

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

YONGXIN ENTERPRISES, INC.,	)	
Petitioner,	)	
v.	)	PCB: _____
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**NOTICE OF FILING AND PROOF OF SERVICE**

To:	John T. Therriault, Acting Clerk	Division of Legal Counsel
	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 25<sup>th</sup> day of September, 2017.

Respectfully submitted,  
YONGXIN ENTERPRISES, INC.,  
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw  
LAW OFFICE OF PATRICK D. SHAW  
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Springfield, IL 62704  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

YONGXIN ENTERPRISES, INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB _____
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**PETITION FOR REVIEW OF AGENCY LUST DECISION**

NOW COMES Petitioner, YONGXIN ENTERPRISES, INC., pursuant to Section 57.7(c)(4) of the Illinois Environmental Protection Act, 415 ILCS 5/57.7(c)(4), and hereby appeals the Agency’s final decision, modifying a Stage 1 Site Investigation Plan and Budget, stating as follows:

1. Petitioner is the owner or operator of a service station in the City of Sesser, County of Franklin, Illinois, which has been assigned LPC # 0550450001.
2. On June 9, 2017, a release was reported at the facility from one 10,000 gallon gasoline underground storage tank and one 4,000 gallon kerosene underground storage tank, which was assigned Incident Number 2017-0478.
3. Thereafter, Petitioner performed initial abatement measures and reported the 20-Day Certification to the Illinois Environmental Protection Agency (hereinafter “Illinois EPA”).
4. On July 5, 2017, the Office of the State Fire Marshal (hereinafter “OSFM”) issued an eligibility and deductible determination, finding Petitioner eligible to seek payment of costs in excess of \$5,000 for costs associated with the occurrence associated with the above gasoline and kerosene tanks
5. In July of 2017, the gasoline tank was properly abandoned in place and the

kerosene tank was removed in the presence of an OSFM representative.

6. During the removal of the kerosene tank, groundwater exhibiting a sheen was encountered in the excavation pit. Water contaminated with kerosene was pumped out and transported to a liquid waste disposal facility, and 258.51 tons of kerosene contaminated backfill material was transported to the Perry Ridge Landfill.

7. On August 1, 2017, Petitioner submitted the 45-day report, which included a Stage 1 Site Investigation Plan and Budget certification. The report found that the most stringent Tier 1 remediation objectives had not been met.

8. Furthermore, the 45-Day report identified potential groundwater quality impacts as a result of the sheen in the kerosene excavation pit, and proposed collection of groundwater samples for PNAs as part of the Stage One Site Investigation. These samples will already be collected and tested for gasoline indicator parameters (benzene, toluene and xylene).

9. On August 17, 2017, the Illinois EPA approved the 45-day Report, a true and correct copy of the Agency decision letter is attached hereto as Exhibit A.

10. However, the Stage 1 Site Investigation Plan was modified by rejecting the testing of groundwater samples for PNAs. The reason given in the modification letter is that there does not appear to have been a release from the kerosene tank.

11. The 45-Day report, approved by the Illinois EPA, confirmed a release from both tanks and concluded that the most stringent remediation objectives had not been met and contaminated soils may have been in contact with groundwater such as to impact groundwater quality. Furthermore, the OSFM also confirmed both tanks had releases.

12. There is no statutory or regulatory provision cited in the decision letter that would be violated by conducting a groundwater quality investigation for PNAs during Stage 1 Site Investigation.

13. The subject Illinois EPA letter was received by certified mail on August 21, 2017, and therefore the appeal deadline is September 25, 2017, and this appeal is thus timely.

WHEREFORE, Petitioner, YONGXIN ENTERPRISES, INC., 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 plan and budget as submitted, (e) the Board award payment of attorney's fees; and (f) the Board grant Petitioner such other and further relief as it deems meet and just.

YONGXIN ENTERPRISES, INC.,  
Petitioner

By its attorneys,  
LAW OFFICE OF PATRICK D. SHAW

By: /s/ Patrick D. Shaw

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# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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BRUCE RAUNER, GOVERNOR ALEC MESSINA, DIRECTOR

217/524-3300

CERTIFIED MAIL

AUG 17 2017

7014 2120 0002 3286 1409

Yongxin Enterprises, Inc.  
Attn: Lekhraj Ahuja  
201 North Park Street  
Sesser, IL 62884

Re: LPC #0550450001 -- Franklin County  
Sesser/Yongxin Enterprises, Inc.  
201 North Park Street  
Leaking UST Incident No. 20170478  
Leaking UST Technical File

Dear Mr. Ahuja:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the 45-Day Report (report), which included a Stage 1 Site Investigation Plan and Budget certification, for the above-referenced incident. The report, dated August 1, 2017, was received by the Illinois EPA on August 4, 2017. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

The report is approved pursuant to 35 Ill. Adm. Code 734.505(b) and 734.510(a). Therefore, the 45-day reporting requirements of Section 57.6 of the Act and 35 Ill. Adm. Code 734.210(d) have been satisfied.

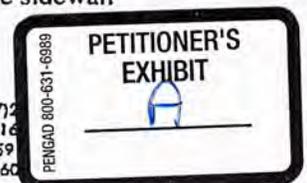
**Further, pursuant to 35 Ill. Adm. Code 734.145, it is required that the Illinois EPA be notified of field activities prior to the date the field activities take place. This notice must include a description of the field activities to be conducted; the name of the person conducting the activities; and the date, time, and place the activities will be conducted. This notification of field activities may be done by telephone, facsimile, or electronic mail—and must be provided at least two weeks prior to the scheduled field activities.**

The Illinois EPA requires that the owner or operator submit a site investigation plan and budget for the subsequent stage of investigation (including the results of the Stage 1 site investigation and the Stage 1 site investigation actual costs budget) or a site investigation completion report (if the extent of contamination is defined) within 90 days of the date of this letter pursuant to Sections 57.7(a) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.305. Please note that the Illinois EPA does not require the submission of a budget if the owner or operator does not intend to seek payment from the Underground Storage Tank Fund.

The Stage 1 plan should be modified to require the following:

Early action samples which satisfy 35 Ill. Adm. Code 734.210(h) shall be collected from the following locations in conjunction with your Stage 1 site investigation:

1. One sample immediately west of tank #1 and south of sample WC-2 to represent the sidewall which exceeds 20 feet in length.



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2. One sample immediately north of tank #1 to represent the tank end.
3. One sample west of the pump island opposite sample BH-1 to represent each side of the piping run.
4. One sample west of the pump island opposite sample BH-2 to represent each side of the piping run.

**Note: There does not appear to have been a release from the 4,000-gallon kerosene tank due to no supporting documentation of a confirmed release. Therefore, this incident is not subject to the reporting requirements of Title XVI of the Act or 35 Ill. Adm. Code 734. Please be advised that early action activities associated with the 4,000-gallon kerosene tank exceed the minimum requirements necessary to comply with the Act. Costs associated with early activities, site investigation and corrective action and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).**

This action does not constitute any decision or determination regarding the timeliness of the submittal of the report. This decision does not waive or otherwise preclude any enforcement action the Illinois EPA may initiate in response to any apparent violation of timely submittal requirements.

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 need further assistance, please contact Scott McGill at (217) 524-5137.

Sincerely,



Michael T. Lowder  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

Attachment: Appeal Rights

c: Duane Doty, Chase Environmental Group, Inc. (electronic copy),  
ddoty@chaseenv.com  
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:

John Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson 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