

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

APR 25 2011

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF:	)	
	)	
UNDERGROUND STORAGE TANKS	)	
(35 ILL. ADM. CODE 731) AND	)	
PETROLEUM LEAKING	)	R 11-22
UNDERGROUND STORAGE TANKS	)	(Rulemaking – Land)
(35 ILL. ADM. CODE 732 AND 734)	)	

NOTICE OF FILING

To:

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

Timothy Fox, Hearing Officer  
 Illinois Pollution Control Board  
 James R. Thompson Center  
 100 West Randolph Street, Suite 11-500  
 Chicago, Illinois 60601

Division Chief of Environmental Enforcement  
 Office of the Attorney General  
 100 West Randolph St., Suite 1200  
 Chicago IL 60601

Office of Legal Services  
 Illinois Department of Natural Resources  
 One Natural Resources Way  
 Springfield IL 62702-1271

Attached Service List

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S SUBMISSION OF PRE-FILED TESTIMONY, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
 PROTECTION AGENCY

By:   
 Kyle Rominger  
 Deputy General Counsel

Dated: 4-22-11  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, Illinois 62794-9276  
 (217) 782-5544



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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S  
SUBMISSION OF PRE-FILED TESTIMONY

NOW COMES the Illinois Environmental Protection Agency (Illinois EPA) and,  
pursuant to the Hearing Officer's Order of March 17, 2011, submits the pre-field testimony of  
Hernando Albarracin, a copy of which is attached.

In its March 17, 2011, Order accepting the Illinois EPA's proposal for hearing the Board  
requested that the Illinois EPA address the "published study or research report" requirement of  
35 Ill. Adm. Code 102.202(e). The Illinois EPA did not use a published study or research report  
in developing the proposed amendments, and therefore did not submit any information pursuant  
to 35 Ill. Adm. Code 102.202(e).

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Kyle Rominger  
Deputy General Counsel

Dated: 4-22-11  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
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TESTIMONY OF HERNANDO ALBARRACIN IN SUPPORT OF  
THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL

My name is Hernando Albarracin. I am the Manager of the Leaking Underground Storage Tank ("LUST") Section for the Bureau of Land at the Illinois Environmental Protection Agency ("Illinois EPA"). The principal function of the Section is to oversee the cleanups of federally regulated releases from underground storage tanks in Illinois. I have been in my current position since April 2008. Prior to assuming my current position, I was a Unit Manager in the LUST Section beginning in January 1996. Prior to assuming that position, I was a permit reviewer in the Permit Section for the Bureau of Land beginning in April 1989.

I received a B.S. in Mining Engineering in 1986 from Southern Illinois University at Carbondale. My resume is attached. Today, I will be testifying in support of amendments to the Pollution Control Board ("Board") rules governing the Illinois EPA's LUST Program.

House Joint Resolution 39 created the Underground Storage Tank (UST) Task Force to study the significant problems that the UST Fund faces and to suggest a new approach to determine how money in the UST Fund will be used to pay for corrective action costs in addressing petroleum releases at sites and to study ways to monitor and control the costs of cleanup of leaking UST sites. The task force was comprised of two members from the House; two from the Senate; one each from the Illinois EPA, Office of State Fire Marshal, Illinois

Petroleum Marketers Association, Illinois Petroleum Council, and two consulting engineering groups.

The approaches studied by the UST Task Force include:

1. In order to prevent the recurrence of a backlog of unpaid claims, requiring that the total costs approved for reimbursement from the UST Fund not exceed the money in the UST Fund available to pay the costs;
2. Requiring that costs reimbursed from the Fund be minimized to the greatest extent practicable, including, but not limited to, utilization of the Illinois Pollution Control Board's risk-based corrective action rules;
3. Requiring that costs that will be reimbursed from the UST Fund be pre-approved by the Illinois EPA before they are incurred;
4. Prioritizing approvals of costs that will be reimbursed from the UST Fund so that (1) sites posing a greater threat to human health and the environment receive higher priority than sites posing a lesser threat to human health and the environment, and (2) sites with operating USTs at the time of the release receive higher priority than sites without operating USTs at the time of the release; and
5. Competitive bidding of costs that will be reimbursed from the UST Fund, with such bidding including, but not being limited to, public notice of bid proposals.

The outcome of the Task Force's recommendations was legislation that passed in the House and Senate unanimously in the spring of 2010. Public Act 96-908 was signed into law and became effective on June 8, 2010. This proposal is submitted pursuant to Public Act 96-908, which amended several of the LUST Program's statutory provisions, including:

1. For the purpose of payment from the Underground Storage Tank Fund, corrective

action activities shall include an expanded use of the Tiered Approach to Corrective Action Objectives rules.

2. Any bidding process adopted under Illinois Pollution Control Board rules to determine the reasonableness of costs of corrective action must provide for a publicly-noticed, competitive, and sealed bidding process that is, among other things, optional and allows bidding only if the owner or operator demonstrates that corrective action cannot be performed for less than the maximum payment amounts at 35 Illinois Administrative Code 734.Subpart H.

3. Title XVI of the Environmental Protection Act applies to all releases for which a No Further Remediation (NFR) Letter is issued on or after June 8, 2010, provided that (1) costs incurred prior to June 8, 2010, shall be payable from the UST Fund in the same manner as allowed under the law in effect at the time the costs were incurred and (2) releases for which corrective action was completed prior to June 8, 2010, shall be eligible for a NFR Letter in the same manner as allowed under the law in effect at the time the corrective action was completed.

4. If a change in State or federal law requires additional remedial action in response to releases for which NFR Letters have been issued, the Illinois EPA shall propose in the next convening of a regular session of the current General Assembly amendments to Title XVI to allow owners and operators to perform the additional remedial action and seek payment from the UST Fund for the costs of the action.

This concludes my testimony.

# Hernando A. Albarracin

2613 S. Welch Avenue  
Springfield, Illinois 62704  
(217) 741-2146

## Education

Southern Illinois University, Carbondale, Illinois – May 1986  
Bachelor of Science in Mining Engineering

## Employment

Illinois Environmental Protection Agency, Springfield, Illinois – 2008 to present

### **Senior Public Service Administrator**

As Manager of the Leaking Underground Storage Tank Section,

- manage and direct activities of cleanups of contamination resulting from leaks from underground storage tanks to ensure compliance with federal and state laws;
- ensure program consistency with state and federal requirements. Establish Section goals and objectives and monitor progress towards such goals and objectives;
- direct the management activities of the Unit Managers and oversee the management of the Units;
- serve as Agency liaison with the Office of the State Fire Marshal (OSFM) regarding underground tank issues. Coordinate Section activities consistent with the Memorandum of Understanding between U.S. EPA, Illinois EPA, and OSFM;
- act as liaison for contact between the regulated community and the Leaking Underground Storage Tank Section for controversial or sensitive issues;
- ensure that federal grant commitments are met;
- plan and budget for Section activities. This includes setting Section priorities based on personnel, time, and budget constraints;
- actively participate in the development of legislation and regulations related to the Leaking Underground Storage Tank Section;
- translate Illinois EPA documents to Spanish to assist Hispanic communities in Illinois with environmental issues; and
- participate in meetings and work groups, as necessary, to improve Section, Bureau, and Illinois EPA operations.

Illinois Environmental Protection Agency, Springfield, Illinois – 1996 to 2008

### **Public Service Administrator**

As Unit Manager in the Leaking Underground Storage Tank Section,

- managed and directed activities of seven project managers in the unit;
- assigned workload and provided technical guidance and assistance to project managers in the review and evaluation of projects;
- performed annual performance evaluations;



- coordinated Site Remediation Program activities for the Leaking Underground Storage Tank Section;
- managed special projects, such as the remediation of abandoned gas stations funded by U.S. EPA grants, for the Leaking Underground Storage Tank Section;
- responded to oral and written inquiries, including inquiries of a controversial or sensitive nature;
- spoke at Illinois Brownfields Conferences and other public forums regarding the remediation of underground storage tank releases;
- translated Illinois EPA documents to Spanish to assist Hispanic communities in Illinois with environmental issues; and
- coordinated and facilitated the development of Leaking Underground Storage Tank Section documents for posting on the Internet.

Illinois Environmental Protection Agency, Springfield, Illinois – 1989-1996

**Environmental Protection Engineer**

As permit engineer in the Permit Section,

- reviewed hazardous waste management permit applications for compliance with the Resource Conservation and Recovery Act and Illinois regulations;
- attended inspections of hazardous waste management facilities in Illinois;
- attended public hearings concerning the issuance of RCRA permits;
- responded to oral and written inquiries regarding hazardous waste management regulations in Illinois;
- completed continuing education courses related to hazardous waste management;
- translated Illinois EPA documents to Spanish to assist Hispanic communities in Illinois with environmental issues; and
- assisted with the training of new employees.

Southern Illinois University, Carbondale, Illinois – 1988-1989

**Researcher I**

As researcher in the Department of Mining Engineering,

- performed work on rock mechanics research projects in the Department of Mining Engineering;
- conducted experiments in the laboratory and analyzed data;
- installed instrumentation in Illinois coal mines and monitored data; and
- assisted with writing of reports to project sponsors.

Southern Illinois University, Carbondale, Illinois – 1986-1988

**Graduate Assistant**

Conducted research on rock mechanics and ground control in the Department of Mining Engineering, utilizing finite element computer software while pursuing a master's degree.

**Special Skills**

Translate Illinois EPA documents to Spanish to assist Hispanic communities in Illinois with environmental issues.

**References**

Available upon request.

STATE OF ILLINOIS            )  
  )  
COUNTY OF SANGAMON        )

**PROOF OF SERVICE**

I, the undersigned, on oath state that I have served the attached Pre-Filed Testimony of the Illinois Environmental Protection Agency to whom they are directed, by placing a copy of each in an envelope addressed to:

John Therriault, Assistant Clerk  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Ste. 11-500  
Chicago, Illinois 60601  
**(Via First Class)**

Timothy Fox, Hearing Officer  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Ste 11-500  
Chicago, Illinois 60601  
**(Via First Class)**

Division Chief of Environmental  
Enforcement  
Office of the Attorney General  
100 W. Randolph, Ste 1200  
Chicago, IL 60601  
**(Via First Class)**

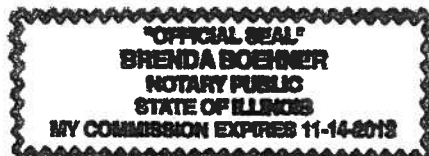
Office of Legal Services  
IL. Dept of Natural Resources  
One Natural Resources Way  
Springfield, IL 60601  
**(Via First Class)**

See Attached Service List  
**(Via First Class)**

and mailing them (First Class Mail) from Springfield, Illinois on 4-22-11, with sufficient postage affixed as indicated above.

Wanda McClenden

SUBSCRIBED AND SWORN TO BEFORE ME  
This 22nd day of April, 2011  
Brenda Boehner  
Notary Public





3/17/2011	DCEO / Sec. of State	*Request for DCEO Economic Impact Study	
2/18/2011	Initial Filing	Proposed Amendments (11.4 MB)	
2/18/2011	Initial Filing	Agency's Motion for Acceptance; Certification of Origination; Statement of Reasons; Synopsis of Testimony; Statement Regarding Material Incorporated by Reference; Appearance of Kyle Rominger; CD Version of Proposed Amendments	

## Service List

Party Name	Address	City/State/Zip	Phone/Fax
<b>Office of the Attorney General</b> <b>Interested Party</b>  • Matthew J. Dunn	69 West Washington Street, Suite 1800	Chicago IL 60602	312-814-2634 312-814-2347
<b>IEPA</b> <b>Petitioner</b>  • Gary P. King - Assistant Counsel • Kyle Rominger - Assistant Counsel • Hernando Albarran	1021 North Grand Avenue East P.O. Box 19276	Springfield IL 62794-9276	217/782-5544 217/782-9807
<b>Sidley Austin LLP</b> <b>Interested Party</b>  • William G. Dickett	One South Dearborn Suite 900	Chicago IL 60603	312/853-7000 312/853-7036
<b>Illinois Petroleum Marketers Association</b> <b>Interested Party</b>  • Bill Fleischi	112 West Cook Street	Springfield IL 62704	217/793-1858
<b>Illinois Environmental Regulatory Group</b> <b>Interested Party</b>  • Alec Messina	215 East Adams Street	Springfield IL 62701	217/522-5512 217/522-5518
<b>Chemical Industry Council of Illinois</b> <b>Interested Party</b>  • Lisa Frede	1400 East Touhy Avenue Suite 110	DesPlaines IL 60019-3338	



<b><u>Rapps Engineering &amp; Applied Science</u> Interested Party</b>  • Michael W. Rapps	821 South Durkin Drive P.O. Box 7349	Springfield IL 62791-7349	217/787-2118 217/787-6641
<b><u>Illinois Pollution Control Board</u> Interested Party</b>  • - Clerk of the Board • Tim Fox - Hearing Officer	100 W. Randolph St. Suite 11-500	Chicago IL 60601	312/814-3620 312/814-3669
<b><u>Illinois Department of Natural Resources</u> Interested Party</b>  • Virginia Yang - Deputy Legal Counsel	One Natural Resources Way	Springfield IL 62702-1271	217/782-1809 217/524-9640
<b><u>Illinois Society of Professional Engineers</u> Interested Party</b>  • Kim Robinson • Brittan Bolin	100 East Washington	Springfield IL 62704	217-544-7424 217-525-6545
<b><u>Village of Niles</u> Interested Person</b>  • Joseph J. Annunzio	1000 Civic Center Drive	Niles IL 60714	
Total number of participants: 11			

<b>Notice List</b>			
<b>Party Name</b>	<b>Address</b>	<b>City/State/Zip</b>	<b>Phone/Fax</b>
<b><u>Deuchler Environmental, Inc.</u> Interested Party</b>  • Carrie Carter	230 Woodlawn Avenue	Aurora IL 60506	630-897-8380
<b><u>Illinois Petroleum Council</u> Interested Party</b>  • Dave Sykuta	400 W. Monroe	Springfield IL 62704	
Total number of participants: 2			

<b>Scheduled Hearings</b>		
<b>Hearing Date/Time</b>	<b>Location</b>	<b>City &amp; State</b>
6/17/2011 9:00 AM	Illinois Pollution Control Board Videoconference Room, 11-512	Chicago, IL
6/16/2011 1:00 PM	Illinois Pollution Control Board Videoconference Room, 11-512	Chicago, IL

