




**CERTIFICATE OF SERVICE**

I, on oath state that I have served the attached Petition for Review of Illinois Environmental Protection Agency Decision by placing a copy in an envelope addressed to:

Melanie Jarvis  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274

from One North Wacker Drive, Suite 4400, Chicago, Illinois, before the hour of 5:00 p.m., on this 10<sup>th</sup> Day of September, 2007.

  
\_\_\_\_\_  
Carolyn S. Hesse

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE  
SEP 10 2007  
STATE OF ILLINOIS  
Pollution Control Board

LOWE OIL (Robert and Tony Thompson) )  
)  
Petitioner, )  
)  
v. ) PCB No. 07-125  
) (UST Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

**PETITION FOR REVIEW OF ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY DECISION**

Lowe Oil (Robert and Tony Thompson), by its attorney, Carolyn S. Hesse of Barnes & Thornburg, pursuant to the Illinois Environmental Protection Act, 415 ILCS 5/1 *et. seq.* (the "Act") and 35 Illinois Administrative Code Section 105.400 *et. seq.*, hereby appeals certain decisions by the Illinois Environmental Protection Agency (the "Agency").

1. Lowe Oil (Robert and Tony Thompson) ("Petitioner"), was the owner of tanks located at 4<sup>th</sup> and Jefferson Streets, Cairo, Alexander County, Illinois. The site had underground storage tanks (USTs) on the property, which stored gasoline.
2. LUST Incident Number 20020882 was obtained. The site has also been assigned LPC #0030055050-Alexander County.
3. On November 17, 2006, the Illinois EPA received a Corrective Action Plan and associated Budget (the "Budget") dated November 16, 2006.

4. By letter dated May 15, 2007, the Agency approved the Corrective Action Plan but rejected the Budget. (*Exhibit 1.*) Petitioner is appealing the Agency's rejection of the Budget ("Budget").
5. On June 6, 2007, a joint notice to extend the 35-day appeal period was filed with the Board to allow the parties additional time to try to resolve the issues and, on June 21, 2007, the Board extended the appeal period until September 14, 2007. Accordingly, this appeal is timely filed.
6. The Agency's denial of the proposed budget as stated in Item 2 of the Letter exceeds the Agency's authority under Part 734 because the Agency requires the submission of information that is not required to be submitted under the applicable regulations.
7. Even though the parties have had discussions and believe that they may still be able to resolve the issues raised in the Letter, such resolution will not be reached by the deadline for filing this appeal. Accordingly, Petitioner is filing this appeal of the Letter.

WHEREFORE, Lowe Oil (Robert and Tony Thompson) respectfully requests that the Board enter an order requiring the Agency to approve the Corrective Action Plan Budget for Lowe Oil (Robert and Tony Thompson) and for Petitioner's attorneys' fees and costs in bringing this appeal.

Respectfully submitted,

**Lowe Oil  
(Robert and Tony Thompson)**

By: Carolyn S Hesse  
One of Its Attorneys

Carolyn S. Hesse, Esq.  
Barnes & Thornburg  
One North Wacker Drive  
Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313  
417553v1

## 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

217782-6762

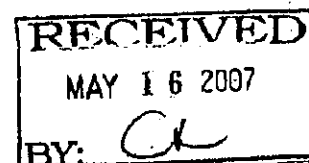
**MAY 15 2007**

Robert Thompson  
 R.R. 1  
 Cairo, IL 62914

Re: LPC #0030055050 - Alexander County  
 Cairo/Lowe Oil (Robert & Tony Thompson)  
 4<sup>th</sup> and Jefferson Streets  
 Leaking UST Incident No. 20020882  
 Leaking UST Technical File

**CERTIFIED MAIL**

7004 2510 0001 8616 3538



The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated November 16, 2006, was received by the Illinois EPA on November 17, 2006. Citations in this letter 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).

Pursuant to Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a), the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act. Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, the budget is rejected for the reason(s) listed below (Sections 57.7(b)(3) and 57.7(c)(4) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b)).

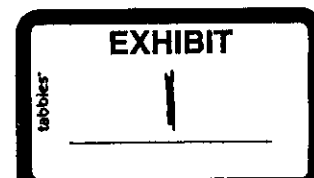
1. The budget includes corrective action costs for soil excavation, transportation and disposal and costs for backfill that are not reasonable as submitted. Such costs are ineligible for payment from the UST Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

A detailed time and materials cost breakout is required from each bidder to demonstrate they are qualified and able to perform the work being bid pursuant to 35 Ill. Adm. Code 734.855(a). This information should include a time and materials breakout of all subcontractors' costs as well.

If the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c) of the Act).

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) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463  
 BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • 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 - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

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NOTE: Pursuant to Section 57.8(a)(5) of the Act, if payment from the Fund will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted. Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be paid from the Fund.

Pursuant to Sections 57.7(b)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires that a Corrective Action Completion Report that achieves compliance with applicable remediation objectives be submitted within 30 days after completion of the plan to:

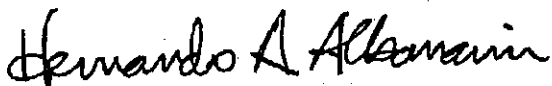
Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

Please note that, if within four years after the approval of this plan, compliance with the applicable remediation objectives has not been achieved and a Corrective Action Completion Report has not been submitted, the Illinois EPA requires the submission of a status report pursuant to Section 57.7(b)(6) of the Act.

If you have any questions or need further assistance, please contact the Illinois EPA project manager, Steve Jones, at 217/524-1253.

Sincerely,



Hernando A. Albarracin  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

HAA: SJLowe Oil (20020882) CAP Nov 06.doc

Attachment: Appeal Rights

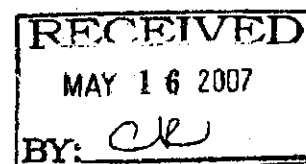
c: CW3M  
BOL File

### 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