

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

LAKELAND FOOD & GAS, INC. )  
 )  
Petitioner, )  
v. ) PCB No. \_\_\_\_\_  
 ) (LUST Permit Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

**NOTICE OF FILING AND PROOF OF SERVICE**

To: John T. Therriault, Acting Clerk                      Bill Ingersoll  
Illinois Pollution Control Board                      Illinois Environmental Protection Agency  
100 West Randolph Street                      1021 North Grand Avenue East  
State of Illinois Building, Suite 11-500              P.O. Box 19276  
Chicago, IL 60601                      Springfield, IL 62794-9276

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, pursuant to Board Procedural Rule 101.302 (d), a PETITION FOR REVIEW OF THE AGENCY LUST DECISION, a copy of which is herewith served upon the attorneys of record in this cause.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon counsel of record of all parties to this cause by enclosing same in envelopes addressed to such attorneys with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office Mailbox in Springfield, Illinois on the 10<sup>th</sup> of February, 2011.

Respectfully submitted,  
LAKELAND FOOD & GAS, INC., Petitioner

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI

BY: /s/ Patrick D. Shaw

Patrick D. Shaw  
MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 North Old Capitol Plaza, Suite 325  
Springfield, IL 62701-1323  
Telephone: 217/528-2517  
Facsimile: 217/528-2553

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

LAKELAND FOOD & GAS, INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB No. _____
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**PETITION FOR REVIEW OF AGENCY LUST DECISION**

NOW COMES Petitioner, Lakeland Food & Gas, Inc, pursuant to Sections 40 and 57.8(i) of the Illinois Environmental Protection Act, 415 ILCS 5/40 & 5/57.8(i), and hereby appeals the LUST decision issued on January 7, 2011, by Respondent Illinois Environmental Protection Agency ("Agency"), in which the Agency rejected an application for payment for costs previously approved, stating further as follows:

1. The subject facility is located at 1420 Lakeland Blvd., Mattoon, Coles County, Illinois.
2. The subject facility has been operated as a convenience store for many years, containing several underground storage tanks, from which a release was reported from one or more on August 6, 1992 and assigned IEMA Incident Number 922152.
3. Subsequently, the owner/operator of the underground storage tanks at the time of the incident, Willaredt Oil Co., Inc., applied for and received eligibility determinations for the clean-up of the incident and since all tanks were registered, a deductible of \$10,000 was assigned.
4. On September 24, 2010, Lakeland Food & Gas, Inc. submitted an application for

payment for site investigation activities performed at the site, seeking \$15,361.26 for site investigation activities performed pursuant to budgets approved by the Agency earlier in the year.

5. On January 7, 2011, the Agency denied payment in a letter attached hereto as Exhibit A, which is less than thirty-five days from the date of this filing.

6. The Agency claims that the application was deficient for including an eligibility and deductibility determination from a past owner (Willaredt Oil Co., Inc.). There is nothing in the Act or the Board's rules which requires additional OSFM determinations to be made by each future owner, particularly since OSFM determines the eligibility of tanks, not owners.

WHEREFORE, Petitioner, LAKELAND FOOD & GAS, INC., prays that: (a) the Agency produce the Record; (b) a hearing be held; (c) the Board find the Agency erred in its decision, (d) the Board direct the Agency to approve the payment in full, (e) the Board award payment of attorney's fees; and (f) the Board grant the Petitioner such other and further relief as it deems meet and just.

LAKELAND FOOD & GAS, INC.

Petitioner

By its attorneys,  
MOHAN, ALEWELT, PRILLAMAN & ADAMI

By: /s/ Patrick D. Shaw

Patrick D. Shaw  
MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 N. Old Capitol Plaza, Ste. 325  
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THIS FILING IS SUBMITTED ON RECYCLED PAPER



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

2021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829  
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

CERTIFIED MAIL #

JAN 07 2011

7009 2820 0001 7493 3753

Lakeland Food & Gas, Inc.  
Kamlesh Patel  
c/o CW<sup>3</sup>M Company  
P.O. Box 571  
Carlinville, Illinois 62626

Re: LPC 0290255070—Coles County  
Mattoon/ Willaredt Oil Co., Inc.  
1420 Lakeland Boulevard  
Incident-Claim No.: 922152—59292  
Queue Date: September 27, 2010  
Leaking UST Fiscal File

Dear Sir or Madam:

The Illinois Environmental Protection Agency (Illinois EPA) has completed the review of your application for payment from the Underground Storage Tank (UST) Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.Subpart F.

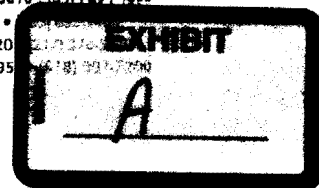
This information is dated September 24, 2010 and was received by the Illinois EPA on September 27, 2010. The application for payment covers the period from January 1, 2010 to August 31, 2010. The amount requested is \$15,361.26.

On September 27, 2010, the Illinois EPA received your complete application for payment for this claim. As a result of the Illinois EPA's review of this application for payment, a voucher cannot be prepared for submission to the Comptroller's office for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date subsequent application for payment requests are received by the Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

There are costs from this claim that are not being paid. Listed at the top of page two are the costs that are not being paid and the reasons these costs are not being paid.

Rockford • 4302 N. Main St., Rockford, IL 61103 • (815) 987-7760  
Elgin • 595 S. State, Elgin, IL 60123 • (847) 608-3131  
Bureau of Land — Peoria • 7620 N. University St., Peoria, IL 61614 • (309) 693-5462  
Collinsville • 2009 Mall Street, Collinsville, IL 62234 • (618) 346-5120

Des Plaines • 9511 W. Harrison St., Des Plaines, IL 60016 • (847) 294-4000  
Peoria • 5415 N. University St., Peoria, IL 61614 •  
Champaign • 2125 S. First St., Champaign, IL 61820  
Marion • 2309 W. Main St., Suite 116, Marion, IL 62959



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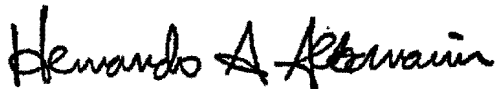
\$15,361.26, deduction for costs associated with any corrective action activities, services, or materials that were not accompanied by a copy of the eligibility and deductibility decision(s) made for the above-referenced occurrence(s) for accessing the Fund pursuant to Section 57.8 of the Act and 35 Ill. Adm. Code 734.135(a), 734.605(b)(3), and 734.630(s).

The Office of the State Fire Marshal has not issued an Eligibility and Deductibility determination letter for Lakeland Food and Gas. The Eligibility and Deductibility determination letter that was included with the application for payment states that Willaredt Oil Co., Inc. is eligible to seek payment from the Leaking UST 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 require further assistance, please contact Brad Dilbaitis of my staff at (217) 785-8378 or at Bradley.Dilbaitis@illinois.gov.

Sincerely,



Hernando A. Albarracin, Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

HAA:BD 

Attachment: Appeal Rights

c: Leaking UST Claims Unit

### 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