISTHA requests that the Board reverse the Agency's determination rejecting the Belvidere South Oasis CACR, because, *inter alia*, the CACR was completed in accordance with the requirements of Title XVI of the Act and complied with 35 Ill. Adm. Code 732.409(c). Specifically, the Agency's decision letter states that "the report is rejected for the reasons listed in Attachment A," yet the Agency failed to provide an Attachment A. Although the Agency verbally informed ISTHA's counsel that there was no Attachment A, a revised CACR rejection letter was never issued to ISTHA.

7. ISTHA reserves the right to present additional grounds for reversal of the Agency's final determination, as they appear during the course of this Appeal.

WHEREFORE, the Petitioner, The Illinois State Toll Highway Authority, respectfully requests that this Board grant a hearing in this matter and reverse the Agency's November 20, 2007 rejection of ISTHA's High Priority Corrective Action Completion Report for the Belvidere Oasis South and remand this matter to the Agency with instructions to approve the Amendment as aforesaid, and for any other relief as the Board deems just and appropriate.

Respectfully submitted,

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: 
One of its Attorneys

Kenneth W. Funk
Karen Kavanagh Mack
Deutsch, Levy & Engel, Chartered
Special Assistant Attorneys General
225 W. Washington Street, Suite 1700
Chicago, IL 60606
(312) 346-1460
Firm No. 90235



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 20 2007

7007 0220 0000 0153 2924

Illinois State Toll Highway Authority
Attention: Mr. Jeffrey S. Dailey, P.E.
2700 Ogden Avenue
Downers Grove, Illinois 60515

Re: LPC #0070057092 -- Boone County
Belvidere/ Belvidere Oasis (South Side)
I-90 East Bound
Leaking UST Incident No. 941816 and No. 20021277
Leaking UST Technical File

Dear Mr. Dailey:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Completion Report (report) for the above-referenced incident. The report was dated September 26, 2007 and was received by the Illinois EPA on September 27, 2007. Citations in this letter are from the Environmental Protection Act (Act) in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.409(c) and 732.503(b), the report is rejected for the reasons listed in Attachment A.

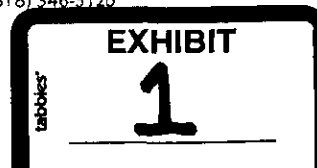
Pursuant to 35 Ill. Adm. Code 732.401 and 742.1020, a Highway Authority Agreement and Memorandum of Understanding (HAA - MOU) between the Illinois Environmental Protection Agency and Illinois Department of Transportation for the use restriction under I-90 property must be submitted within (90) days to:

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 at the beginning of this letter.

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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Page 2

The Illinois EPA does not require the submission or approval of a budget if the owner or operator will not seek payment of corrective action costs from the Underground Storage Tank Fund.

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 need further assistance, please contact Donna Wallace at 217/ 524-1283.

Sincerely,

A handwritten signature in black ink, appearing to read 'T.A. Henninger', with a long horizontal line extending to the right.

Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

TAH:DW:dw\

Attachment: Attachment A

c: Deutsch, Levy & Engel/ Karen Kavanagh Mack
BOL File

Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4) 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 from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator 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, IL 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
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544