

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

THE PREMCOR REFINING GROUP INC., )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Respondent. )

PCB 17- 82  
(LUST Appeal – Ninety Day  
Extension)

**NOTICE**

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

Brendon Wilder  
Amec Foster Wheeler Environment &  
Infrastructure, Inc.  
15933 Clayton Road, Suite 215  
Ballwin, Missouri 63011

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: June 14, 2017  
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**

THE PREMCOR REFINING GROUP INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB No. 17- <b>82</b>
	)	(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 September 26, 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:

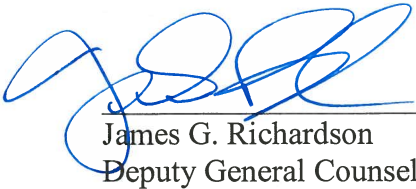
1. On May 22, 2017, the Illinois EPA issued a final decision to the Petitioner.
2. On June 8, 2017, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, the Petitioner received the final decision on or about May 24, 2017.

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



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James G. Richardson  
Deputy General Counsel

Dated: June 14, 2017

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, DIRECTOR

217/524-3300

**CERTIFIED MAIL**

MAY 22 2017

7014 2120 0002 3286 5056

The Premcor Refining Group, Inc.  
Attn: Tim Mauntel  
201 East Hawthorne  
Hartford, Illinois 62048

Re: LPC #0430605214 -- DuPage County  
Lombard/Lombard Marathon (Former Clark Store #2046)  
931 East Roosevelt Road  
Leaking UST Incident No. 20100990  
Leaking UST Technical File

Dear Mr. Mauntel:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan Budget Addendum (budget) submitted for the above-referenced incident. This budget, dated April 11, 2017, was received by the Illinois EPA on April 12, 2017. 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 budget is rejected for the reason(s) listed in Attachment A (Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b)).

All future correspondence must be submitted 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.

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If you have any questions or need further assistance, please contact Karl Kaiser at (217) 524-4650.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Lowder". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael T. Lowder  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

MTL::KEK\

Attachment: Attachment A  
Appeal Rights

c: Brendon Wilder (electronic copy), [Brendon.wilder@amecfw.com](mailto:Brendon.wilder@amecfw.com)  
BOL File

## Attachment A

Re: LPC #0430605214 -- DuPage County  
Lombard/Lombard Marathon (Former Clark Store #2046)  
931 East Roosevelt Road  
Leaking UST Incident No. 20100990  
Leaking UST Technical File

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

1. The budget includes costs for increases in the maximum payment amounts approved by the Illinois EPA. The applicable maximum payment amounts must be the amounts in effect on the date the Illinois EPA received the budget in which the costs were proposed. Once the Illinois EPA approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g., by proposing the cost in a subsequent budget). (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.870(d)(1))

The budget addendum includes costs that were approved by the Illinois EPA in a letter dated June 8, 2016.

2. The budget includes excavation, transportation, disposal and concrete/asphalt replacement 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.

These costs were approved by the Illinois EPA in a letter dated June 8, 2016. The subject costs in the budget addendum exceed the maximum payment amounts set forth in Subpart H.

3. The maximum payment amount for the work bid must be the amount of the lowest bid, unless the lowest bid is less than the maximum payment amounts set forth in 35 Ill. Adm. Code Part 734, Subpart H, in which case the maximum payment amount set forth in Subpart H must be allowed. The owner or operator is not required to use the lowest bidder to perform the work, but instead may use another person qualified and able to perform the work, including, but not limited to, a person in which the owner or operator, or the owner's or operator's primary consultant, has a direct or indirect financial interest. However, regardless of who performs the work, the maximum payment amount will remain the amount of the lowest bid. (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.855(c))

The budget addendum includes costs as a result of bidding that exceed the maximum payment amount of the lowest bid.

4. The budget includes costs for excavation, transportation, disposal and concrete/asphalt replacement that were obtained via bidding. Pursuant to 35 Ill. Adm. Code 734.855(a), the bids must be based upon the same scope of work and must remain valid for a period of time that will allow the owner or operator to accept them upon the Illinois EPA's approval of the associated budget. (Sections 57.1(a) and 57.7(c)(3) of the Act)

Due to the variations in the submitted bid packages it is difficult to determine if the same scope of work was accounted for by each of the included subcontractors. The bid by RW Collins Co. subject to the budget addendum was valid for 45 days from the date of the proposal which was March 6, 2017.

5. The budget includes costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(y). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.

Costs associated with Product Line Damage Prevention System are not considered to be necessary to stop, minimize, eliminate, or clean up a release and are not site investigation or corrective action costs.

6. The budget includes costs for activities and related services or materials that are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and/or will 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.

Costs associated with Product Line Damage Prevention System are considered to be in excess of activities required to meet the minimum requirements.

7. The budget includes costs for Product Line Damage Prevention System, 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).

Costs that are not considered corrective action activities exceed the minimum requirements necessary to comply with the Act and, therefore, are not eligible for payment from the Fund.

8. The budget includes costs for Product Line Damage Prevention System and bidding that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

These costs proposed in the budget addendum were not part of the original plan and budget received by the Illinois EPA on April 28, 2016. The budget addendum did not include an associated plan.

9. The budget includes site investigation or corrective action costs for Product Line Damage Prevention System, bidding, personnel and materials 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).

Costs in excess of those already approved in a budget where there is no amended plan or the scope of work remains unchanged are not reasonable as submitted. Additionally, costs associated with activities not considered to be corrective action or exceeds the minimum requirements are not reasonable as submitted. Furthermore, the budget addendum contains some, if not all, costs that were previously approved by the Illinois EPA in a letter dated June 8, 2016. The Illinois EPA cannot determine if the budget addendum was intended to replace or was in addition to, the previously approved budget by the Illinois EPA in a letter dated June 8, 2016. Proposed costs already approved in a previous budget are not reasonable as submitted. Budget addendums (amendments) should only include costs in addition to those previously approved with justification accompanied by an associated plan.

10. 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)).

Some of the costs proposed in the budget addendum were not part of the original plan and budget received by the Illinois EPA on April 28, 2016. The budget addendum did not include an associated plan; therefore, no plan can be approved.

11. The budget includes costs for lump sum sampling supplies, barricades/traffic control costs, and disposal profile fees 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.

12. The budget includes costs for truck/fuel charges and geophysical survey charges 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).

The truck/fuel rate of \$120.00 per day has been determined unreasonable. Additional information was not provided to support such a rate. The geophysical survey costs are unreasonable due to the fact that they are associated with Product Line Damage Prevention System activities that have been determined to be non-corrective action costs as noted above.

:KEK/MLA

## 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

## CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on June 14, 2017 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

Brendon Wilder  
Amec Foster Wheeler Environment &  
Infrasture, Inc.  
15933 Clayton Road, Suite 215  
Ballwin, Missouri 63011

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson  
Deputy General Counsel  
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