

RECEIVED
CLERK'S OFFICE

JUN 11 2007

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WATERTOWER MARINA, INC.,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 07- 138
(LUST Appeal - Ninety Day
Extension)

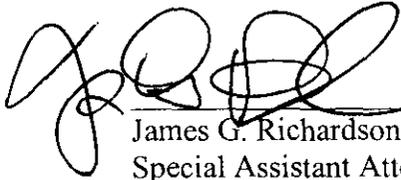
NOTICE

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

Mandy L. Combs
The Sharp Law Firm, P.C.
P.O. Box 906
Mt. Vernon, Illinois 62864

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: June 7, 2007
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

WATERTOWER MARINA, INC.,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 07- **138**
(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 September 16, 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:

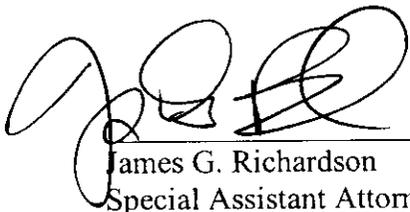
1. On May 11, 2007, the Illinois EPA issued a final decision to the Petitioner.
2. On June 4, 2007, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief the Petitioner did receive the final decision on May 14, 2007.

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

A handwritten signature in black ink, appearing to read 'JR', is written over a horizontal line. Below the line, the name and title of the signatory are printed.

James G. Richardson
Special Assistant Attorney General

Dated: June 7, 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

1805002 - JHed

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

217/782-6762 ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

RECEIVED

MAY 14 2007

CERTIFIED MAIL #

MAY 11 2007 BY: MT/DO

7004 2510 0001 8623 6720

Water Tower Marina, Inc.
Attn: John Galway c/o Jennifer Vescogni
Southwest Bank Acct. #0032713725
#2 Carlyle Plaza Drive
Belleville, Illinois 62221

308/30 - #30,514.24
301/15 - #2,733.41 - (2015, 15) = \$647.56
Rem - \$1049.19
NR - \$1036.66
\$31,101.00

Re: LPC #1110605146 -- McHenry County
McHenry/Watertower Marina, Inc.
3112 West Lincoln Road
Leaking UST Incident No. 990656
Leaking UST FISCAL FILE

Vendor - #6,810.28
(1) Waste Mgt - #0031504 - 6x60 - 1

Dear Mr. Galway:

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 December 11, 2006 and was received by the Agency on December 14, 2006. The application for payment covers the period from August 1, 2006 to October 7, 2006. The amount requested is \$40,058.37.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the billing submittal received by the Agency on September 23, 1999 for \$25,080.59. 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 December 14, 2006, the Agency received your application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher for \$37,972.52 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.

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:

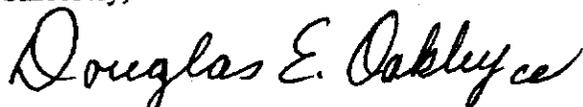
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

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 Doug Tolan of my staff at 217/782-6762.

Sincerely,



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

DEO:DMT:mls\072377.doc

Attachment

cc: United Science Industries, Inc.

Attachment A
Accounting Deductions

Re: LPC #1110605146 -- McHenry County
McHenry/Watertower Marina, Inc.
3112 West Lincoln Road
Leaking UST Incident No. 990656
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

REM #014109-#1848

1. \$1,049.19, 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.

a. Analytical Costs-lack of documentation-no invoices

2. \$1,036.66, 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).

Deduction for costs associated with corrective action. The billings submitted exceed the approved budget amounts. The Illinois EPA is unable to approve billings that exceed the approved budget amounts pursuant to Section 57.8(a)(1) of the Act and 35 Ill. Adm. Code 732.601(g) and 732.606(m).

NA-RATE #014109 →

a. Analytical-unreasonable and beyond the high priority budget in regard to the itemized costs larger than the amounts in the approved budget = \$25.53:
BTEX = \$87.37/each; \$85/each approved; \$2.37/each x 9 = \$21.33
Sample shipment = \$51.40/each; \$50/each approved; \$1.40/each x 3 = \$4.20

b. Remediation & Disposal - unreasonable & beyond the high priority budget in regard to the itemized costs larger then the amounts in the approved budget = \$654.82

Contaminated backfill = \$58.59/CY; \$57/CY approved; \$1.59/CY x
\$189.19/CY = \$300.82

NA-Rate #014109 →

NR-Rate
#014109 →
NR-Rate
#014109 →

Clean backfill = \$20.56/CY; \$20/CY approved; \$0.56/CY x 196.43/CY = \$110.00

Contaminated water = \$0.70/Gal.; \$0.68/Gal. approved; \$0.02/Gal. X 12,200 Gal. = \$244.00

NR-Rates
#014109 →

c. Consultants Fees- unreasonable & beyond the high priority budget in regard to the itemized costs larger then the amounts in the approved budget =\$356.31:

Personnel – Sr. P.M. = \$102.76/hr.; \$100/hr. approved; \$2.76/hr. x 7.25 = \$20.01

Personnel – Acct. Tech III = \$46.24/hr.; \$45/hr. approved; \$1.24/hr. x 2.75 = \$3.41

Personnel – Sr. P.E = \$133.60/hr.; \$130/hr. approved; \$3.60/hr. x 0.5 = \$1.80

Personnel – Sr. Acct. Tech = \$56.52/hr.; \$55/hr. approved; \$1.52/hr. x 0.5 = \$0.76

Personnel – Sr. Tech = \$66.80/hr.; \$65/hr. approved; \$1.80/hr. x 38 = \$68.40

Personnel – Sr. Adm. Asst. = \$46.24/hr.; \$45/hr. approved; \$1.24/hr. x 4.75 = \$5.89

Personnel – Sr. P.E. = \$133.60/hr.; \$130/hr. approved; \$3.60/hr. x 0.75 = \$2.70

Personnel – Sr. P.M. = \$102.76/hr.; \$100/hr. approved; \$2.76/hr. x 86.5 = \$238.74

Materials-Vehicle = \$61.64/DA; \$60/DA approved; \$1.64/DA x 5 = \$8.20

Materials – PID = \$107.92/DA; \$105/DA approved; \$2.93/DA x 2 = \$5.84

Materials – Camera = \$10.28/DA; \$10/DA approved; \$0.28/DA x 2 = \$0.56

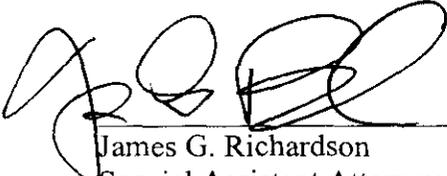
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on June 7, 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

Mandy L. Combs
The Sharp Law Firm, P.C.
P.O. Box 906
Mt. Vernon, Illinois 62864

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)