

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

QUICK OIL COMPANY,)	
)	
Petitioner,)	
v.)	PCB No. _____
)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING AND PROOF OF SERVICE

To:	John T. Therriault, Acting Clerk	Legal Division
	Illinois Pollution Control Board	Illinois Environmental Protection Agency
	100 West Randolph Street	1021 North Grand Avenue East
	State of Illinois Building, Suite 11-500	P.O. Box 19276
	Chicago, IL 60601	Springfield, IL 62794-9276

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, pursuant to Board Procedural Rule 101.302 (d), a PETITION FOR REVIEW OF THE AGENCY LUST DECISION, a copy of which is herewith served upon the attorneys of record in this cause.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon counsel of record of all parties to this cause by enclosing same in envelopes addressed to such attorneys with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office Mailbox in Springfield, Illinois on the 20th of January, 2012.

Respectfully submitted,
QUICK OIL COMPANY, Petitioner

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
MOHAN, ALEWELT, PRILLAMAN & ADAMI
1 North Old Capitol Plaza, Suite 325
Springfield, IL 62701-1323
Telephone: 217/528-2517
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

QUICK OIL COMPANY)	
Petitioner,)	
)	
v.)	PCB No. _____
)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

PETITION FOR REVIEW OF AGENCY LUST DECISION

NOW COMES Petitioner, QUICK OIL COMPANY., pursuant to Sections 40 and 57.8(i) of the Illinois Environmental Protection Act, 415 ILCS 5/40 & 5/57.8(i), and hereby appeals the LUST decision issued on December 20, 2011, by Respondent Illinois Environmental Protection Agency ("Agency"), in which the Agency authorized only a partial payment, stating further as follows:

1. The subject facility is located at 400 East Hickory, Canton, County of Fulton, Illinois, and has been assigned LPC# 0570255174.
2. The facility had three underground storage tanks that were taken out of service as of December 22, 1998, and on December 21, 1999 a release was reported from the tanks and incident number 99-2806 was assigned to it.
3. Subsequently, the owner/operator applied for and received permission to remove the tanks. The tanks were removed on September 27, 2000, less than a year from the reporting of incident number 992806. During the tank removal, the Office of the State Fire Marshal directed that another incident be reported as a re-reporting of the previous incident. Incident number 2001847 was thereafter assigned.
4. Thereafter, site investigation activities were performed pursuant to an approved

budget and plan. On September 29, 2011, an application for payment of \$86,024.13 was submitted to the Agency.

5. On December 20, 2011, the Agency issued its decision, approving payment of only \$63,932.13, largely by assessing two deductibles, a \$10,000 deductible for incident 992806 and a \$10,000 deductible for incident 2001847. A true and correct copy of the decision is attached hereto as Exhibit A.

6. The Agency erred in assessing two deductibles. "Only one deductible shall apply per underground storage tank site." (415 ILCS 5/57.8(a)(4)) Furthermore, since both incidents were reported after the tanks had been taken out of operation, they are clearly re-reportings of the same occurrence for which only one deductible applies. See Swif-T Food Mart v. IEPA, PCB 03-185 (May 20, 2004).

7. The appeal is timely filed 29 days from when the Agency's decision was received (December 22, 2011).

WHEREFORE, Petitioner, QUICK OIL COMPANY, prays that: (a) the Agency produce the Record; (b) a hearing be held; (c) the Board find the Agency erred in its decision, (d) the Board direct the Agency to approve the application for payment at issue, (e) the Board award payment of attorney's fees; and (f) the Board grant the Petitioner such other and further relief as it deems meet and just.

QUICK OIL COMPANY,

Petitioner

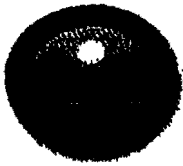
By its attorneys,
MOHAN, ALEWELT, PRILLAMAN & ADAMI

By: /s/ Patrick D. Shaw

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THIS FILING IS SUBMITTED ON RECYCLED PAPER

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, ILLINOIS 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

217/782-6762

CERTIFIED MAIL #

DEC 20 2011

7010 2780 0002 1195 8304

Quick Oil Company
Attn: Environmental Management, Inc.
1154 North Bradfordton Road
Springfield, IL 62711

Re: LPC #0570255174 -- Fulton County
Canton / Quick Oil Company
400 West Hickory Street
Incident-Claim No.: 992806 -- 60683
Queue Date: September 29, 2011
Leaking UST Fiscal File

3.00

Dear Mr. Quick:

The Illinois Environmental Protection Agency (Illinois EPA) has completed the review of your application for payment from the Underground Storage Tank (UST) Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.Subpart F.

This information is dated September 27, 2011 and was received by the Illinois EPA on September 29, 2011. The application for payment covers the period from September 1, 2005 to September 8, 2011. The amount requested is \$86,024.13.

On September 29, 2011, the Illinois EPA received your complete application for payment for this claim. As a result of Illinois EPA's review of this application for payment, a voucher for \$63,932.13 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Illinois EPA 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 Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

The deductible amount of \$20,000.00 was withheld from your payment. A deductible of \$10,000.00 was accessed for just incident number 992806 and a deductible of \$10,000.00 was accessed for just incident number 20001847. Pursuant to Section 57.8(a)(4) of the Act, any

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EXHIBIT
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deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted from any payment invoice paid to an eligible owner or operator.

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.

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

If you have any questions or require further assistance, please contact Catherine S. Elston of my staff at 217-785-9351.

Sincerely,



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

HAA:CSE 

ATTACHMENT

c: Leaking UST Claims Unit
Cathy Elston

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Attachment A
Accounting Deductions

Re: LPC #0570255174 -- Fulton County
Canton / Quick Oil Company
400 West Hickory Street
Incident-Claim No.: 992806 -- 60683
Queue Date: September 29, 2011
Leaking UST FISCAL FILE

Citations in this attachment 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).

Item # Description of Deductions

1. \$1,500.00, deduction for costs for investigation, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). 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)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

The submittal did not include an invoice for drum disposal.

2. \$472.00, deduction for costs for field purchases that exceed those contained in a budget or amended budget approved by the Illinois EPA. The cost included in the application for payment exceeds the approved budget amount and, as such, is ineligible for payment from the Fund pursuant to Section 57.8(a)(1) of the Act and 35 Ill. Adm. Code 734.605(g) and 734.630(m).

The total amount approved in the budgets for field purchases and other costs equaled \$1,496.40.

3. \$120.00, adjustment in the handling charges due to the deduction(s) of ineligible costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.635.

The handling charges were reduced due to the ineligible costs for drum disposal on the Tremont Exploration Corporation invoice.

cse

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

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