Electronic Filing - Received, Clerk's Office: 08/01/2014 - * * * PCB 2015-020 * * *

BEFORE THE POLLUTION CONTROL BOARD OF THE STATE OF ILLINOIS

GOLIGHTLY & LONG, LLC)	
(MARION))	
Petitioner,)	
v.)	PCB
)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

NOTICE OF FILING AND PROOF OF SERVICE

To: John T. Therriault, Acting Clerk
Illinois Pollution Control Board
100 West Randolph Street
State of Illinois Building, Suite 11-500
Chicago, IL 60601
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
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 1st day of August, 2014.

Respectfully submitted, GOLIGHTLY & LONG, LLC, 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

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

GOLIGHTLY & LONG, LLC (MARION), Petitioner,)
v.) PCB
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PETITION FOR REVIEW OF AGENCY LUST DECISION

NOW COMES Petitioner, GOLIGHTLY & LONG, LLC, pursuant to Section 57.8(i) of the Illinois Environmental Protection Act, 415 ILCS 5/57.8(i), and hereby appeals the Agency's final decision, refusing to approve the application for payment, and in support thereof states as follows:

- This appeal arises from underground storage tanks formally at the Marion City
 Gas & Wash in Marion, Illinois, and assigned LPC #1990555185.
- Petitioner filed an application for payment for work performed pursuant to plans and budgets approved by the Illinois EPA.
- On July 1, 2014, the Illinois EPA rejected the application for payment on the grounds that the application was incomplete. Attached hereto is a true and correct copy of said decision.
 - 4. The Illinois EPA's decision should be reversed for the following reasons:
 - a. The application was complete, containing all of the information required of a complete application pursuant to Section 57.8 of the Illinois Environmental

- Protection Act (415 ILCS 5/57.8(a)(6));
- The application was complete, containing all of the information required of a complete application pursuant to 35 Ill. Adm. Code § 734.605;
 - The application was complete pursuant to forms that existed at the time application for payment was submitted to the Illinois EPA;
- d. The Petitioner is relieved from the obligation to submit or file forms that are not in compliance with the Forms Notice Act (20 ILCS 435/1 et seq.);
 - e. The information sought is irrelevant under the LUST Program; and
 - f. The Agency improperly seeks to review documents that exceed its scope of review, including mandating the creation of new documents that were not created when the underlying transactions occurred, and were not relied upon in the completion of the application for payment.
- The Agency's determination was made on July 1, 2014, which is less than 35 days
 from the date this appeal is being filed, and therefore timely.

WHEREFORE, Petitioner, GOLIGHTLY & LONG, LLC, 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 application for payment in full, (e) the Board award payment of attorney's fees; and (f) the Board grant Petitioner such other and further relief as it deems meet and just.

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GOLIGHTLY & LONG, LLC, 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 Springfield, IL 62701 Telephone: 217/528-2517

Facsimile: 217/528-2553

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829
PAT QUINN, GOVERNOR LISA BONNETT, DIRECTOR

217/524-3300

JUL 0 1 2014

CERTIFIED MAIL#

7012 0470 0001 3004 8421

GoLightly & Long
c/o Environmental Management
1154 North Bradfordton Road
Springfield, IL 62711

Re: LPC #1990555185 - Williamson County

Marion/Marion Citgo Gas & Wash

1801 Industrial Park Drive

Incident-Claim No.: 20041624 -- 64261

Queue Date: March 3, 2014 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 February 28, 2014 and was received by the Illinois EPA on March 3, 2014. The application for payment covers the period from June 15, 2013 to February 20, 2014. The amount requested is \$4,781.30.

On March 3, 2014, 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 below are the costs that are not being paid and the reasons these costs are not being paid.

\$4,781.30, deduction for costs which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because

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they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

The following information is needed to substantiate the request for reimbursement:

- A breakdown of consulting personnel time requested for payment. Specifically requested are
 the Consulting Personnel Costs Form for the above-referenced claim and the companion
 Personnel Weekly Work Sheet that includes the days and times of day worked for each
 employee. Both forms are accessible on the Illinois EPA's Leaking UST Program Web page
 at www.epa.state.il.us/land/lust/forms/budget-forms/forms-1/table-of-contents.html under the
 Application for Payment Forms.
- 2. A copy of all employees' time sheets for the period for which consulting personnel time was requested for payment.
- 3. A copy of all contracts signed by the UST owner or operator for the above-referenced claim.
- 4. A copy of all contracts and agreements between the consultant and all subcontractors.
- Documentation that the UST owner or operator paid the applicable deductible. Documentation could include a copy of the canceled check (front and back).
- 6. Affidavit(s) (attached)—completed, signed, and sealed—for the following subcontractor for the work completed pursuant to the above-referenced claim:

JK-Five Construction, Inc. Prairie Analytical Systems. Inc.

If you have any questions or require further assistance, please contact Brian Bauer of my staff at 217-782-3335.

Sincerely, Rusub A Alewain

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

HAA::jjr

Attachment: Affidavits

c: Leaking UST Claims Unit

AFFIDAVIT

State of Illinois	
County of Sangamon	
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I, the undersigned,upon my oath, do hereby depose and state as follows:	, being first duly sworn
I am an authorized agent of Prairie Analytical Systems, Inc.	
The following activity has been completed at GoLightly & Long Springfield, Illinois:	g, Inc. at 1801 industrial Park Drive,
Two BETX samples were analyzed by persons directly of Systems, Inc.	employed by Prairie Analytical
I have personal knowledge of invoice #1302014 for the sum of full. I further attest that no discounts, price reduction, give ba will be issued to any party regarding the payment of this invoice	acks, or rebates of any kind were or
I am aware there are significant penalties for submitted false s the Illinois EPA, including but not limited to fines, imprisonmen 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/	nt, or both as provided in Sections
Further affiant sayeth not.	
Signature:	
Subscribed and sworn to before me the day of	
	Seal:
(Notary Public)	

<u>AFFIDAVIT</u>

State of Illinois	
County of Sangamon	
f, the undersigned,	, being first duly sworn
upon my oath, do hereby depose and state as follows:	
I am an authorized agent of JK-Five Construction, Inc.	
The following activity has been completed at GoLightly & Lo Springfield, Illinois:	ng, Inc. at 1801 Industrial Park Drive,
One soil boring was installed to 10 feet by persons of Construction, Inc.	lirectly employed by JK-Five
I have personal knowledge of invoice #1907 for the sum of \$ full. I further attest that no discounts, price reduction, give will be issued to any party regarding the payment of this inv	backs, or rebates of any kind were or
I am aware there are significant penalties for submitted fals the Illinois EPA, including but not limited to fines, imprisonn 44 and 57.17 of the Environmental Protection Act [415 ILCS	nent, or both as provided in Sections
Further affiant sayeth not.	
Signature:	
Subscribed and sworn to before me the day of	· · · · · · · · · · · · · · · · · · ·
	Seal:
(Notary Public)	