

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CHATHAM BP, LLC,)	
)	
Petitioner,)	
)	
v.)	
)	PCB No. 15 –
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	(UST Appeal)
Respondent.)	

NOTICE OF FILING

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Pollution Control Board the Petition for Review of CHATHAM BP LLC and the Appearance of William D. Ingersoll in the above matter. Copies of these documents are hereby served upon you.

To:	Pollution Control Board, Attn: Clerk	Division of Legal Counsel
	100 West Randolph Street	Illinois Environmental Protection Agency
	James R. Thompson Center, Suite 11-500	1021 North Grand Avenue, East
	Chicago, Illinois 60601-3218	P.O. Box 19276
		Springfield, Illinois 62794-9276

Respectfully submitted,
CHATHAM BP, LLC

Dated: March 30, 2015

By: /s/William D. Ingersoll
Its Attorney

BROWN, HAY & STEPHENS, LLP
William D. Ingersoll
Registration No. 6186363
wingersoll@bhslaw.com
205 S. Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459
(217) 544-8491

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CHATHAM BP, LLC,)	
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Petitioner,)	
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v.)	PCB No. 15 –
)	(UST Appeal)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of CHATHAM BP, LLC in the above-captioned matter.

Respectfully submitted,

Dated: March 30, 2015

By: /s/William D. Ingersoll
William D. Ingersoll

BROWN, HAY & STEPHENS, LLP
William D. Ingersoll
Registration No. 6186363
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CHATHAM BP, LLC)	
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ILLINOIS ENVIRONMENTAL)	(UST Appeal)
PROTECTION AGENCY,)	
Respondent.)	

PETITION FOR REVIEW

NOW COMES Petitioner, CHATHAM BP, LLC (“Petitioner”), by and through its attorneys, BROWN HAY & STEPHENS, LLP, and pursuant to Section 40 and Section 57.8(i) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/40 and 40, 57.8(i) and 35 Ill. Adm. Code Part 105¹, hereby requests review of the February 25, 2015 decision by the Illinois Environmental Protection Agency (“Agency” or “IEPA”) regarding Petitioner’s Stage II Site Investigation Plan and Budget and the requirements of the Leaking Underground Storage Tank (“LUST”) Program. In support of its Petition, Petitioner states as follows:

BACKGROUND

1. Petitioner is the owner of a 10,000 gallon gasoline underground storage tank (“UST”) located at 300 North Main Street, Chatham, Illinois. The site has been assigned IEPA Bureau of Land Identification Number 1670305023. The UST is still in operation.

2. A notification of release at the UST was made to the Illinois Emergency Management Agency (“IEMA”) on September 25, 2007 (Incident No. 07-1292). The Office of the Illinois State Fire Marshal (“OSFM”) issued an Eligibility and Deductibility Determination

¹¹ Hereinafter citations to the Board regulations will be made by section number only.

on December 31, 2011 that the incident was eligible for reimbursement from the LUST Fund, with a \$15,000 deductible.

3. Petitioner submitted a Stage 2 Site Investigation Plan and Budget dated January 17, 2013 to the Agency for its approval. The Agency reports that this submittal was received on January 22, 2013.

4. By letter dated February 25, 2015, the Agency issued its decision on the January 17, 2013 submittal. *See* Exhibit A. The Agency's decision rejected the plan, rejected the budget and required Petitioner to submit a Stage 3 Site Investigation Plan and Budget or a Site Investigation Completion Report.

5. This Petition for Review is filed within 35 days of the Agency's final decision and is timely in accordance with Section 40 of the Act and the Pollution Control Board procedural rule at Section 105.104.

6. The January 17, 2013 submittal had been the subject of an earlier final decision of the Agency made on May 28, 2013 (copy attached as Exhibit B). That final decision was previously reviewed by the Board. The Board reversed the Agency's decision (to reject the plan) and remanded to the Agency to review (and presumably approve) the budget. *See Chatham BP, LLC v. IEPA, PCB 14-1.*²

7. Instead the Agency again rejected the January 17, 2013 submittal stating as follows:

The plan is rejected for the reason(s) listed in Attachment A (Sections 57.7(a)(1) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)).

² Hereinafter, the case docketed as PCB 14-1 will be referred to as Chatham BP I and this matter will be referred to as Chatham BP II.

In addition, the budget is rejected for the reason(s) listed in Attachment C (Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b)).

Pursuant to Sections 57.7(a)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires submittal of a Stage 3 Site Investigation Plan, and budget if applicable, or Site Investigation Completion Report within 30 days after completing the site investigation to:

8. The Agency's rationale for its February 25, 2015 letter rejecting the plan is found in the Attachment A, and reads:

1. If the owner or operator proposes no site investigation activities in the Stage 2 site investigation plan and applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, within 30 days after the submission of the Stage 2 site investigation plan the owner or operator must submit to the Illinois EPA for review a Stage 3 site investigation plan in accordance with 35 Ill. Adm. Code 734.325. (Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.320(c))

The activities performed have defined the extent of soil contamination along the property boundary lines to the north, east, and south. However, the owner has failed to define the extent of the soil contamination to the west. Therefore, the owner must submit a Stage 3 Site Investigation Plan for the Illinois EPA to review, which proposes to define the extent of soil contamination to the west.

A comparison of the statement of reason in Attachment A, Item 1 of the February 25, 2015 decision letter (Exhibit A, Page 3 of 6) with the statement of reason in Attachment A, Item 1 of the May 28, 2013 decision letter (Exhibit B, Page 3 of 6) shows that they are identical.

9. The rationale for rejection of the budget was then just that it must be rejected because there was no approved plan associated with the budget. This was expressed by the Agency in its Attachment C as follows:

1. Pursuant to Sections 57.7I of the Act and 35 Ill. Adm. Code 734.505(b), the associated budget is rejected for the following reason:

The Illinois EPA has not approved the plan with which the budget is associated. Until such time as the plan is approved, a determination regarding the associated budget- i.e., a determination as to whether costs associated with materials, activities, and services are reasonable; whether costs are consistent with the associated technical plan; whether costs will be incurred in the performance of corrective action activities; whether costs will not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and whether costs exceed the maximum payment amounts set forth in Subpart H of 35 Ill. Adm. Code 734-cannot be made (Section 57.7I(3) of the Act and 35 Ill. Adm. Code 734.510(b)).

A comparison of the statement of reason in Attachment C, Item 1 of the February 25, 2015 decision letter (Exhibit A, Page 5 of 6) with the statement of reason in Attachment C, Item 1 of the May 28, 2013 decision letter (Exhibit B, Page 5 of 6) shows that they are identical.

10. The Agency's rejection was purportedly based upon a re-characterization of the earlier decision. As stated in the first sentence:

“By Order of the Board for UST Appeal PCB 14-1, the Illinois Environmental Protection Agency (Illinois EPA) has re-characterized its determination for the Stage 2 Site Investigation Plan (plan) submitted for the above-referenced incident.”

SUMMARY OF PROCEDURAL HISTORY
CHATHAM BP, LLC v. IEPA, PCB 14-1

11. The Agency issued a decision letter on May 28, 2013 in response to a January 17, 2013 submittal of a Stage 2 Site Investigation Plan and Budget. The decision rejected the plan, rejected the budget, required Petitioner to submit a Stage 3 Site Investigation Plan and modified some actual Stage 1 costs so as to reduce the “Remediation and Disposal Costs” by \$1,145.92. The petition in Chatham BP I was then filed on July 1, 2013.

12. Following motions for summary judgment and responses by the parties, the Board granted Petitioner's motion regarding the Stage 2 Site Investigation Plan, denied the Agency's motion and denied both parties' motions for summary judgment regarding the drum disposal

costs, instead finding that an issue of material fact existed as to those costs. In its January 9, 2014 Opinion and Order the Board decided the following:

- 1) *On the issue of Chatham BP's proposed Stage 2 site investigation plan, the Board grants Chatham BP's motion for summary judgment, denies the Agency's cross-motion for summary judgment; and reverses the Agency's rejection of Chatham BP's proposed Stage 2 site investigation plan. At the conclusion of this case, the Board will remand to the Agency for review of Chatham BP's proposed Stage 2 site investigation budget.*
- 2) *On the issue of Chatham BP's drum disposal costs, the Board finds that there exists a genuine issue of material fact and directs the parties to proceed to hearing on that issue*

13. A hearing was held before Hearing Officer Webb on July 29, 2014 regarding the disputed drum disposal costs. The Board decided in Petitioner's favor in its September 4, 2014 Opinion and Order as follows:

- 1) *The Board reverses the Agency's May 28, 2013 determination to reduce Chatham BP's reimbursement of drum disposal costs by \$1,145.92.*
- 2) *The Board directs the Agency to reimburse Chatham BP \$1,145.92 in drum disposal cost from the UST Fund for a total reimbursement of Stage 1 disposal costs of \$2,291.84.*
- 3) *Pursuant to its January 9, 2014 order, the Board remands Chatham BP's proposed Stage 2 site investigation budget to the Agency for its review.*

14. Petitioner moved for reconsideration because the September 4, 2014 Opinion and Order made no decision regarding recovery of attorney fees and costs. With that motion, Petitioner included a Motion for Authorization of Legal Fees Pursuant to Section 57.8(1). The Board granted the Motion for Reconsideration and allowed the Agency time to respond to the fee motion. The Board issued its final order in the Chatham BP I case on February 5, 2015, with the following Conclusion and Order:

CONCLUSION

The Board exercises its discretion under Section 57.8(1) of the Act and directs the Agency to reimburse Chatham BP \$21,314.70 in legal fees and costs from the UST Fund. Having concluded this case and pursuant to its January 9, 2014 order, the Board remands Chatham BP's proposed Stage 2 site investigation budget to the Agency for its review.

ORDER

1) *The Board exercises its discretion under Section 57.8(1) of the Act and directs the Agency to reimburse Chatham BP \$21,314.70 in legal fees and costs from the UST Fund.*

2) *Having concluded its consideration of this appeal and pursuant to its January 9, 2014 order, the Board remands Chatham BP's proposed Stage 2 site investigation budget to the Agency for its review.*

FEBRUARY 25, 2015 DECISION LETTER

15. As described in the first two sentences of the February 25, 2015 decision letter, the State 2 Site Investigation plan that was reviewed was the same plan that was reviewed for the May 28, 2013 decision letter – *i.e.*, the plan dated January 17, 2013 and received by the Agency on January 22, 2013. Petitioner did not present a new plan; rather the rejected plan is the same as that which was the subject of PCB 14-1. The Agency purported to have re-characterized its determination based upon the “Order of the Board for UST Appeal PCB 14-1.” Compare the introductory paragraph of Exhibit A with that in Exhibit B.

16. The Agency then rendered exactly the same decision on the same plan, rejecting it, and for the identical reason as was offered in the May 28, 2013 letter. It is as if Chatham BP I had never occurred. The language in the Board’s January 9, 2014 order granting summary judgment to Chatham BP was not particularly difficult to understand – the Board “reverses the Agency’s rejection of Chatham BP’s proposed Stage 2 site investigation plan.” The Board did not ask the Agency to re-characterize its determination, the rejection was reversed. The Agency

was expected to move on and make a review of the budget that had only been rejected because of the rejection of its corresponding plan.

17. It is not necessary for the Petitioner to re-litigate the issues of Chatham BP I. The Stage 2 site investigation plan is approved through the Board's reversal of the Agency's May 28, 2013 rejection. Restating the same reason for rejecting the plan yet again does not make the rejection better. Rather, it just shows a decision by the Agency to act in direct contradiction of a Board order. The Agency's options after the order were to follow the order or appeal it. The Petitioner did not imagine that, after prevailing through 19 months of litigation before the Board, the Agency would just refuse to follow the Board's decision.

18. In each of the Board's orders in Chatham BP I described above, the Board made it clear that at the conclusion of that case, the budget that related to the Stage 2 site investigation plan was to be remanded to the Agency for review. Once again, the Board's language seemed clear enough – *i.e.*, “the Board remands Chatham BP's proposed Stage 2 site investigation budget to the Agency for its review.” The Agency has just refused to review the budget, using the same reason as it had in the already litigated May 28, 2013 decision.

19. The Agency apparently declines to review the budget. It was submitted more than two years ago, and now even after its reason for the budget rejection was reversed, the Agency still will not review it. The Petitioner believes that the only reasonable path here is that the Board reverse the rejection of the budget and thereby approve it.

WHEREFORE, for the above reasons, Petitioner respectfully requests that the Pollution Control Board grant the following:

- a. Find that the Agency's February 25, 2015 final decision is arbitrary, capricious and not supported by statutory or regulatory authority;
- b. Reverse the Agency's rejection of both the Petitioner's Stage 2 Site Investigation Plan and the corresponding budget and approve Petitioner's proposals.
- c. Award Petitioner reimbursement of its reasonable attorney's fees and expenses related to bringing this action pursuant to Section 57.8(l) of the Act;
- d. Other relief as the Pollution Control Board deems appropriate.

Respectfully submitted,

CHATHAM BP, LLC

By: /s/William D. Ingersoll
One of Its Attorneys

Dated: March 30, 2015

BROWN, HAY & STEPHENS, LLP

William D. Ingersoll
Registration No. 6186363
205 S. Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459
(217) 544-8491
wingersoll@bhslaw.com



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829

BRUCE RAUNER, GOVERNOR

LISA BONNETT, DIRECTOR

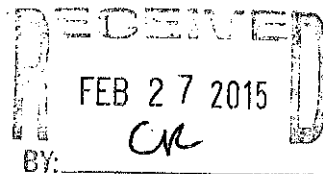
217/524-3300

CERTIFIED MAIL

FEB 25 2015

7009 3410 0002 3750 9837

Chatham BP, LLC
Attention: Shamsher Amar
2245 Big Bend Road
Taylorville, Illinois 62568



Re: LPC #1670305023 -- Sangamon County
Chatham / Chatham BP
300 North Main Street
Leaking UST Incident No. #20071292
Leaking UST Technical File

Dear Mr. Amar:

By Order of the Board for UST Appeal PCB 14-1, the Illinois Environmental Protection Agency (Illinois EPA) has re-characterized its determination for the Stage 2 Site Investigation Plan (plan) submitted for the above-referenced incident. This plan, dated January 17, 2013, was received by the Illinois EPA on January 22, 2013. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The plan is rejected for the reason(s) listed in Attachment A (Sections 57.7(a)(1) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)).

The actual costs for Stage 1 are approved for the amounts listed in Section 1 of Attachment B (Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b)). Be aware that the amount of payment from the Fund may be limited by Sections 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

In addition, the budget is rejected for the reason(s) listed in Attachment C (Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b)).

Pursuant to Sections 57.7(a)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires submittal of a Stage 3 Site Investigation Plan, and budget if applicable, or Site Investigation Completion Report within 30 days after completing the site investigation to:

Exhibit A, Page 1 of 6

Page 2

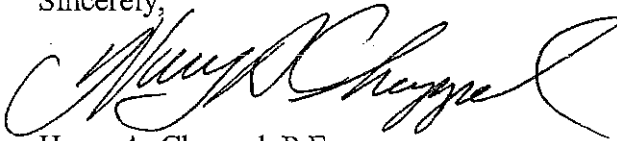
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

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 the Illinois EPA project manager, Eric Kuhlman, at 217-785-5715.

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC:EK:P\

Attachment: A, B, C, Appeal Rights

c: CW³M Company, Inc.
BOL File

Attachment A

Re: LPC #1670305023 -- Sangamon County
Chatham / Chatham BP
300 North Main Street
Leaking UST Incident No. #20071292
Leaking UST Technical File

FEB 27 2015

CR

Citations in this attachment are from the Environmental Protection Act (Act) as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

1. If the owner or operator proposes no site investigation activities in the Stage 2 site investigation plan and applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, within 30 days after the submission of the Stage 2 site investigation plan the owner or operator must submit to the Illinois EPA for review a Stage 3 site investigation plan in accordance with 35 Ill. Adm. Code 734.325. (Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.320(c))

The activities performed have defined the extent of soil contamination along the property boundary lines to the north, east, and south. However, the owner has failed to define the extent of the soil contamination to the west. Therefore, the owner must submit a Stage 3 Site Investigation Plan for the Illinois EPA to review, which proposes to define the extent of soil contamination to the west.

EK:P

Attachment B

Re: LPC #1670305023 -- Sangamon County
Chatham / Chatham BP
300 North Main Street
Leaking UST Incident No. #20071292
Leaking UST Technical File

SECTION 1

STAGE 1 Actual Costs

The following amounts are approved:

\$8,230.45	Drilling and Monitoring Well Costs
\$6,899.43	Analytical Costs
\$2,291.84	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$15,034.12	Consulting Personnel Costs
\$1,356.38	Consultant's Materials Costs

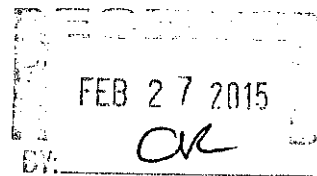
Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

SECTION 2

EK:Pl

Attachment C

Re: LPC #1670305023 -- Sangamon County
Chatham / Chatham BP
300 North Main Street
Leaking UST Incident No. #20071292
Leaking UST Technical File



Citations in this attachment are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

1. Pursuant to Sections 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b), the associated budget is rejected for the following reason:

The Illinois EPA has not approved the plan with which the budget is associated. Until such time as the plan is approved, a determination regarding the associated budget— i.e., a determination as to whether costs associated with materials, activities, and services are reasonable; whether costs are consistent with the associated technical plan; whether costs will be incurred in the performance of corrective action activities; whether costs will not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and whether costs exceed the maximum payment amounts set forth in Subpart H of 35 Ill. Adm. Code 734—cannot be made (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b)).

EK:P\

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



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

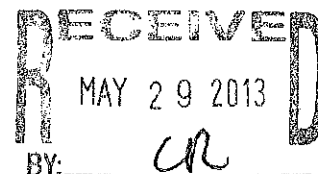
217/524-3300

CERTIFIED MAIL

MAY 28 2013

7010 2780 0002 1167 5027

Chatham BP, LLC
 Attention: Shamsheer Amar
 2245 Big Bend Road
 Taylorville, Illinois 62568



Re: LPC #1670305023 -- Sangamon County
 Chatham / Chatham BP
 300 North Main Street
 Leaking UST Incident No. #20071292
 Leaking UST Technical File

Dear Mr. Amar:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Stage 2 Site Investigation Plan (plan) submitted for the above-referenced incident. This plan, dated January 17, 2013, was received by the Illinois EPA on January 22, 2013. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The plan is rejected for the reason(s) listed in Attachment A (Sections 57.7(a)(1) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)).

The actual costs for Stage 1 are modified pursuant to Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b). Based on the modifications listed in Section 2 of Attachment B, the amounts listed in Section 1 of Attachment B are approved. Be aware that the amount of payment from the Fund may be limited by Sections 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

In addition, the budget is rejected for the reason(s) listed in Attachment C (Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b)).

Pursuant to Sections 57.7(a)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires submittal of a Stage 3 Site Investigation Plan, and budget if applicable, or Site Investigation Completion Report within 30 days after completing the site investigation to:

Exhibit B, Page 1 of 6

Page 2

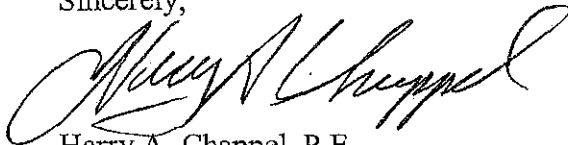
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

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 the Illinois EPA project manager, Eric Kuhlman, at 217-785-5715.

Sincerely,

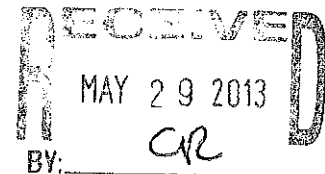


Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC:EK:P\

Attachment: A, B, C, Appeal Rights

c: CW³M Company, Inc.
BOL File



Attachment A

Re: LPC #1670305023 -- Sangamon County
Chatham / Chatham BP
300 North Main Street
Leaking UST Incident No. #20071292
Leaking UST Technical File

Citations in this attachment are from the Environmental Protection Act (Act) as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

1. If the owner or operator proposes no site investigation activities in the Stage 2 site investigation plan and applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, within 30 days after the submission of the Stage 2 site investigation plan the owner or operator must submit to the Illinois EPA for review a Stage 3 site investigation plan in accordance with 35 Ill. Adm. Code 734.325. (Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.320(c))

The activities performed have defined the extent of soil contamination along the property boundary lines to the north, east, and south. However, the owner has failed to define the extent of the soil contamination to the west. Therefore, the owner must submit a Stage 3 Site Investigation Plan for the Illinois EPA to review, which proposes to define the extent of soil contamination to the west.

EK:P

Attachment B

Re: LPC #1670305023 -- Sangamon County
 Chatham / Chatham BP
 300 North Main Street
 Leaking UST Incident No. #20071292
 Leaking UST Technical File

SECTION 1

STAGE 1 Actual Costs

As a result of the Illinois EPA's modifications in Section 2 of this Attachment B, the following amounts are approved:

\$8,230.45	Drilling and Monitoring Well Costs
\$6,899.43	Analytical Costs
\$1,730.90	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$15,034.12	Consulting Personnel Costs
\$1,356.38	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

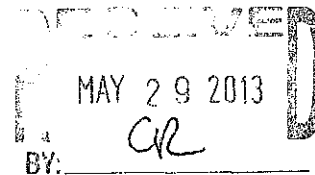
SECTION 2

STAGE 1 Modifications

1. \$1,145.92 for costs for drum disposal, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

According to the IEPA's calculations, four of the eight drums listed for solid waste disposal exceed the minimum requirements necessary to comply with the Act. As such, these drums are not eligible for payment from the Fund.

Attachment C



Re: LPC #1670305023 -- Sangamon County
Chatham / Chatham BP
300 North Main Street
Leaking UST Incident No. #20071292
Leaking UST Technical File

Citations in this attachment are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

1. Pursuant to Sections 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b), the associated budget is rejected for the following reason:

The Illinois EPA has not approved the plan with which the budget is associated. Until such time as the plan is approved, a determination regarding the associated budget— i.e., a determination as to whether costs associated with materials, activities, and services are reasonable; whether costs are consistent with the associated technical plan; whether costs will be incurred in the performance of corrective action activities; whether costs will not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and whether costs exceed the maximum payment amounts set forth in Subpart H of 35 Ill. Adm. Code 734—cannot be made (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b)).

EK:PA

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

CERTIFICATE OF SERVICE

I, William D. Ingersoll, certify that I have this date served the attached Notice of Filing, Appearance of William D. Ingersoll and Petition for Review, by means described below, upon the following persons:

To: Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218
(Via Electronic Filing)

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
(Via First-Class Mail and Email)

Dated: March 30, 2015

By: /s/William D. Ingersoll
William D. Ingersoll

BROWN, HAY & STEPHENS, LLP

William D. Ingersoll
Registration No. 6186363
wingersoll@bhslaw.com
205 S. Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459
(217) 544-8491