

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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

NOTICE OF FILING AND PROOF OF SERVICE

To:	John T. Therriault, Acting Clerk	Division of Legal Counsel
	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 1st day of August, 2014.

Respectfully submitted,
GOLIGHTLY & LONG, LLC, Pctitioner

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

GOLIGHTLY & LONG, LLC (MURPHYSBORO),)	
Petitioner,)	
)	
v.)	PCB _____
)	(LUST Permit Appeal)
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:

1. This appeal arises from underground storage tanks formally at the Murphysboro Coast facility in Murphysboro, Illinois, owned by Golightly & Long, LLC, and assigned LPC #0770505056.

2. Petitioner filed an application for payment for work performed pursuant to plans and budgets approved by the Illinois EPA.

3. On July2, 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));

- b. The application was complete, containing all of the information required of a complete application pursuant to 35 Ill. Adm. Code § 734.605;
- c. 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.

5. The Agency's determination was made on July 2, 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.

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



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

CERTIFIED MAIL #

JUL 0 2 2014

7012 0470 0001 2975 0120

Golightly & Long, LLC
Attn: Environmental Management, Inc.
1154 North Bradfordton Road
Springfield, IL. 62711

Re: LPC #0770505056 -- Jackson County
Murphysboro / Murphysboro Coastal #7337
2200 South Walnut
Incident-Claim No.: 20041636 -- 64272
Queue Date: March 5, 2014
Leaking UST Fiscal File

Dear Mr. Long:

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 march 4, 2014 and was received by the Illinois EPA on March 5, 2014. The application for payment covers the period from May 6, 2013 to October 4, 2013. The amount requested is \$4,061.44.

On March 5, 2014, the Illinois EPA received your 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.

In accordance with 35 Ill. Adm. Code 734.665, an owner or operator that submits an application for payment must maintain all books, records, documents, and other evidence directly pertinent to the application for payment, including but not limited to all financial information and data used in the preparation or support of applications for payment. All books, records, documents,

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and other evidence must be maintained in accordance with accepted business practices and appropriate accounting procedures and practices. (Section 57.6(a) and 57.15 of the Act).

The deductible amount for this claim is \$10,000.00, which was previously withheld from your payment(s). Pursuant to Section 57.8(a)(4) of the Act, any deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted from any payment invoice paid to an eligible owner or operator.

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.


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 Catherine S. Elston of my staff at 217-785-9351.

Sincerely,



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

HAA:CSE 

ATTACHMENT A
Affidavits

c: Golightly & Long, LLC
Leaking UST Claims Unit
Cathy Elston

Attachment A
Accounting Deductions

Re: LPC #0770505056 -- Jackson County
Murphysboro / Murphysboro Coastal #7337
2200 South Walnut
Incident-Claim No.: 20041636 -- 64272
Queue Date: March 5, 2014
Leaking UST FISCAL FILE

Citations in this attachment are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$485.79, deduction for costs that are based on mathematical errors. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(bb). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

An overpayment of \$485.79 was paid on the request for reimbursement received by the Agency on November 6, 2013. The January 14, 2014 final decision letter stated that a voucher for \$132,991.36 would be prepared for submission to the Comptroller's Office which was correct but a voucher of \$133,477.15 was submitted to the Comptroller's Office. The amount requested for reimbursement was \$137,538.59 but the costs broken down on Agency forms and the total on the approved budget summary and billing summary was \$137,052.80.

2. \$3,575.65, deduction for handling 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 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.

Affidavits (attached) must be completed, signed and sealed for the following subcontractors for the work completed pursuant to the above referenced claim:

Regenesis Biomediation Products for the purchase of ORC Advanced Powder invoice #0123317-IN in the amount of \$19,409.23.

Regenesis Biomediation Products for the purchase of ORC Advanced Powder invoice #0123319-IN in the amount of \$1,323.36.

Regenesis Biomediation Products for the purchase of ORC Advanced Powder invoice #0123281-IN in the amount of \$63,587.10

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

AFFIDAVIT

State of Illinois

County of Sangamon

I, the undersigned, _____, being first duly sworn upon my oath, do hereby depose and state as follows:

I am an authorized agent of Regenesi Bioremediation Products

The following activity has been completed at Murphysboro Coastal #7337, 2200 South Walnut, Murphysboro, Illinois:

The purchase of 7,025 lbs of ORC Advanced powder in 281- 25 lb pails.

I have personal knowledge of invoice #0123281-IN for the sum of \$63,587.10, and it has been paid in full. I further attest that no discounts, price reduction, give backs, or rebates of any kind were or will be issued to any party regarding the payment of this invoice.

I am aware there are significant penalties for submitted false statements or representations to the Illinois EPA, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].

Further affiant sayeth not.

Signature: _____

Subscribed and sworn to before me the _____ day of _____,

Seal:

(Notary Public)

AFFIDAVIT

State of Illinois

County of Sangamon

I, the undersigned, _____, being first duly sworn upon my oath, do hereby depose and state as follows:

I am an authorized agent of Regenesi Bioremediation Products

The following activity has been completed at Murphysboro Coastal #7337, 2200 South Walnut, Murphysboro, Illinois:

The purchase of 150 lbs of ORC Advanced powder in 6- 25 lb pails.

I have personal knowledge of invoice #0123319-IN for the sum of \$1,323.36, and it has been paid in full. I further attest that no discounts, price reduction, give backs, or rebates of any kind were or will be issued to any party regarding the payment of this invoice.

I am aware there are significant penalties for submitted false statements or representations to the Illinois EPA, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].

Further affiant sayeth not.

Signature: _____

Subscribed and sworn to before me the _____ day of _____, _____.

Seal:

(Notary Public)

AFFIDAVIT

State of Illinois

County of Sangamon

I, the undersigned, _____, being first duly sworn upon my oath, do hereby depose and state as follows:

I am an authorized agent of Regenesi Bioremediation Products

The following activity has been completed at Murphysboro Coastal #7337, 2200 South Walnut, Murphysboro, Illinois:

The purchase of 2,200 lbs of ORC Advanced powder in 88 - 25 lb pails.

I have personal knowledge of invoice #0123317-IN for the sum of \$19,409.23, and it has been paid in full. I further attest that no discounts, price reduction, give backs, or rebates of any kind were or will be issued to any party regarding the payment of this invoice.

I am aware there are significant penalties for submitted false statements or representations to the Illinois EPA, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].

Further affiant sayeth not.

Signature: _____

Subscribed and sworn to before me the _____ day of _____.

Seal:

(Notary Public)