

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

TED'S CITGO,)	
)	
<i>Petitioner,</i>)	
)	
v.)	PCB No. _____
)	(LUST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
<i>Respondent.</i>)	

NOTICE OF FILING

To:

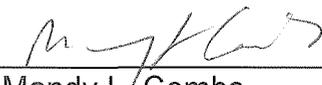
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

William D. Ingersoll
Managing Attorney
Ill. Environmental Protection Agency
1021 North Grand Ave. East
Springfield, IL 62702

PLEASE TAKE NOTICE that we have this day filed with the office of the Clerk of the Pollution Control Board the *Petition for Review* a copy of which is enclosed herewith and hereby served upon you.

January 18, 2007

TED'S CITGO

By: 
Mandy L. Combs
One of its Attorneys

John T. Hundley
Mandy L. Combs
THE SHARP LAW FIRM, P.C.
P.O. Box 906 - 1115 Harrison
Mt. Vernon, IL 62864
618-242-0246
Counsel for Petitioner Ted's Citgo

III. GROUND FOR APPEAL

1. The Agency's denial of the \$770.89 in costs for professional services due to the maximum per-foot limitation on monitoring well abandonment cost is erroneous, arbitrary, capricious, and contrary to law.

2. The Agency's conclusion that such costs are ineligible for reimbursement under 35 Ill. Adm. Code 734.606(ccc) is erroneous, arbitrary and capricious.

3. The Agency's conclusion that the costs are not reasonable under 415 ILCS 5/57.7(c)(4)(C) is erroneous, arbitrary and capricious.

IV. CONCLUSION.

For all the foregoing reasons, petitioner Ted's Citgo respectfully submits that the Decision should be reversed and the Agency ordered (1) to approve the High Priority Corrective Action Plan and the budget associated therewith, and (2) to pay Citgo's attorneys' fees for this appeal from non-LUST funds.

January 18, 2007

TED'S CITGO

By: 
One of its Attorneys

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618-242-0246
Counsel for Petitioner Ted's Citgo

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 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

(217) 782-6762

CERTIFIED MAIL

7004 2510 0001 8585 8855

DEC 14 2006

RECEIVED
12/18/06

to/ml

Ted's Citgo
Nick Stamayannos
1322 Washington Street
Waukegan, IL 60085

Re: LPC #0971905329 - Lake County
Waukegan/Ted's Citgo
1322 Washington Street
Leaking UST Incident No. 981745
Leaking UST Technical File

Dear Mr. Stamayannos:

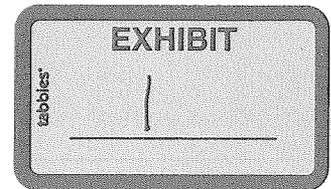
The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan submitted for the above-referenced incident. The Illinois EPA received the plan, dated October 2006, on October 27, 2006. Citations in this letter are from the Environmental Protection Act (Act), in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732.

In addition, pursuant to Section 57.7(c) of the Act and 35 Ill. Adm. Code 732.405(c), the High Priority Corrective Action Plan Budget is modified. Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are approved. Please note that the costs must be incurred in accordance with the approved plan.

Be aware that the amount of payment from the Fund may be limited by Sections 57.8(e), 57.8(g) and 57.8(d) of the Act, as well as 35 Ill. Adm. Code 732.604, 732.606(s) and 732.611.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.



Page 2

If you have any questions or need assistance, please contact Trent Benanti at (217) 524-4649.

Sincerely,



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

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Attachments: Attachment A
Appeal Rights

c: United Science Industries, Inc.
BOL File

Attachment A

Re: LPC #0971905329 – Lake County
Waukegan/Ted's Citgo
1322 Washington Street
Leaking UST Incident No. 981745
Leaking UST Technical File

SECTION 1

Based on the modifications listed in Section 2, the following amounts are approved:

\$ 0.00	Drilling and Monitoring Well Costs
\$ 264.17 ✓	Analytical Costs
\$ 0.00	Remediation and Disposal Costs
\$ 0.00	UST Removal and Abandonment Costs
\$1,537.89 ✓	Paving, Demolition, and Well Abandonment Costs
\$8,742.33 ✓	Consulting Fees

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 57.8(f) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 732.607.

SECTION 2

1. The Sr. Tech and Sr. Project Manager costs associated with monitoring well abandonment are not approved as part of this budget. These costs are included in the monitoring well abandonment cost, for which a maximum rate of \$10.28 per foot applies.

The Sr. Tech and Sr. Project Manager costs associated with monitoring well abandonment 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 734.606(ecc). In addition, such costs are not approved pursuant to Section 57.7(c)(4)(C) of the Act because they are not reasonable.

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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:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois 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

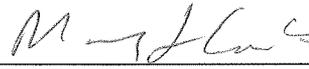
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that I caused copies of the foregoing document to be served by placement in the United States Post Office Mail Box at 14th & Main Streets in Mt. Vernon, Illinois, before 6:00 p.m. this date, in sealed envelopes with proper first-class postage affixed, addressed to:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

William D. Ingersoll
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