

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BROADUS OIL,

Petitioner,

v.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY,

Respondent.

RECEIVED
CLERK'S OFFICE

DEC 15 2003

PCB 04-~~STATE~~ OF ILLINOIS
(UST a~~pollut~~) on Control Board

PETITION FOR REVIEW

NOW COMES Petitioner, BROADUS OIL, through its undersigned attorney, and pursuant to Section 40(a)(1) of the Environmental Protection Act, 415 ILCS 5/40(a)(1), and Section 105 Subpart D of this Board's procedural regulations, 35 Ill. Adm. Code 105.400-105.412, hereby seeks review of the final decision of the Respondent ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IEPA) dated September 8, 2003 and received by Petitioner on September 10, 2003(a true and correct copy of which is attached hereto, and incorporated herein, as Exhibit A), which deducted \$24,309.98 from Petitioner's LUST reimbursement application, and of the final decision of the IEPA dated August 6, 2003 and received by Petitioner on August 8, 2003(a true and correct copy of which is attached hereto, and incorporated herein, as Exhibit B), which rejected Petitioner's High Priority Corrective Action Plan Budget amendment. In support of this Petition, Petitioner states as follows:

1. Petitioner is owner/operator of a facility located at Main and Broadway Streets, Marseilles, LaSalle County, Illinois, at which leaking underground storage tanks were located, and remediation has taken place (LUST Incident Nos. 942364 and 970520).

2. On May 12, 2003, Petitioner submitted to the IEPA its High Priority Corrective Action Plan Budget amendment.

3. On August 8, 2003, Petitioner submitted to the IEPA its LUST reimbursement package for work performed between May 1, 1997 and July 31, 2003, requesting \$62,299.21 in reimbursement from the LUST Fund. The IEPA's final decision letter, issued September 8, 2003, granted less than that amount.

4. On September 18, 2003, this Board entered an order in this case acknowledging the parties' joint notice to extend the 35-day period for Petitioner to seek review of the IEPA's final decisions, and extending the date for Petitioner to file its petition for review until December 11, 2003.

5. Among other things, the IEPA deducted \$3,932.05 for personnel costs and \$20,357.65 for field purchases and other costs associated with High Priority site activities which the IEPA determined were over the approved budget amount. This determination is in error as a matter of law and fact.

6. Accordingly, the IEPA's final decision letter dated September 8, 2003, in total resulted in erroneous reimbursement determinations in the amount of \$24,309.98, which Petitioner seeks in this LUST Fund reimbursement appeal.

7. Also, the IEPA's final decision letter dated August 6, 2003, which rejected Petitioner's High Priority Corrective Action Plan Budget amendment, referenced Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c) and 732.503(b), but did not explain or specify why the Budget amendment was being rejected, in violation of Section 57.7(c)(4)(D). Further, this determination is in error as a matter of law and fact.

WHEREFORE, Petitioner, BROADUS OIL, requests that this Board reverse the IEPA's denial of \$24,309.98 in LUST Fund reimbursement, reverse the rejection of the High Priority Corrective Action Plan Budget amendment, award to Petitioner the amount in additional LUST Fund reimbursement, and award to Petitioner such other and further relief as may be within this Board's jurisdiction and authority.

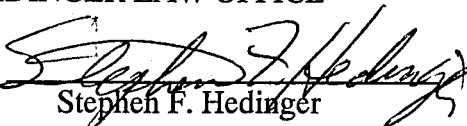
Respectfully submitted,

BROADUS OIL,
Petitioner,

By its attorney,

HEDINGER LAW OFFICE

By


Stephen F. Hedinger

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PCB 04-31
(UST appeal)

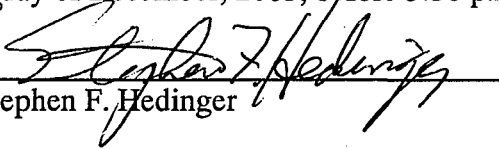
NOTICE OF FILING AND PROOF OF SERVICE

To: Pollution Control Board, Attn: Clerk
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PLEASE TAKE NOTICE that on the 10th day of December, 2003, we sent via U.S. first class mail to the Clerk of the Pollution Control Board the original and nine copies of the PETITION FOR REVIEW for filing in the above entitled cause.

The undersigned certifies that a true and correct copy of the PETITION FOR REVIEW was served upon each of the above-identified individuals via U.S. mail, by enclosing the same in envelopes properly addressed, with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office mail box, on the 10th day of December, 2003, before 5:30 p.m.


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THIS FILING IS SUBMITTED ON RECYCLED PAPER