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CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JAN 10 2007

STATE OF ILLINOIS
Pollution Control Board

MIKUSKA INVESTMENTS, LTD.,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 07- **60**
(LUST Appeal – Ninety Day
Extension)

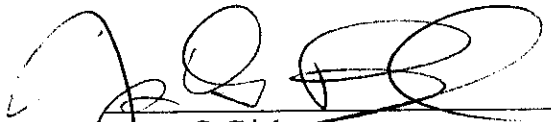
NOTICE

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

Jim Bowling
United Science Industries, Inc.
P.O. Box 360
Woodlawn, Illinois 62898

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
Special Assistant Attorney General

Dated: January 9, 2007
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 JAN 10 2007

STATE OF ILLINOIS
Pollution Control Board

MIKUSKA INVESTMENTS, LTD.,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 07- **60**
(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, Special Assistant Attorney General, 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 April 13, 2007, 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:

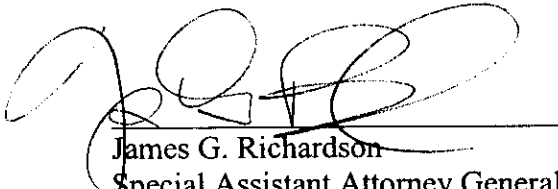
1. On December 6, 2006, the Illinois EPA issued a final decision to the Petitioner.
2. On January 5, 2007, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief the Petitioner did receive the final decision on December 9, 2006.

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
Special Assistant Attorney General

Dated: January 9, 2007

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

1105060-TD

2021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217782-6762

RECEIVED

DEC 6 2006

CERTIFIED MAIL #

DEC 06 2006

BY: SA/16

7004 2510 0001 8622 8879

Mikuska Investments LTD
Attention: Michael A. Mikuska
c/o Southwest Bank Commercial Lending
Attn: Jennifer Vescogni-Acct. #0032713725
Belleville, Illinois 62221

Handwritten note:
No. Invoice 466: \$10,000.00
399/107 - #24,709.69 - (6323.18) = 10,386.51
NSIA - @ 55.50 → 0

Re: LPC #1970455336 -- Will County
Joliet/Mikuska Investments, Ltd.
112 North Larkin Avenue
Leaking UST Incident No. 20051234
Leaking UST FISCAL FILE

Handwritten note:
No Vendors

Dear Mr. Mikuska:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), and 35 Ill. Adm. Code 732, Subpart F. This information is dated June 13, 2006 and was received by the Agency on August 11, 2006. The application for payment covers the period from August 31, 2005 to June 21, 2006. The amount requested is \$34,765.19.

The deductible amount to be assessed on this claim is \$10,000.00, which is being deducted from this payment. In addition to the deductible, 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.

On August 11, 2006, the Agency received your complete application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher for \$18,386.51 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Agency 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 Agency. This constitutes the Agency's final action with regard to the above application(s) for payment.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3121 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-3462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2509 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

Page 2

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) and Section 40 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 applicant 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:

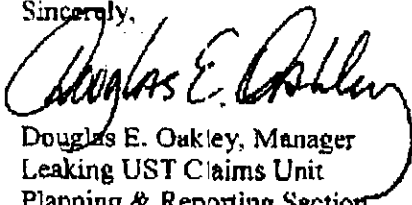
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
217/782-5544

If you have any questions or require further assistance, please contact Susan Brock of my staff at 217/782-6762.

Sincerely,



Douglas E. Oakley, Manager
Leaking UST Claims Unit
Planning & Reporting Section
Bureau of Land

DEO:SB:bjh\06311.doc

Attachment

cc: United Science Industries, Inc.

Attachment A
Technical Deductions

Re: LPC # 1970455336 -- Will County
Joliet/Mikuska Investments, Ltd.
112 North Larkin Avenue
Leaking UST Incident No. 20051234
Leaking UST Fiscal File

Citations in this attachment are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

| Item # | Description of Deductions |
|--------|---|
| 1. | \$1,700.27, deduction for costs for KDH Services Invoice 050106 for fill removal, compaction, rebar dowel installation, etc. and concrete work, 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, costs associated with the compaction and density testing of backfill material are ineligible. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(w). 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. |

012-785
Rem.

An invoice was submitted for blacktop repair, which is sufficient for repair of the area disturbed upon UST removal.

vad\

AH 13 hrs @ 95.00 = 1235.00
 PL 2 hrs @ 60.00 = 120.00

 # 1,355.00

34,765.19
 - 12,400.00

 22,365.19

AH'S - B
 25/Call
 12/11/06
 pending
 for See Book
 to call.
 7/14/07 JH

46318.66

Attachment A
Accounting Deductions

Re: LPC #1970455336 -- Will County
Joliet/Mikuska Investments, Ltd.
112 North Larkin Avenue
Leaking UST Incident No. 20051234
Leaking UST Fiscal File

Citations in this attachment are from the Environmental Protection Act (Act) in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. ✓ *200778-155* \$68.40, adjustment in the handling charges due to the deduction(s) of ineligible costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607.

Deduction for handling charges in the billing(s) exceed the handling charges set forth in Section 57.8(f) of the Act. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table:

| Subcontract or Field Purchase Cost | Eligible Handling Charges as a Percentage of Cost |
|------------------------------------|---|
| \$0-\$5,000 | 12% |
| \$5,001-\$15,000 | \$600 + 10% of amount over \$5,000 |
| \$15,001-\$50,000 | \$1600 + 8% of amount over \$15,000 |
| \$50,001-\$100,000 | \$4400 + 5% of amount over \$50,000 |
| \$100,001-\$1,000,000 | \$6900 + 2% of amount over \$100,000 |

Such costs are ineligible for payment from the Fund pursuant to Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607.

Hotel costs incurred by the primary consultant are not eligible for handling charges. Handling charges have been adjusted using the sliding scale.

2. ✓ *2007767* \$218.75, deduction for 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)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(o).

9341.625(x.15)
215

Deduction for corrective action as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh).

Costs associated with OSFM and Eligibility and Deductible Determination are not corrective action activities and are ineligible.

- 3.4 \$1,582.50, deduction for costs that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 732.606(gg). 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)(4)(C) of the Act because they may be used for corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

Deduction for corrective action costs that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh).

Personnel costs have been requested on the following invoices for vendor agreements, vendor bids, and subcontractor and vendor agreements.

- 3.5 @ 65.00 = \$227.50
 [] USI invoice #012346, dated March 1, 2006 – May 6, 2006 (\$227.50)
- 5.15 hrs @ 95.00 = 1245.00
 2 hrs @ 64.00 = 128.00
 1245.00 + 128.00 = 1373.00
 [] USI invoice #010074, dated September 1, 2005 – October 5, 2005 (\$1,355.00) -?

In addition, handling charges have been requested and are eligible for payment on the vendor and subcontractor invoices in this reimbursement package. "Handling Charges" mean administrative, insurance, and interest costs and a reasonable profit for procurement, oversight, and payment of subcontracts and field purchases.

Please provide an explanation for the additional 18.5 hours of personnel costs associated with vendor and subcontractors.

* 010272

- 3. \$2,638.74, 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 732. The cost for soil removal, disposal and backfilling has been adjusted to \$77.00 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 732. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 732.606(ccc). In addition, such costs are not approved pursuant to Section 57.7(c)(4)(C) of the Act because they are not reasonable.

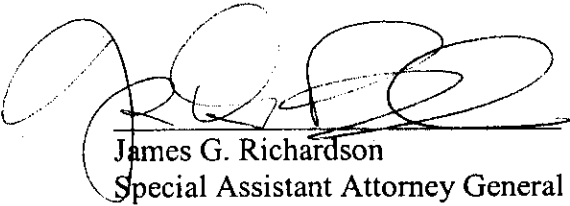
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on January 9, 2007 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:

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

Jim Bowling
United Science Industries, Inc.
P.O. Box 360
Woodlawn, Illinois 62898

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