

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AHMAD SAMHAN,)	
Petitioner,)	
)	
v.)	PCB 20-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

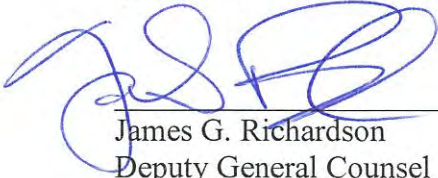
NOTICE

Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Patrick D. Shaw
Attorney at Law
80 Bellerive Road
Springfield, Illinois 62704

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
Dated: January 8, 2020
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AHMAD SAMHAN,)	
Petitioner,)	
)	
v.)	PCB No. 20-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL)	Extension)
PROTECTION AGENCY,)	
Respondent.)	

**REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James G. Richardson, Deputy General Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to April 8, 2020, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

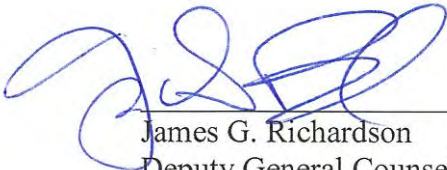
1. On or about December 2, 2019, the Illinois EPA issued a final decision to the Petitioner.
2. On January 6, 2020, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about December 5, 2019.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel

Dated: January 8, 2020

1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
866/273-5488 (TDD)

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) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

(217) 524-3300

DEC 02 2019

CERTIFIED MAIL

7017 2680 0001 0209 3569

Ahmad Samhan
3808 West Elm Street
McHenry, IL 60050

Re: 1130205150 -- McLean County
Bloomington / Huck's #232, former
517 East Locust Street
Leaking UST Incident 892578
Leaking UST Technical File

Dear Mr. Samhan:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated July 30, 2019, was received by the Illinois EPA on August 5, 2019. 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).

Pursuant to Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a), the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act. Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, 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 have been 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.

Furthermore, please note that the email received November 21, 2019 requesting additional field work and additional budget allowances is not approved as part of this plan. The work is not necessary to comply with the requirements for the indoor inhalation exposure route.

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 and shall be made to EPA.FieldNotifications@illinois.gov. This notification of field activities must be provided at least two weeks prior to the scheduled field activities.

Pursuant to Sections 57.7(b)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires that a Corrective Action Completion Report that achieves compliance with applicable remediation objectives be submitted within 30 days after completion of the plan to:

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

9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
412 SW Washington Street, Suite O, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-S00, Chicago, IL 60601

Page 2

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

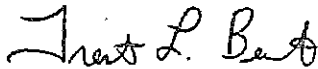
Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

If within four years after the approval of this plan, compliance with the applicable remediation objectives has not been achieved and a Corrective Action Completion Report has not been submitted, the Illinois EPA requires the submission of a status report pursuant to Section 57.7(b)(6) of the Act.

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 Rothering at (217) 785-1858.

Sincerely,



Trent L. Benanti, P.E.
Unit Manager
Leaking Underground Storage Tank Program
Remedial Project Management Section
Bureau of Land

Attachments: Attachment A
Appeal Rights

c: Alan Curtiss (electronic copy), alancurtiss@chase.env.com
BOL File

Attachment A

Re: 1130205150 -- McLean County
Bloomington / Huck's #232, former
517 East Locust Street
Leaking UST Incident 892578
Leaking UST Technical File

SECTION 1

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

\$1,578.14	Drilling and Monitoring Well Costs
\$4,840.72	Analytical Costs
\$191,808.64	Remediation and Disposal Costs
\$4,142.61	UST Removal and Abandonment Costs
\$43,598.75	Paving, Demolition, and Well Abandonment Costs
\$26,433.09	Consulting Personnel Costs
\$4,617.00	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.

SECTION 2

1. \$1,315.00 for costs for corrective action activities for underground storage tanks for which the owner or operator was deemed ineligible to access the Fund. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(m)(1) of the Act and 35 Ill. Adm. Code 734.640.

Fifty cubic yards of backfill are associated with an ineligible tank. This results in a deduction of \$1,315.00 from the Remediation and Disposal Costs Form.

2. \$4,142.61 for costs for corrective action activities for underground storage tanks for which the owner or operator was deemed ineligible to access the Fund. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(m)(1) of the Act and 35 Ill. Adm. Code 734.640.

This results in a \$4,142.61 deduction from the Removal and Abandonment Costs Form.

3. \$3,800.00 for costs for canopy removal, 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 breakdown of the estimate for canopy removal is \$3,200.00 less than the original estimate. Additionally, the breakdown contains costs which are not reimbursable (job trailer - \$600.00).

These cuts result in a deduction of \$3,800.00 from the Paving, Demolition, and Well Abandonment Costs Form.

4. \$1,841.00 for costs for corrective action activities for underground storage tanks for which the owner or operator was deemed ineligible to access the Fund. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(m)(1) of the Act and 35 Ill. Adm. Code 734.640.

Half of the costs for UST decommissioning/removal assistance are removed from this budget due to the ineligible tank. This results in a deduction of \$1,841.00 from the Personnel Costs Form.

5. \$2,630.20 for costs for corrective action activities for underground storage tanks for which the owner or operator was deemed ineligible to access the Fund. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(m)(1) of the Act and 35 Ill. Adm. Code 734.640.

Half of the costs for supervising/documenting UST decommissioning / removal activities are removed from this budget due to the ineligible tank. This results in a deduction of \$2,630.20 from the Personnel Costs Form.

6. \$4,208.32 for costs for Senior Project Manager (secure contractor's/service providers for UST removal, soil abatement, transportation, backfilling and secure access and coordinate field activities/plans with property owner and contractors) 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.

These corrective action costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

These cuts result in a deduction of \$4,208.32 from the Consulting Personnel Costs Form.

7. \$17,884.80 for costs to supervise/document soil abatement & backfilling activities (Senior Project Manager) and collect soil samples, prepare site map, coordinate waste manifests, etc. during soil abatement (Geologist 1), 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.

These corrective action costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

This cut results in a deduction of \$17,884.80 from the Personnel Costs Form.

8. \$236.72 for costs for Senior Administrative Assistant (copy, scan, mail August 2019 CAP report to O/O and IEPA, 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.

These or corrective action costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

This cut results in a deduction of \$236.72 from the Personnel Costs Form.

9. \$120.00 for costs for copy charges, 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.

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 owner/operator has not provided sufficient documentation to support the rate requested for copy charges and/or the quantity of copies requested pursuant to 35 Ill. Adm. Code 734.505(a). The documentation was either not provided or fails to provide sufficient information for the Illinois EPA to make a site-specific reasonableness determination.

In addition, without supporting documentation the rate and/or the quantity of copies requested are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd). It should be noted, the Illinois EPA only requires technical correspondence be submitted in duplicate and only an original for reimbursement correspondence.

This results in a deduction of \$120.00 from the Consultant's Material Costs Form.

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:

Clerk of the Board
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

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on January 8, 2020 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by the methods and to the persons identified below:


Electronic Service

Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

USPS First Class Mail

Patrick D. Shaw
Attorney at Law
80 Bellerive Road
Springfield, Illinois 62704

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Deputy General Counsel
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