

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CASEY'S RETAIL COMPANY,)	
Petitioner,)	
)	
v.)	PCB 16-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

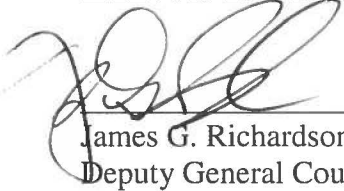
NOTICE

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

Nancy Mackiewicz
Superior Environmental Corp
3001 Montvale Drive, Suite C
Springfield, Illinois 62704-5377

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: April 27, 2016
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

CASEY’S RETAIL COMPANY,)	
Petitioner,)	
)	
v.)	PCB No. 16-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL)	Extension)
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 July 31, 2016, 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 March 23, 2016, the Illinois EPA issued a final decision to the Petitioner.
2. On April 22, 2016, 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 March 28, 2016.

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: April 27, 2016

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) 782-3397
BRUCE RAUNER, GOVERNOR LISA BONNETT, DIRECTOR

217/524-3300

MAR 23 2016

CERTIFIED MAIL

7014 2120 0002 3287 6724

Casey's Retail Company
Attention: Jill Reams-Widder
Once Convenience Boulevard
Ankeny, Iowa 50021

Re: LPC #1671205563 -- Sangamon County
Springfield / Casey's Retail Company No. 2939
3001 Clear Lake Avenue
Leaking UST Incident No. 20101248
Leaking UST Technical File

Dear Ms. Reams-Widder:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Stage 3 Site Investigation Plan (plan) submitted for the above-referenced incident. This plan, dated November 25, 2015, was received by the Illinois EPA on November 30, 2015. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

The Illinois EPA requires modification of the plan; therefore, the plan is conditionally approved with the Illinois EPA's modifications. The Illinois EPA has determined that the modifications listed below are necessary to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 734 (Sections 57.7(a)(1) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)).

1. The proposed activities are being approved as a Stage 3 Site Investigation Plan based on the scope of work even though it was submitted as a Stage 2 plan.
2. Source wells are necessary to satisfy Stage 1 site investigation requirements. (35 Ill. Adm. Code 734.315(a)(2)(B)) Since this release was reported due to overfills, monitoring wells should be installed near the UST fields. It is recommended to install a well near B-2 based on the previously identified Tier 1 groundwater exceedence from the temporary well installed in October 2010.
 - Soil samples collected during source well installation should also be analyzed for PNAs. Based on information submitted to the Office of the State Fire Marshal and in the January 2011 45-Day Report, releases occurred from all USTs located on-site. This would include the diesel and kerosene tanks which have additional indicator contaminants consisting of PNAs.

Page 3

4. It appears that monitoring wells MW-2 and MW-3 were constructed such that the well screens are completely submerged instead of intercepting the groundwater table.
5. An explanation needs to be provided as to why soil borings were advanced deeper than necessary for monitoring well installation (MW-1, MW-4, MW-5 and MW-6).
6. Details need to be provided as to why two (2) geotechnical samples are proposed along with performing slug tests on three (3) separate monitoring wells. This work appears to exceed the minimum requirements of Title XVI of the Act.

NOTE: Pursuant to Section 57.8(a)(5) of the Act, if payment from the Fund will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted. Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be paid from the Fund.

Further, pursuant to 35 Ill. Adm. Code 734.145, it is required that the Illinois EPA be notified of field activities prior to the date the field activities take place. This notice must include a description of the field activities to be conducted; the name of the person conducting the activities; and the date, time, and place the activities will be conducted. This notification of field activities may be done by telephone, facsimile, or electronic mail—and must be provided at least two weeks prior to the scheduled field activities.

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 Site Investigation Completion Report within 30 days after completing the site investigation to:

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.

Attachment A

Re: LPC #1671205563 -- Sangamon County
Springfield / Casey's Retail Company No. 2939
3001 Clear Lake Avenue
Leaking UST Incident No. 20101248
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 A, the following amounts are approved:

\$6,196.28	Drilling and Monitoring Well Costs
\$2,025.00	Analytical Costs
\$1,017.17	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$14,164.19	Consulting Personnel Costs
\$11.88	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.

STAGE 3 Proposed Budget

Costs must be incurred in accordance with the approved plan and must be determined in accordance with 35 Ill. Adm. Code 734.Subpart H, Appendix D, and Appendix E.

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. \$1,599.95 for costs for Drilling and Monitoring Well Costs, 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

Page 3

Based upon the above deduction, a total of \$4.54 was deducted from Consulting Personnel Costs.

6. \$400.00 for costs for Consultant Material 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. *An invoice should be provided indicating the rental rate of a vehicle obtained to complete field work activities at the subject site or a detailed description included as to how the daily rate for use of a consultant vehicle was determined. A detailed description of the supplies included in the charge for a truck must also be submitted.*
7. \$180.00 for costs for Consultant Material 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. *An invoice should be provided indicating the costs per bailer.*
8. \$550.00 for costs for Consultant Material 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. *An invoice should be provided indicating the rental rate for a PID, Laser Level/Survey Equipment, and Water Level to complete field work activities at the subject site or a detailed description included as to how the daily rate for use of such equipment was determined.*
9. \$40.00 for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable. *Cameras are considered indirect costs.*

Page 5

3. The Draftperson/CAD IV rate has been reduced to \$68.14 per hour. 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.
4. \$5,699.50 for site investigation or corrective action costs for Consulting Personnel Costs, that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd). *Based on the Personnel Title Descriptions and Duties Summary found at <http://www.epa.illinois.gov/topics/cleanup-programs/hst/budget-and-billing-forms/personnel-titles/index>, hours associated with a Senior Professional Geologist should be limited and not required to prepare a draft report. Since a Site Investigation Completion Report does require certification by a licensed professional, a limited amount of time would be allowed for that activity.*
5. \$1,608.00 for costs for Consultant Material Cost, 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. *Invoices should be provided indicating the rental rate for a Sampling field truck with expendables, OVM/PID, Laser surveying equipment, Water level indicator, disposable bailers, purge pump, and Levellogger to complete field work activities at the subject site or a detailed description included as to how the daily rate for use of such equipment was determined.*
6. \$109.00 for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable. *Use of a laptop is considered an indirect cost.*

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on the afternoon of April 27, 2016 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

Nancy Mackiewicz
Superior Environmental Corp
3001 Montvale Drive, Suite C
Springfield, Illinois 62704-5377

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)