

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

WOODWORTH & SONS, INC.,	)	
<i>Petitioner,</i>	)	
	)	
v.	)	PCB No. _____
	)	(LUST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
<i>Respondent.</i>	)	

**NOTICE OF FILING**

To:

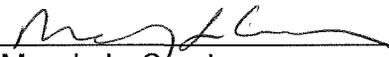
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

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.

July 9, 2008

WOODWORTH & SONS, INC.

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 Woodworth & Sons, Inc.*

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

WOODWORTH & SONS, INC,	)	
<i>Petitioner,</i>	)	
	)	
v.	)	PCB No. _____
	)	(LUST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
<i>Respondent.</i>	)	

**PETITION FOR REVIEW**

Pursuant to §§ 40 and 57.8(i) of the Environmental Protection Act ("Act"), to former § 22.18b(g) of said Act, and to the Board's regulations on Leaking Underground Storage Tank ("LUST") decisions, 35 ILL. ADM. CODE 105.400 *et seq.*, petitioner Woodworth & Sons, Inc. ("Woodworth") submits this *Petition for Review* of the Illinois Environmental Protection Agency ("Agency") decision attached hereto as Exhibit 1 ("Decision") denying Woodworth's reimbursement of \$390,576.11.

Pursuant to § 57.8(l) of the Act, Woodworth further requests the Board to order the Agency to pay Woodworth's legal costs for seeking payment in this appeal.

**I. THE AGENCY'S FINAL DECISION**

The Decision of which review is sought is contained in Exhibit 1 hereto.

**II. SERVICE OF THE AGENCY'S FINAL DECISION**

The Decision indicates it was mailed June 5, 2008. It was received by Woodworth on or about June 9, 2008.

**III. GROUNDS FOR APPEAL**

A. The Agency's conclusion that the costs were associated with ineligible tanks under former § 22.18b(a)(5) of the Act is erroneous, arbitrary, and capricious.

B. The Agency's denial of the costs associated with the removal of the two

10,000-gallon diesel tanks is erroneous, arbitrary, and capricious.

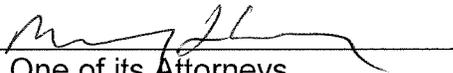
IV. CONCLUSION.

For the foregoing reasons, petitioner Woodworth & Sons, Inc. respectfully submits that the Decision should be reversed, the Agency ordered to approve the reimbursement of \$390,576.11, and the Agency ordered to pay Woodworth's attorneys' fees for this appeal.

July 9, 2008

WOODWORTH & SONS, INC.

By:

  
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 Woodworth & Sons, Inc.*  
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Brenda\USI\Woodworth\Petition for Review.doc

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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

RECEIVED

CERTIFIED MAIL

JUN 05 2008

JUN 05 2008

BY: \_\_\_\_\_

7007 0220 0000 0147 9861

Woodworth & Sons, Inc.  
Attn: Jack Woodworth  
#2 Carlyle Plaza Drive  
Belleville, Illinois 62221

Re: LPC #0191005005 -- Champaign County  
Tolono/Woodworth & Sons, Inc.  
400 Woodworth Dr.  
Leaking UST Incident #930671  
Leaking UST FISCAL FILE

Dear Mr. Woodworth:

The Agency has completed the review of the request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for the above-referenced facility. The invoices reviewed covered the period from August 1, 2005 to September 30, 2006. The amount requested was \$390,576.11.

The deductible amount for this claim is \$10,000.00. On November 7, 2007, the Agency sent a letter stating that the first request for reimbursement has been reviewed and the deductible was being deducted from that request. Listed in Attachment A are the costs which are not being reimbursed from this request and the reasons the costs are not being reimbursed.

On October 27, 2006, the Agency received your complete request for payment for this claim. As a result of the Agency's review of this application for payment, a voucher cannot be prepared for submission to the Comptroller's office 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 invoices. An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 22.18b(g) 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

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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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, 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, please contact Richard Nykiel of my staff at 217/782-6762.

Sincerely,



E. William Radlinski, Manager  
Planning and Reporting Section  
Bureau of Land

EWR:RN:m1s\082114.doc

Attachment

cc: United Science Industries, Inc.  
LCU File  
Richard Nykiel

Attachment A  
Accounting Deductions

Re: LPC #0191005005 -- Champaign County  
Tolono/Woodworth & Sons, Inc.  
400 Woodworth Dr.  
Leaking UST Incident #930671  
Leaking UST FISCAL FILE

Item #      Description of Deductions

1.      \$390,576.11, deduction for costs associated with ineligible Tanks (Section 22.18b(a)(5) of the Environmental Protection Act).

The OSFM eligibility for 930671 lists two gasoline tanks approved for eligibility. 1-1,000 gallon tank and 1-8,200 gallon tank

The tanks in this claim are two 10,000 gallon diesel tanks that were not approved for eligibility in the original eligibility letter.

RN:m\082101.doc

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 14<sup>th</sup> & 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

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