

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

MIDWEST PETROLEUM CO.,)	
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 28th day of September, 2017.

Respectfully submitted,
MIDWEST PETROLEUM COMPANY,
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
80 Bellerive Road
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MIDWEST PETROLEUM COMPANY,)	
Petitioner,)	
)	
v.)	PCB _____
)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

PETITION FOR REVIEW OF AGENCY LUST DECISION

NOW COMES Petitioner, MIDWEST PETROLEUM COMPANY, 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, denying the 45 Day Report Addendum, stating as follows:

1. Petitioner is the owner or operator of a service station in the City of Godfrey, County of Madison, Illinois, which has been assigned LPC # 1198065015.
2. On April 7, 2017, a suspected release was reported at the facility from four underground storage tanks, which was assigned Incident Number 2017-0271.
3. As part of the release confirmation process, soil samples were collected and tested for indicator contaminants for gasoline, diesel fuel and kerosene. The results confirmed that the four tanks had experienced a release.
4. Because the property had reported previous incidents (1992-1015; 2001-1207 and 2008-1600), for which corrective action had been performed, but a No Further Remediation letter had not been issued, the soil samples were compared with soil samples analyzed for these previous incidents. Levels of soil contaminants as a result of Incident 2017-0271 were higher than any previously found at the site. Also, the earliest incidents related to six underground storage tanks that were removed and replaced in 2001.

5. From May 9, 2017 through May 11, 2017, the four tanks were removed under the oversight of a Tank Specialist from the Office of the State Fire Marshal (hereinafter "OSFM). Petitioner's consultant, in conjunction with the Tank Specialist, determined based upon the condition of the tank, piping and soil conditions that the releases were the result of overfilling or leaking piping.

6. During tank removal, soil samples were taken in the vicinity of each underground storage tank and along the excavation walls. These samples indicated that the most stringent Tier 1 Clean-up Objectives have been exceeded for various indicator contaminants.

7. Furthermore, during tank removal, groundwater was found to be present and in contact with contaminated soil. After 18,200 gallons of groundwater was pumped from the tank excavation pits, the groundwater recharged.

8. On June 5, 2017, Petitioner submitted its 45-Day Report, and on August 4, 2017, Petitioner submitted its 45-Day Report Addendum. These reports identified the information collected at the site, discussed early action activities, and proposed soil and groundwater investigation to determine the extent of the release.

9. On August 23, 2017, the Illinois Environmental Protection Agency (hereinafter "Illinois EPA") denied these reports for the reason that it believes the Incident is a rereporting of all of the earlier incidents. A true and correct copy of the decision letter is attached hereto as Exhibit A.

10. For the reasons given, the Illinois EPA's decision is wrong because it had information that there was a new release confirmed for Incident 2017-0271.

11. Furthermore, the Illinois EPA decision letter fails to identify any statutory or

regulatory provision that would be violated by approving the reports, nor identify what specific information is needed and the legal basis for this need.

12. The subject Illinois EPA letter was received by certified mail on August 25, 2017, and therefore the appeal deadline is September 29, 2017, and this appeal is thus timely.

WHEREFORE, Petitioner, MIDWEST PETROLEUM 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 report 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.

MIDWEST PETROLEUM COMPANY,
Petitioner

By its attorneys,
LAW OFFICE OF PATRICK D. SHAW

By: /s/ Patrick D. Shaw

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

BRUCE RAUNER, GOVERNOR

ALEC MESSINA, DIRECTOR

217/524-3300

CERTIFIED MAIL

AUG 23 2017

7034 2120 0002 3286 1577

Midwest Petroleum Company #36 - Godfrey
Attn: Erik Ilgenfritz
6760 Southwest Avenue
St. Louis, Missouri 63143

RECEIVED
AUG 25 2017
CR
BY: _____

Re: LPC #1198065015 -- Madison County
Godfrey/Midwest Petroleum Company #36 - Godfrey
5405 Godfrey Road
Leaking UST Incident No. 20170271 (921015, 20011207, and 20081600)
Leaking UST Technical File

Dear Mr. Ilgenfritz:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the 45 Day Report and 45 Day Report Addendum submitted for the above-referenced incident. These Reports dated June 5, 2017, were received by the Illinois EPA on June 5, 2017 and 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).

Based on the information currently in the Illinois EPA's possession, it has been determined that the above-referenced incident is a re-reporting of Leaking UST Incident No. 921015, 20011207, and 20081600. As such, all incidents shall be handled concurrently and Leaking UST Incident No. 20170271 shall be referenced in the next plan or report associated with Leaking UST Incident No. 921015, 20011207, and 20081600.

In addition, the Illinois EPA Leaking Underground Storage Tank Program requires no reporting requirements regarding this re-reporting of a previous incident(s). Reporting requirements for this site shall be those associated with the original incident(s). Therefore, please be advised that early action activities and subsequent reporting of incident No. 20170271 exceeds the minimum requirements necessary to comply with the Act. Costs associated with early action activities, duplicate reporting, site investigation and corrective action activities 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).

4302 N. Main St., Rodford, IL 61103 (815)987-7760
595 S. State, Egin, IL 60123 (847)608-3131
2125 S. First St., Champolgn, IL 61820 (217)278-5800
2009 Mall St., Collinsville, IL 62234 (618)346-5120

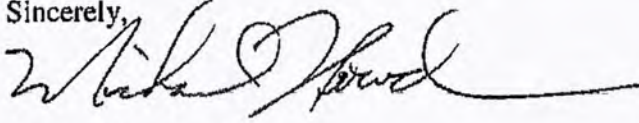
9511 Harrison St., Des Plaines, IL 60016 (847)
412 SW Washington St., Suite D, Peoria, IL 61602
2309 W. Main St., Suite 116, Marion, IL 62959
100 W. Randolph, Suite 10-300, Chicago, IL 60601

PENGAO 800-631-6989
PETITIONER'S EXHIBIT
A

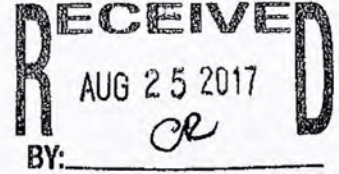
Page 2

If you have any questions or require further assistance, please contact Karl Kaiser at (217) 524-4650.

Sincerely,



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



MTL::KEK\

c: Carol Rowe, CWM Company (Email Copy) carolrowe@cwmcompany.com
BOL File

Transaction Date: October 2, 2017

ILLINOIS POLLUTION CONTROL BOARD
 100 W. RANDOLPH ST.
 SUITE 11 - 500
 CHICAGO, ILLINOIS 60601

INVOICE
28835

PURCHASER/FILER:

Name: Patrick D. Shaw
 Firm: Shaw Law Office
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 City/State/Zip: Springfield IL 62704
 Phone: 217 299-8484

RECEIVED
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 OCT 02 2017

STATE OF ILLINOIS
 Pollution Control Board

TRANSACTION TYPE		PAYMENT TYPE		
Opinion/Transcript Document Sale	Filing Fee 75.00	Cash	Check 765	Billable

Description	Unit Price	Unit	Amount
<u>PCB 18-12, Midwest Petro v. FEPA</u>	<u>75 00</u>	<u>1</u>	<u>75 00</u>
TOTAL			75 00

Security enhanced document. See back for details.

LAW OFFICE OF PD SHAW
 80 Bellerive Rd
 Spfld IL 62704

70-2189/719
765

DATE Sept 29, 2017

PAY TO THE ORDER OF Illinois Pollution Control Board \$ 75.00

Sixty five and 00/100 DOLLARS

PNC BANK
 PNC Bank, N.A. 071
 Illinois

FOR Midwest Petro, PCB 2018-012

Patrick D. Shaw MP

⑆071921891⑆ 4804850359⑆

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