

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PARADIGM PROPERTIES, INC.,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 15- 199
(LUST Appeal – Ninety Day
Extension)

STATE OF ILLINOIS
Pollution Control Board
MAY 18 2015
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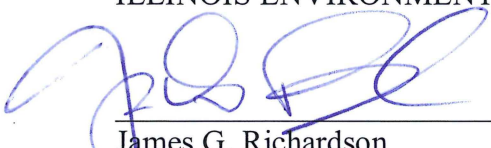
NOTICE

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

Patrick Shaw
Attorney at Law
80 Bellerive Road
Springfield, Illinois 62704

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: May 13, 2015
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PARADIGM PROPERTIES, INC.,)	
Petitioner,)	
)	
v.)	PCB No. 15- 199
)	(LUST Appeal – Ninety Day Extension)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

**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 August 18, 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:

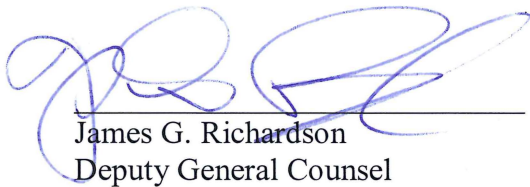
1. On April 2, 2015, the Illinois EPA issued a final decision to the Petitioner.
2. On May 7, 2015, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, the Petitioner received the final decision on or about April 15, 2015.

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: May 13, 2015

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

BRUCE RAUNER, GOVERNOR

LISA BONNETT, DIRECTOR

217/524-3300

APR 02 2015

CERTIFIED MAIL #

7012 0470 0001 2968 0571

Paradigm Properties
Attn: Environmental Management, Inc.
1154 North Bradfordton Road
Springfield, IL 62711

Re: LPC #1810055101 -- Union County
Anna / A J One Stop
147 West Vienna Street
Incident-Claim No.: 20110749 -- 65323
Queue Date: December 3, 2014
Leaking UST Fiscal File

Dear Mr. Keebler:

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 December 1, 2014 and was received by the Illinois EPA on December 3, 2014. The application for payment covers the period from August 2, 2012 to November 5, 2014. The amount requested is \$24,229.10.

On December 3, 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.

The deductible amount for this claim is \$5,000.00, 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.

4302 N. Main St., Rockford, IL 61103 (815) 987-7760
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) 344-5120

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

Page 2

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: Paradigm Properties
Leaking UST Claims Unit
Cathy Elston

Attachment A
Accounting Deductions

Re: LPC #1810055101 -- Union County
Anna / A J One Stop
147 West Vienna Street
Incident-Claim No.: 20110749 -- 65323
Queue Date: December 3, 2014
Leaking UST FISCAL FILE

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Description of Deductions

The application for payment in its entirety is denied because it contains costs which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 734.630(cc). Without additional 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. The documentation listed below in items 1 through 6 is necessary to support this claim submitted to the Illinois EPA.

Further, pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 734.605(a), an owner or operator seeking payment from the Fund must submit to the Illinois EPA an application for payment on forms prescribed and provided by the Illinois EPA. The claim submitted did not include the forms listed below in items 1 and 6.

In addition, the application for payment requests handling charges for subcontractor costs when the contractor has not submitted proof of payment of the subcontractor costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.6(a) of the Act and 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. The application for payment failed to include sufficient documentation that the contractor paid the applicable subcontractor invoices. The Illinois EPA is requesting the affidavits referenced in item 6 below be completed and submitted.

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

Pursuant to 35 Ill. Adm. Code 734.605(b)(9) and (10), a complete application for payment must contain:

An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed; and

Proof of payment of subcontractor costs for which handling charges are requested. Proof of payment may include cancelled checks, lien waivers, or affidavits from the subcontractor.

The following information is needed to complete the review of the claim:

1. 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.
5. 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:

Prairie Analytical Systems, Inc. (3)

The Illinois EPA has determined that a complete application for payment has not been submitted and the information listed above in items 1 through 6 is needed for a complete application for payment.

Attachment: Affidavit(s)

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 Prairie Analytical Systems, Inc.

The following activity has been completed at A J-One Stop, 147 West Vienna Street, Anna, Illinois:

Laboratory analysis of three PNA and three BETX/MTBE samples by persons directly employed by Prairie Analytical Systems, Inc.

I have personal knowledge of invoice #1300373 for the sum of \$817.83, 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 Prairie Analytical Systems, Inc.

The following activity has been completed at A J One Stop, 147 West Vienna Street, Anna, Illinois:

Laboratory analysis of two BETX/MTBE samples and one sample each of organic content, specific gravity, particle size and bulk density by persons directly employed by Prairie Analytical Systems, Inc.

I have personal knowledge of invoice #1300317 for the sum of \$538.74, 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 Prairie Analytical Systems, Inc.

The following activity has been completed at A J One Stop, 147 West Vienna Street, Anna, Illinois:

Laboratory analysis soil vapor testing for BETX by persons directly employed by Prairie Analytical Systems, Inc.

I have personal knowledge of invoice #1402370 for the sum of \$150.00, 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)

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

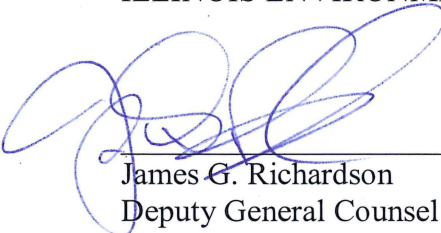
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on May 13, 2015 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

Patrick Shaw
Attorney at Law
80 Bellerive Road
Springfield, Illinois 62704

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
Division of Legal Counsel
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