

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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NOV 12 2014

STATE OF ILLINOIS  
Pollution Control Board

PHILLIPS 66 COMPANY, )  
Petitioner, )  
 )  
v. )  
 )  
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Respondent. )

PCB 15- 91  
(LUST Appeal – Ninety Day  
Extension)

 ORIGINAL

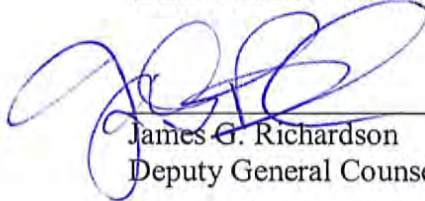
**NOTICE**

John Therriault  
Clerk  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601-3218

Jose Gonzalez  
Cardno ATC  
1815 South Meyers Road, Suite 670  
Oakbrook Terrace, Illinois 60181-5262

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

  
James G. Richardson  
Deputy General Counsel

Dated: November 6, 2014  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

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PHILLIPS 66 COMPANY, )  
Petitioner, )  
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v. )  
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ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

PCB No. 15-15-91  
(LUST Appeal – Ninety Day Extension)

**REQUEST FOR NINETY DAY EXTENSION  
OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James G. Richardson, Deputy General Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to February 8, 2015, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

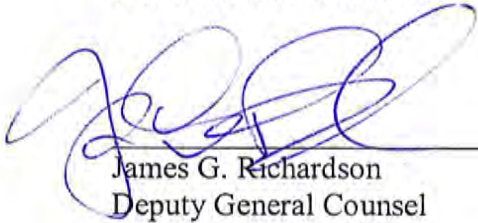
1. On October 3, 2014, the Illinois EPA issued a final decision to the Petitioner.
2. On November 5, 2014, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, the Petitioner received the final decision on or about October 6, 2014.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



---

James G. Richardson  
Deputy General Counsel

Dated: November 6, 2014

1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)

**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

OCT 03 2014

CERTIFIED MAIL #

7012 0470 0001 2976 9801

Phillips 66 Company  
Attn: Mike Bryan  
1708-03 Phillips Building  
Bartlesville, OK. 74003

Re: LPC #0311835146 -- Cook County  
Maywood / Vacant Lot  
1719 West Madison  
Incident-Claim No.: 20130927 -- 64704  
Queue Date: June 13, 2014  
Leaking UST Fiscal File

Dear Mr. Bryan:

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 January 9, 2014 and was received by the Illinois EPA on June 13, 2014. The application for payment covers the period from June 1, 2013 to June 30, 2014. The amount requested is \$36,087.52.

On June 13, 2014, the Illinois EPA received your application for payment for this claim. As a result of Illinois EPA's review of this application for payment, a voucher for \$16,205.18 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Illinois EPA 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 Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

The deductible amount of \$5,000.00 was withheld from your payment. Pursuant to Section 57.8(a)(4) of the Act, any deductible, as determined pursuant to the Office of the State Fire

4302 N. Main St., Rockford, IL 61103 (815) 987-7740  
595 S. State, Elgin, IL 60123 (847) 608-3131  
2125 S. First St., Champaign, IL 61820 (217) 278-5800  
2009 Mall St., Collinsville, IL 62234 (618) 346-5120

9511 Harrison St., Des Plaines, IL 60016 (847) 294-4000  
412 SW Washington St., Suite D, Peoria, IL 61602 (309) 671-3022  
2309 W. Main St., Suite 116, Marion, IL 62959 (618) 993-7200  
100 W. Randolph, Suite 10-300, Chicago, IL 60601 (312) 814-6026

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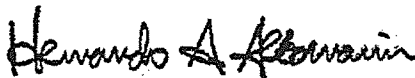
Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted from any payment invoice paid to an eligible owner or operator.

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

HAA:CSE 

ATTACHMENT

c: Cardno ATC ✓  
Leaking UST Claims Unit  
Cathy Elston

Attachment A  
Accounting Deductions

Re: LPC #0311835146 – Cook County  
Maywood / Vacant Lot  
1719 West Madison  
Incident-Claim No.: 20130927 -- 64704  
Queue Date: June 13, 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. \$2,878.00, deduction for costs of corrective action incurred before providing notification of the release of petroleum to Illinois Emergency Management Agency in accordance with 35 Ill. Adm. Code 734.210. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(n).

Analytical costs prior to the IEMA date of August 21, 2013 are not eligible for reimbursement.

Pace Analytical invoice #144083885 - \$1,682.00

Pace Analytical invoice #144083887 - \$23.00

Pace Analytical invoice #144083886 - \$1,173.00

2. \$446.61, deduction for excavation, transportation and disposal costs for contaminated soil that exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

The maximum subpart H rate for the excavation, transportation and disposal of contaminated soil is \$67.89 per cubic yard but reimbursement was requested at a rate of \$73.37 per cubic yard.

3. \$1,474.34, deduction for backfill costs that exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

The maximum subpart H rate for the purchase of backfill is \$23.82 but reimbursement was requested at a rate of \$41.91 per cubic yard.

4. \$300.00, deduction for costs associated with any corrective action activities, services, or materials that exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. The costs associated with the vacuum pump truck are included in the groundwater removal and disposal rate, for which a maximum rate has been applied. The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

The costs for the vacuum pump truck on the Tecnica Environmental Services invoice would be included in the groundwater removal and disposal rate.

5. \$577.50, deduction for groundwater removal and disposal costs for the removal, disposal, or abandonment of UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the Office of the State Fire Marshal before the owner or operator provided notice to Illinois Emergency Management Agency of a release of petroleum. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(k).

Of the \$577.50 requested for groundwater removal and disposal, the rate requested of \$1.05 per gallon exceeds the subpart H rate of \$.81 per gallon. A deduction of \$132.00 would have been made for exceeding the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

6. \$4,075.00, deduction for costs for removal, disposal, or abandonment of UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the Office of the State Fire Marshal before the owner or operator provided notice to Illinois Emergency Management Agency of a release of petroleum. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(k).

Of the \$4,075.00 requested for UST removal costs, the rate of \$4,075.00 exceeds the subpart H rate of \$2,501.14 for a 550 gallon tank. A deduction of 1,573.86 would have been made for exceeding the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

7. \$3,892.04, deduction for costs of corrective action incurred before providing notification of the release of petroleum to Illinois Emergency Management Agency in

accordance with 35 Ill. Adm. Code 734.210. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(n).

Consulting personnel costs prior to the IEMA date of August 21, 2013 are not eligible for reimbursement.

8. \$384.49, deduction for costs of corrective action incurred before providing notification of the release of petroleum to Illinois Emergency Management Agency in accordance with 35 Ill. Adm. Code 734.210. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(n).

Consultant's material costs prior to the IEMA date of August 21, 2013 are not eligible for reimbursement.

9. \$716.96, adjustment in the handling charges due to the deduction(s) of ineligible costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.635.

Handling charges on ineligible soil excavation/backfill costs and Lucky Locators costs.

10. \$137.40, deduction for handling charges for subcontractor costs when the contractor has not submitted proof of payment for subcontractor costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630 (ii). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Proof of payment in the form of cancelled checks, lien waivers or affidavits were not provided for the Suburban Laboratories and STAT Analysis Corp invoices.



## 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

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Pollution Control Board

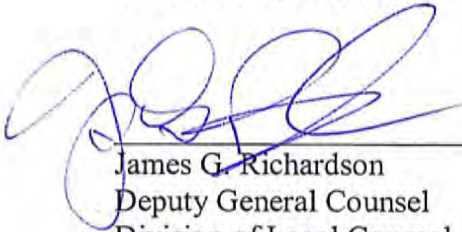
### CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on November 6, 2014 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by first class mail of the United States Postal Service upon the persons as follows:

John Therriault  
Clerk  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601-3218

Jose Gonzalez  
Cardno ATC  
1815 South Meyers Road, Suite 670  
Oakbrook Terrace, Illinois 60181-5262

### ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Deputy General Counsel  
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