

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

SORRELLS FARM SUPPLY, INC.,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 17- 17
(LUST Appeal – Ninety Day
Extension)

NOTICE

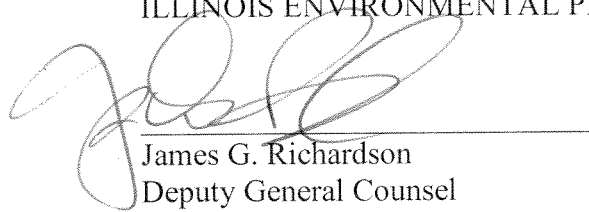
John Therriault
Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Jim Ketchum
Ketchum & Eves, Inc.
413 West Capitol Avenue
Springfield, Illinois 62704

 ORIGINAL

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 17, 2016
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

NOV 22 2016

STATE OF ILLINOIS
Pollution Control Board

SORRELLS FARM SUPPLY, INC.,)
Petitioner,)
)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 17-17
(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 March 7, 2017, 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:

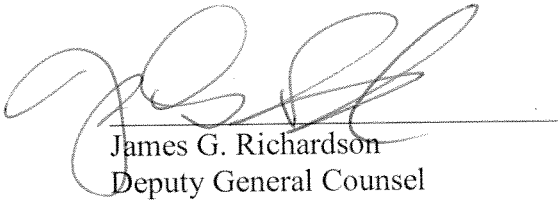
1. On October 28, 2016, the Illinois EPA issued a final decision to the Petitioner.
2. On November 10, 2016, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, the Petitioner received the final decision on or about November 2, 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: November 17, 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

ALEC MESSINA, ACTING DIRECTOR

217/524-3300

OCT 28 2016

CERTIFIED MAIL #

7014 2120 0002 3290 3130

Sorrells Farm Supply, Inc.
c/o Ketchum & Eves, Inc.
413 West Capitol Avenue
Springfield, IL 62704

Re: LPC #1350555003—Montgomery County
Raymond/ Sorrells Farm Supply, Inc.
204 North O'Bannon Street
Incident-Claim No.: 20160142—67355
Queue Date: May 4, 2016
Leaking UST Fiscal File

Dear Sir or Madam:

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 Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.Subpart F.

This information is dated April 25, 2016 and was received by the Illinois EPA on May 4, 2016. The application for payment covers the period from February 16, 2016 to April 14, 2016. The amount requested is \$81,175.89.

On May 4, 2016, 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 \$32,869.55 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 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 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.

Attachment A
Accounting Deductions

Re: LPC #1350555003—Montgomery County
Raymond/ Sorrells Farm Supply, Inc.
204 North O'Bannon Street
Incident-Claim No.: 20160142—67355
Queue Date: May 4, 2016
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).

Item # Description of Deductions

1. \$52.27, 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 Excavation, Transportation, and Disposal of contaminated soil rate has been reduced to \$70.63 per cubic yard. 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 Remediation and Disposal Costs requests 251.22 cubic yards for Excavation, Transportation, and Disposal of contaminated soil at a rate of \$70.84 per cubic yard for a total of \$17,795.94. The Subpart H rate for the Excavation, Transportation, and Disposal of contaminated soil that was in place when the soil was disposed was \$70.63 per cubic yard. A total of 251.22 cubic yards is approved for payment at the appropriate Subpart H rate of \$70.63 per cubic yard for a total of \$17,743.67.

2. \$116.13, deduction for Remediation and Disposal Costs associated with safety barricades 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 safety barricades are included in the Backfill Costs for which a maximum rate of \$24.78 per cubic yard applies. 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 Remediation and Disposal Costs requests a total of 306.05 cubic yards of backfill at a rate of \$24.67 per cubic yard. The request also includes \$150.00 for safety barricades. The cost of the barricades are included in the Subpart H for the Backfill Costs. A total of \$33.87 was approved for payment for the safety barricades, in

Pursuant to 35 Ill. Adm. Code 734.510(b), The overall goal of the financial review must be to assure that costs associated with materials, activities, and services must be reasonable, must be consistent with the associated technical plan, must be incurred in the performance of corrective action activities, must not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H.

4. \$21.59, deduction for Consultant's Materials Costs associated with photographs and color copies, 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. In addition, the request is 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).

The Consultant's Materials Costs requests \$35.00 for photographs and color copies. The 45-Day Report contains two pages of color photos, each containing six photographs with a brief description of each picture. An invoice from GM Services was submitted to document the \$35.00 request. The total of the invoice for 36 color photos and one 11' x 17' color photo (not included in the 45-Day Report) was \$13.41. The remainder of the requested charge was said to cover the rental use of the consultant's phone for photography, flash stick storage drives for file transfers and the occasional use of the in-house printer. The total of the invoice from GM services will be paid, although the 45-Day Report did not include all of the photos indicated on the invoice.

5. \$175.00, deduction for Consultant's Materials Costs associated with the use of a PID 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. In addition, the request is 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).

The Consultant's Materials Costs requests the use of a PID for 5 days at a rate of \$100.00 per day for a total of \$500.00. An inquiry was made by the Agency to justify the \$100.00 daily rate. The consultant indicated that \$65.00 per day is a more

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:

John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson 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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CERTIFICATE OF SERVICE

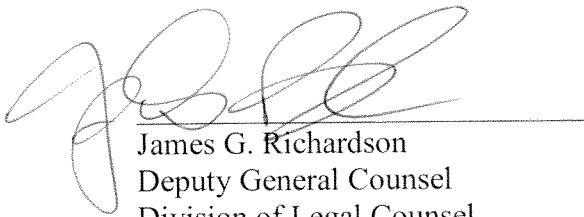
STATE OF ILLINOIS
Pollution Control Board

I, the undersigned attorney at law, hereby certify that on the afternoon of November 17, 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

Jim Ketchum
Ketchum & Eves, Inc.
413 West Capitol Avenue
Springfield, Illinois 62704

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