

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAC'S CONVENIENCE STORES, LLC,)	
Petitioner,)	
)	
v.)	PCB 22-
)	(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

Jana Langnickel
Pinnacle Environmental Management
Support, Inc.
2001 West Sample Road, Suite 101
Pompano Beach, FL 33064

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD – CLAIM NUMBER 20171135 - 70321 with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
Dated: August 23, 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

MAC'S CONVENIENCE STORES, LLC,)	
Petitioner,)	
)	
v.)	PCB No. 22-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL)	Extension)
PROTECTION AGENCY,)	
Respondent.)	

REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD – CLAIM NUMBER 20171135 - 70321

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 December 7, 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:

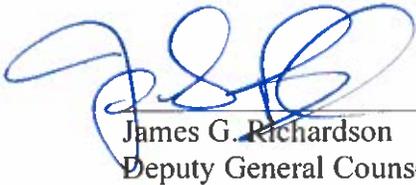
1. On or about July 30, 2021, the Illinois EPA issued a final decision to the Petitioner.
2. On August 20, 2021, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about August 4, 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: August 23, 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 #

7020 2450 0000 1647 0321

JUL 30 2021

Mac's Convenience Stores LLC
Attn: Charlene Troyer
555 Warrenville Road, Suite 400
Lisle, IL 60532-4311

Re: 1570155022 -- Randolph County
Coulterville / Circle K #1358
102 East Grant Street
Incident-Claim No.: 20171135 -- 70321
Queue Date: June 6, 2019
Leaking UST Fiscal File

Dear Ms. Troyer:

The Illinois Environmental Protection Agency (Illinois EPA) has completed the review of your application for payment from the Underground Storage Tank (UST) Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.Subpart F.

This information is dated June 4, 2019 and was received by the Illinois EPA on June 6, 2019. The application for payment covers the period from December 11, 2017 to January 26, 2019. The amount requested is \$95,633.54.

On June 6, 2019, the Illinois EPA received your application for payment for this claim. As a result of Illinois EPA's review of this application for payment, a voucher for \$76,596.38 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Illinois EPA received your complete request for payment of this application 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 Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

The deductible amount for this claim is \$5,000.00, which was previously withheld from your payment(s). Pursuant to Section 57.8(a)(4) of the Act, any deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted from any payment invoice paid to an eligible owner or operator.

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.

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 Mail Street Collinsville, IL 62234 (618) 346-5120

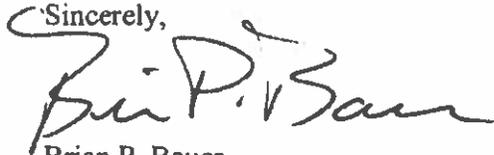
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

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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 require further assistance, please contact Nicole Howland of my staff at (217) 524-0435.

Sincerely,

A handwritten signature in black ink that reads "Brian P. Bauer". The signature is written in a cursive style with a large initial "B".

Brian P. Bauer
Leaking UST Claims
Leaking Underground Storage Tank Section
Bureau of Land

Attachment: A

c: Civil & Environmental Consultants, Inc.
Leaking UST Claims Unit

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
PO Box 19276
Springfield, IL 62794-9276
(217) 782-5544

Attachment A
Accounting Deductions

Re: 1570155022 -- Randolph County
Coulterville / Circle K #1358
102 East Grant Street
Incident-Claim No.: 20171135 -- 70320
Queue Date: June 6, 2019
Leaking UST Fiscal File

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$483.60, deduction for costs for remediation, 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).

In addition, deduction for costs associated with the compaction and density testing of backfill material. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(w). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.

The Holcomb Foundation Engineering Co., Inc. invoicing is being deducted for exceeding the minimum requirements of early action.

2. \$2,830.53, deduction for costs of corrective action incurred before providing notification of the release of petroleum to Illinois Emergency Management Agency in accordance with 35 Ill. Adm. Code 734.210. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(n).

Work listed as "Sewer Inspection" done by Illini Environmental, Inc. was done prior to the 12/12/17 IEMA date.

3. \$7,445.80 deduction for costs that exceed the adjusted Subpart H maximum payment amounts pursuant to Section 57.8(a)(1) of the Act and 35 Ill. Adm. Code 734.870(d)(1)(2)(3).

Activities listed as "Dewatering/Vapor Extraction", "Truck Clean Out", and "Transportation" by Illini Environmental, Inc. are included in the Subpart H rate for Groundwater/Free Product Removal Cost.

4. \$645.00, deduction for costs of corrective action incurred before providing notification of the release of petroleum to Illinois Emergency Management Agency in accordance with 35 Ill. Adm. Code 734.210. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(k) of the Act and 35 Ill. Adm. Code 734.630(n).

Ground water was removed prior to the IEMA date.

5. \$7,573.86, deduction for costs for personnel, 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.

In addition, deduction for site investigation or corrective action costs for personnel that 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).

Personnel costs in this claim are also present in the Free Product budget of 9/29/2020. The total cost of personnel is not reasonable within this budget. In addition, all the rates exceed the Subpart H maximum reimbursement rates for the approved budgets.

6. \$10.00 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.

7. \$48.36, adjustment in the handling charges due to the deduction(s) of ineligible costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.635.

Handling charges associated with the Holcomb Foundation Engineering Company, Inc. are not eligible for reimbursement.

8. \$0.01, deduction for costs that are based on mathematical errors. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(bb). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

An addition error existed on the Billing Summary page for the total requested amount.

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on August 23, 2021 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD - CLAIM NUMBER 20171135 - 70321 by the method(s) 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

Jana Langnickel
Pinnacle Environmental Management Support, Inc.
2001 West Sample Road, Suite 101
Pompano Beach, FL 33064

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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