

May 14, 2018
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

RECEIVED
CLERK'S OFFICE

MAY 22 2018

STATE OF ILLINOIS
Pollution Control Board

To: Don A Brown
From: William T. Ozga

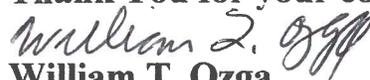
I apologize for the delayed response in applying for an appeal to the denial of approved Budget by the EPA. I was unable to get a reply on time due to the lack of communication with the Village of Antioch. I am hoping that you will consider the Appeal as follows.

A Leaking Underground Storage Tank (LUST) Budget was received by the Illinois Environmental Protection agency (IEPA) on August 24, 2017. After review of this budget, this budget was modified and several aspects of the budget were deemed ineligible and removed from the modified final budget. This was documented in a letter from the IEPA to the LUST operator dated February 20, 2018. A copy of the incident budget is included in Attachment A.

The amount of \$110,173.00 for costs for remediation and disposal, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceed the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7©(3) of the Act and 35 Ill. Adm. Code. 734.630(0).

These cost estimates for hooking up to a municipal water supply include cost associated with abandoning septic fields, installing sanitary lines and a municipal sewer line is a requirement from the Village of Antioch in order to be able to install Municipal water supply. Due to fact that it is a requirement from the Village of Antioch to be able to comply with the IEPA requirements for the installation of City water on the site. I am requesting that the IEPA approve the budget to for the installation of city sewer Lines as well as abandoning the septic system, and associated costs in order to comply with the requirements of the Village of Antioch.

Thank You for your consideration.


William T. Ozga

Operator

ILLINOIS POLLUTION CONTROL BOARD

April 12, 2018

TED'S STATE LINE,)	
)	
Petitioner,)	
)	
v.)	PCB 18-72
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.M. Santos):

On March 20, 2018, the Board received a letter on behalf of Ted's State Line requesting a hearing to review a February 20, 2018 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2016); 35 Ill. Adm. Code 101.300(b), 105.402, 105.404. The Agency's determination concerns Ted's State Line's leaking underground storage tank (UST) site located at 284 Main Street in Antioch, Lake County. For the reasons below, the Board accepts the letter as a timely petition but directs Ted's State Line to file an amended petition correcting specified deficiencies within 30 days or face dismissal of this appeal.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2016)), the Agency decides whether to approve proposed cleanup plans and budgets for leaking UST sites, as well as requests for cleanup cost reimbursement from the State's UST Fund, which consists of UST fees and motor fuel taxes. If the Agency disapproves or modifies a submittal, the UST owner or operator may appeal the decision to the Board. *See* 415 ILCS 5/40(a)(1), 57-57.17 (2016); 35 Ill. Adm. Code 105.Subpart D. In this case, the Agency modified Ted's State Line's corrective action budget.

The Board accepts the Ted's State Line's March 20, 2018 letter as a timely filed petition but finds that the petition is deficient. First, in adjudicatory proceedings before the Board, including this UST appeal, anyone other than an individual must be represented by an attorney licensed and registered to practice law. 35 Ill. Adm. Code 101.400(a)(2). Ted's State Line's letter was signed by Scott McSorley, Senior Project Manager for Carlson Environmental, Inc. Mr. McSorley did not file an appearance, and his letter does not indicate that he is an attorney.

Second, a petition for review of an Agency UST determination must include "[a] statement specifying the grounds of appeal." 35 Ill. Adm. Code 104.408(c). While Mr. Sorley's letter states that it serves as a petition for a hearing, it specifies no grounds for appeal of the Agency's determination.

Third, a petition for review of an Agency UST determination must be accompanied by a \$75 filing fee. 415 ILCS 5/7.5(a) (2016); 35 Ill. Adm. Code 101.302(e)(3). Ted's State Line's letter did not include this fee, and the Board has not since received it.

By Monday, May 14, 2018, which is the first business day following the 30th day after the date of this order, Ted's State Line must file with the Board an amended petition for review remedying the deficiencies identified above. Failure to do so will subject this appeal to dismissal. See City of Taylorville/Taylorville Municipal Airport v. IEPA, PCB 12-57 (Nov. 3, 2011). Timely filing an amended petition will re-start the Board's statutory 120-day deadline to decide this appeal. 35 Ill. Adm. Code 105.114(b). Ted's State Line must also serve a copy of the amended petition on the Agency. See 35 Ill. Adm. Code 101.304.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 12, 2018, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

312-814-³⁴⁶¹~~3620~~

FILE WITH ILL EPA AS WELL



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

FEB 20 2018

CERTIFIED MAIL

7015 0640 0004 7916 3247

ATTACHMENT A

Ted's State Line
Attention: Bill Ozga
16026 Glenbrook Blvd.
Fountain Hills, Arizona 85268

Re: LPC #0970055077 -- Lake County
Antioch / Ted's State Line
284 Main Street
Leaking UST Incident No. 961671
Leaking UST Technical File

Dear Mr. Ozga:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan Budget (budget) submitted for the above-referenced incident. This budget, dated August 22, 2017, was received by the Illinois EPA on August 24, 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 budget is modified pursuant to Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of payment from the Fund may be limited by Sections 57.7(c), 57.8(d), 57.8(e) and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

All future correspondence must be submitted 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 Carol Hawbaker at 217/782-5713.

Sincerely,



Eric A. Kuhlman
Acting Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

EAK:CLH

Attachment: A
Appeal Rights

c: Scott McSorley, Carlson Environmental, Inc. (electronic copy),
SMcSorley@carlsonenv.com
BOL File

Attachment A

Re: LPC #0970055077 -- Lake County
Antioch / Ted's State Line
284 Main Street
Leaking UST Incident No. 961671
Leaking UST Technical File

SECTION 1

The budget was previously approved for:

\$4,268.24	Drilling and Monitoring Well Costs
\$9,500.00	Analytical Costs
\$18,786.74	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$12,674.30	Paving, Demolition, and Well Abandonment Costs
\$66,358.72	Consulting Personnel Costs
\$2,165.85	Consultant's Materials Costs

As a result of the Illinois EPA's modification(s) in Section 2 of this Attachment A, the following amounts are approved:

\$0.00	Drilling and Monitoring Well Costs
\$0.00	Analytical Costs
\$108,515.00	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$3,532.90	Consulting Personnel Costs
\$139.00	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

Therefore, the total cumulative budget is approved for:

\$4,268.24	Drilling and Monitoring Well Costs
\$9,500.00	Analytical Costs
\$127,301.74	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$12,674.30	Paving, Demolition, and Well Abandonment Costs
\$69,891.62	Consulting Personnel Costs
\$2,304.85	Consultant's Materials Costs

SECTION 2

1. \$110,173.00 for costs for remediation and disposal, which exceed the minimum requirements necessary to comply with the Act. Costs associated with 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).

Pursuant to 35 Ill. Adm. Code 734.850(b) costs associated with activities that do not have a maximum payment amount set forth pursuant to 35 Ill. Adm. Code 734 Subpart H must be determined on a site-specific basis and the owner/operator must demonstrate to the Illinois EPA the amounts sought for reimbursement are reasonable.

The budget includes 3 cost estimates each for the following scopes of work:

- Hook-up to a municipal water supply at the commercial business located at the site.
- Hook-up to a municipal water supply at the residence located adjacent west of the site.
- Install a new potable water well at the residence located adjacent north of the site.

The Illinois EPA notes the budget does not include cost estimates for hook-up to a municipal water supply at the commercial property located east of the site across Illinois Route 83.

The cost estimates for hooking up to a municipal water supply include costs associated abandoning septic fields, installing sanitary lines and a municipal sewer line. Costs for these activities exceed the minimum requirements to comply with the Act and its regulations; therefore, the costs are not eligible for payment from the Fund. The Illinois EPA deducted the ineligible costs from the estimates, and the following costs are approved:

- For hook-up to a municipal water supply at the commercial business located at the site: \$82,900.00 (Behm Enterprises, Inc. estimate is the lowest estimate when only eligible costs are considered).
- For hook-up to a municipal water supply at the residence located adjacent west of the site: \$13,465.00 (Leo Fox Trucking/Collette and Ano estimate is the lowest estimate when only eligible costs are considered).
- For installation of a new potable water well at the residence located adjacent north of the site: \$11,150.00 (Rock-Well Well and Pump Service, Inc. estimate is the lowest estimate).

The total amount approved in this budget for Remediation and Disposal costs is \$108,515.00. The amount proposed is \$218,688.00. \$110,173.00 is deducted.

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


William T. Ozga
16026 E Glenbrook Blvd.
Fountain Hills, AZ 85268-2235

PHOENIX, ARIZONA
19 MAY 2018 PM 5:1



ILLINOIS BELL TION CONTROL BOARD
JAMES R. THOMPSON CENTER
100 WEST RANDOLPH STREET SUITE 11-500
CHICAGO, IL 60601

60601-923975

