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JUN 30 2003

STATE OF ILLINOIS  
Pollution Control Board

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

SCI ILLINOIS SERVICES, INC., )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )  
 )


PCB- 04-01  
(UST Review)

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on June 30, 2003, we filed with the Clerk of the Illinois Pollution Control Board, 100 West Randolph Street, James R. Thompson Center Suite 11-500, Chicago, Illinois, 60601-3218, an original and nine (9) copies of **PETITION FOR REVIEW AND HEARING TO CONTEST THE UST DECISIONS OF THE ILLINOIS EPA**; a copy of said Petition is attached hereto and hereby served upon you. Counsel's **APPEARANCE** is also served upon you.

SCI ILLINOIS SERVICES, INC.

By   
One of Its Attorneys

Andrew H. Perellis  
Lorena S. Neal  
SEYFARTH SHAW  
55 East Monroe Street  
Suite 4200  
Chicago, Illinois 60603  
(312) 346-8000

THIS FILING IS MADE ON RECYCLED PAPER

**AFFIDAVIT OF SERVICE**

The undersigned, an attorney, states that he caused a copy of the attached:

- (i) PETITION FOR REVIEW AND HEARING TO CONTEST THE UST DECISIONS OF THE ILLINOIS EPA,
- (ii) APPEARANCE, and
- (iii) NOTICE OF FILING,

to be served upon the following by Certified Mail, Return Receipt Requested, from 55 East Monroe St., Chicago, Illinois 60603, this 30th day of June, 2003:

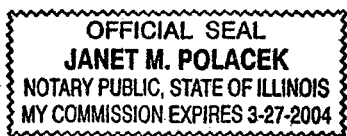
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276



\_\_\_\_\_  
Andrew H. Perellis

SUBSCRIBED TO AND SWORN BEFORE ME  
THIS 30TH DAY OF JUNE, 2003

  
\_\_\_\_\_  
NOTARY PUBLIC



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STATE OF ILLINOIS  
Pollution Control Board JUN 30 2003

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

SCI ILLINOIS SERVICES, INC., )  
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 Petitioner, )  
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 v. )  
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 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

PCB- 04-01  
(UST Review)

APPEARANCE

Andrew H. Perellis and Lorena S. Neal of the law firm, SEYFARTH SHAW, hereby enter their appearance as counsel for Petitioner, SCI Illinois Services, Inc. Andrew H. Perellis is designated as the lead attorney for purposes of mail and phone contact pertaining to this proceeding.

SCI ILLINOIS SERVICES, INC.

By John A. Neal  
One of Its Attorneys

By [Signature]  
One of Its Attorneys

Andrew H. Perellis  
Lorena S. Neal  
SEYFARTH SHAW  
55 East Monroe Street  
Suite 4200  
Chicago, Illinois 60603  
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BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

SCI ILLINOIS SERVICES, INC., )  
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v. )  
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ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

PCB- 04-01  
(UST Review)

**PETITION FOR REVIEW AND HEARING  
TO CONTEST THE UST DECISIONS OF THE ILLINOIS EPA**

Petitioner, SCI Illinois Services, Inc., by its attorneys, SEYFARTH SHAW, pursuant to Sections 57.7(c)(4)(D) and 40 of the Illinois Environmental Protection Act ("Act"), 415 ILCS §§ 5/57.7 and 5/40, hereby seeks review of: (a) the May 27, 2003 decision of the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") to reject Respondent's Site Classification Completion Report and (b) the June 11, 2003 decision of the Agency to deny reimbursement in the amount of \$29,611.60, and in support thereof, states as follows:

1. Petitioner removed certain underground storage tanks pursuant to the requirements of 35 Ill. Admin. Code Part 732, and thereafter submitted to the Agency for its review and approval a Site Classification Completion Report in which the Site was classified as "No Further Action," using *inter alia*, the Physical Soil Classification Method I, as allowed by rule [35 Ill. Admin. Code 732.307(c)].

2. The Agency, by letter dated May 27, 2003, rejected the Site Classification Completion Report. A copy of the letter is attached hereto as Exhibit A. The Agency's

sole basis for rejecting the Report was that Petitioner's Report failed to satisfy certain criteria under Physical Soil Classification Method II, specifically, 35 Ill. Admin. Code 732.307(d)(3)(C) and (D)]. As indicated in the preceding paragraph, Petitioner did not attempt to utilize Method II, but instead elected to follow Method I for determining the site classification.

3. Following all of the required criteria under Physical Soil Classification Method I, along with the other required elements of Section 57.7(b)(2) of the Act and 35 Ill. Admin. Code 732.307, the Site Classification Completion Report demonstrates that a "No Further Action" classification is appropriate for the property at issue.

4. The Agency, by letter dated June 11, 2003, denied reimbursement to Petitioner in the amount of \$29,611.60. A copy of this denial letter is attached hereto as Exhibit B. The stated basis for the denial is that an approved site classification report had not been submitted. The denial letter further states that once an approved site classification report has been submitted, this claim will be processed. Petitioner believes the Site Classification Completion Report it submitted should have been approved by the Agency, and that, accordingly, the denial of the reimbursement claim was improper.

#### **REQUESTED RELIEF**

**WHEREFORE**, SCI Illinois Services, Inc. respectfully requests that the Board:

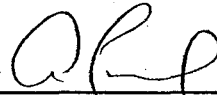
- a. grant a hearing to review the decision of the Agency;
- b. determine that the Agency erred in rejecting the Site Classification Completion Report;
- c. determine that the appropriate classification for this site is "No Further Action;"

- d. determine that the Agency erred in rejecting the Petitioner's claim for reimbursement in the amount of \$29,611.60;
- e. order the Agency to pay the claim for reimbursement;
- f. grant Petitioner the costs of litigation, including attorney fees; and
- g. grant such other relief as this Board deems appropriate.

Respectfully submitted,

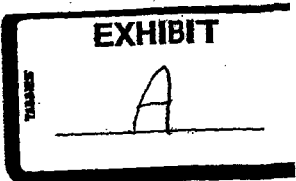
SCI ILLINOIS SERVICES, INC.

By



One of Its Attorneys

Andrew H. Perellis  
Lorena S. Neal  
SEYFARTH SHAW  
55 E. Monroe St., Suite 4200  
Chicago, Illinois 60603  
(312) 346-8000



**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICI, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

**CERTIFIED MAIL**

7002 3150 0000 1223 0732

**MAY 27 2003**

Memory Gardens Cemetery  
Attn: Ron Graeff  
2501 East Euclid Avenue  
Arlington Heights, Illinois 60004

Re: LPC #0314035310 -- Cook County  
Arlington Heights/Memory Gardens Cemetery  
2501 East Euclid Avenue  
LUST Incident No. 990286  
LUST Technical File

Dear Mr. Graeff:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Site Classification Completion Report (report) submitted for the above-referenced incident. This report, dated March 5, 2003, was received by the Illinois EPA on March 7, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The Site Classification Completion Report is rejected for the following reason(s) (Section 57.7(b)(1) of the Act; 35 Ill. Adm. Code 732.309(b) or 732.312(j) and 732.503(b)):

The site failed to satisfy the criteria of Section 732.307(d)(3)(C)&(D) to be considered No Further Action. The site appears to meet the criteria of Low Priority.

Pursuant to 35 Ill. Adm. Code 732.301, a Site Classification Completion Report must be submitted within 90 days of the date of this letter to:

Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

Page 2

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 Matthew Urish, P.G. at 217/782-6762.

Sincerely,



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

MTL:mu

Attachment: Appeal Rights

c: Tony Bush, United Environmental Consultants, Inc.  
Division 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)(D) 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



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

JUN 11 2003

Memory Gardens Cemetery  
Attention: Ron Graeff  
2501 East Euclid  
Arlington Heights, IL 60004

Re: LPC #0314035310 -- Cook County  
Arlington Heights/Memory Gardens Cemetery, Inc.  
2501 East Euclid  
LUST Incident No. 990286  
LUST FISCAL FILE

Dear Mr. Graeff:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced LUST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), and 35 Ill. Adm. Code 732, Subpart F. This information is dated February 12, 2003 and was received by the Agency on March 26, 2003. The application for payment covers the period from August 1, 2003 to February 14, 2003. The amount requested is \$29,611.60.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the billing submittal received by the Agency on August 14, 2002 for \$26,485.07. 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.

On May 27, 2003, the Agency received your complete application 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 application(s) for payment.

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) 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 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

Page 2

applicant 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:

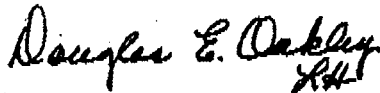
Dorothy Gumm, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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 or require further assistance, please contact Doug Tolan of my staff at 217/782-6762.

Sincerely,



Douglas E. Oakley, Manager  
LUST Claims Unit  
Planning & Reporting Section  
Bureau of Land

DEO:DT:jk\032052.doc

Attachment

cc: United Environmental Consultants, Inc.

**Attachment A  
Accounting Deductions**

**Re: LPC #0314035310 -- Cook County  
Arlington Heights/Memory Gardens Cemetery, Inc.  
2501 East Euclid  
LUST Incident No. 990286  
LUST Fiscal File**

**Citations in this attachment are from and the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).**

**Item #      Description of Deductions**

1.      \$29,611.60, deduction for costs lacking supporting documentation. An approved site classification completion report has not been submitted. (Section 57.5(a) of the Act; 35 Ill. Adm. Code 732.505(c) and 732.606(gg))
  - a)      The Site Classification Completion Report (SCCR) submitted was denied May 27, 2003. No approved SCCR has been submitted to date.
  - b)      Once an approved SCCR has been submitted this claim will be re-reviewed and the processing completed. Upon receiving an Agency SCCR approval letter, please notify Doug Tolan at 217/524-1281.

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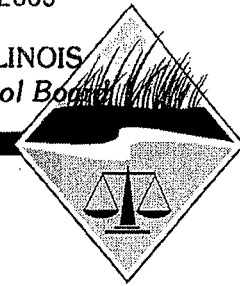
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CLERK'S OFFICE

JUL 1 2003

STATE OF ILLINOIS  
Pollution Control Board

# ILLINOIS POLLUTION CONTROL BOARD



## MEMORANDUM

**TO:** Board Members  
**FROM:** John Therriault, Clerk's Office *Therriault*  
**DATE:**  
**RE:** PCB 2004-001, SCI Illinois Services, Inc. v. IEPA

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This petition, with a \$75.00 filing fee, was submitted seeking review of (a) the May 27, 2003, decision of the Agency to reject Respondent's Site Classification Completion Report and (b) the June 11, 2003, decision of the Agency to deny reimbursement. Since the petition was received after 4:30 pm on June 30, 2003, it was assigned a docket number of PCB 2004-001.

Because the petition was submitted appealing two, separate Agency decisions, I have advised the attorney for the Petitioner that the Board will accept the May 27, 2003, letter as the decision being appealed as case PCB 2004-001, but that he will need to repetition the Board to review the June 11, 2003 decision with the appropriate filing fee. We understand that the cases may be consolidated, but they must still be submitted separately since two separate decisions are being appealed.

I am not reserving a docket number for the petition appealing the June 11, 2003, Agency decision.