

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

GRAHAM ENTERPRISE, INC.,)	
Petitioner,)	
)	
v.)	PCB 21-
)	(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

Amber L. Verbick
Groundwater and Environmental
 Services, Inc.
1050 Corporate Boulevard, Suite C
Aurora, Illinois 60505

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: April 20, 2021
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

GRAHAM ENTERPRISE, INC.,)	
Petitioner,)	
)	
v.)	PCB No. 21-
)	(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 July 22, 2021, 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 March 16, 2021, the Illinois EPA issued a final decision to the Petitioner.
2. On April 6, 2021, 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 March 19, 2021.

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: April 20, 2021

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

CERTIFIED MAIL

7018 1830 0000 5281 1263

MAR 16 2021

Graham Enterprise, Inc.
Attention: Mr. John Graham
750 Bunker Court, Suite 100
Vernon Hills, IL 60061

Re: 0971155136 – Lake County
Mundelein / Graham Enterprise, Inc.
600 South Butterfield Road
Leaking UST Incidents 20011680, 20031221, and 20160611
Leaking UST Technical File

Dear Mr. Graham:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan Budget (budget) submitted for the above-referenced incidents. This budget, dated November 10, 2020, was received by the Illinois EPA on November 16, 2020. 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.

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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 the undersigned at (217) 524-3312 or at Mike.Heaton@illinois.gov.

Sincerely,



Michael A. Heaton
Project Manager
Leaking Underground Storage Tank Section
Bureau of Land

TE

Attachments: Attachment A
Appeal Rights

c: Amber Verbick, Groundwater & Environmental Services, Inc. (electronic copy),
AVerbick@gesonline.com
BOL File

Attachment A

Re: 0971155136 – Lake County
Mundelein / Graham Enterprise, Inc.
600 South Butterfield Road
Leaking UST Incidents 20011680, 20031221, and 20160611
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:

\$0.00	Drilling and Monitoring Well Costs
\$0.00	Analytical Costs
\$0.00	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$214.56	Paving, Demolition, and Well Abandonment Costs
\$3,848.02	Consulting Personnel Costs
\$251.60	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 (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

SECTION 2

1. \$272.34 for well abandonment costs previously approved by the Illinois EPA. Except for well abandonment costs for MW-20, the Illinois EPA previously approved well abandonment costs in a letter dated November 10, 2016. Pursuant to 35 Ill. Adm. Code 734.870(d)(1), for costs approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the Illinois EPA received the budget in which the costs were proposed. Once the Illinois EPA approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g., by proposing the cost in a subsequent budget).
2. \$108.65 for BETX water with MTBE analysis costs previously approved by the Illinois EPA. The Illinois EPA previously approved BETX water with MTBE analysis costs for MW-20 in a letter dated November 10, 2016. Pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.

In addition, pursuant to 35 Ill. Adm. Code 734.870(d)(1), for costs approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the Illinois EPA received the budget in which the costs were proposed. Once the Illinois EPA approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g., by proposing the cost in a subsequent budget).

3. \$14,286.22 for consulting personnel costs that 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, the Illinois EPA cannot determine that costs will not be used for activities exceeding the minimum requirements necessary to comply with the Act. Costs for activities exceeding the minimum requirements necessary to comply with the Act are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

In addition, without supporting documentation, the consulting personnel costs are unreasonable. 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).

Except for professional survey costs for the Environmental Land Use Control (ELUC), preparation, review, and certification costs for the current budget, and preparation, review, and certification costs for the "CACR Reimbursement Claim," the Illinois EPA previously approved consulting personnel costs for each task listed in the budget in a letter dated November 10, 2016. Insufficient information was provided to justify the additional consulting personnel costs.

4. \$536.56 for senior project manager costs that are unreasonable. 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).

Pursuant to 35 Ill. Adm. Code 734.850(b), consulting personnel costs must be based upon the work being performed, regardless of the title of the person performing the work. Owners and operators seeking payment must demonstrate to the Illinois EPA that the amounts sought are reasonable. The Illinois EPA believes either account technician or administrative assistant is an appropriate title for preparation of the "CACR Reimbursement Claim." The Illinois EPA approved 16 hours for an administrative assistant IV for preparation of the "CACR Reimbursement Claim (CACR)."

5. \$68.40 for mileage costs that are unreasonable. 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).

In accordance with a March 11, 2021 email from Amber Verbick of Groundwater & Environmental Services, Inc. to Michael Heaton of Illinois EPA, the vehicle costs for professional survey field work have been reduced from \$130.00 to \$61.50 (1 RT @ 110 miles @ \$0.56 per mile).

mh

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 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 April 20, 2021 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

USPS First Class Mail

Amber L. Verbick
Groundwater and Environmental Services, Inc.
1050 Corporate Boulevard, Suite C
Aurora, Illinois 60505

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
Division of Legal Counsel
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