

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PCB 17- **83**
(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. 17-83
)	(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 October 5, 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 31, 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 June 2, 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



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

7014 2120 0002 3286 5278

MAY 31 2017

The Premcor Refining Group, Inc.
Attn: Timothy J. Mauntel
201 East Hawthorne Street
Harford, Illinois 62048

Re: LPC #0971155239 -- Lake County
Mundelein/Premcor Refining Group
1080 West Maple Avenue
Leaking UST Incident No. 20101282
Leaking UST Technical File

Dear Mr. Mauntel:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan Budget (budget) submitted for the above-referenced incident. This budget, dated March 27, 2017, was received by the Illinois EPA on March 29, 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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Should you have any questions or require further assistance in this matter please contact Matthew Urish, P.G. of my staff at 217/524-5596.

Sincerely,

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

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

MTL:MU/20101282.doc

Attachment: Attachment A
Appeal Rights

cc: Brendon Wilder, Amec Foster Wheeler
brendon.wilder@amecfw.com

Attachment A

Re: LPC #0971155239 – Lake County
Mundelein/Premcor Refining Group
1080 West Maple Avenue
Leaking UST Incident No. 20101282
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 21, 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 21, 2016. The subject costs in the budget addendum exceed the maximum payment amounts set forth in Subpart H.

3. The budget includes costs for 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 May 6, 2016. The budget addendum did not include an associated plan.

4. The budget includes site investigation or corrective action costs for 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 21, 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 21, 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.

5. 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 May 6, 2016. The budget addendum did not include an associated plan; therefore, no plan can be approved.

6. 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.
7. The budget includes costs for truck/fuel 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.

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 &
Infrastructure, Inc.
15933 Clayton Road, Suite 215
Ballwin, Missouri 63011

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Deputy General Counsel
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