

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

JUL 14 2003

STATE OF ILLINOIS
Pollution Control Board

OWENS OIL COMPANY,)
)
Petitioner,)
)
v.) PCB 03 - 197
) (UST Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

NOTICE OF FILING

TO: John Kim Dorothy Gunn
Special Assistant Attorney General Clerk of the Board
Illinois Environmental Protection Agency Illinois Pollution Control Board
1021 North Grand Avenue East James R. Thompson Center
P.O. Box 19276 Suite 11-500
Springfield, Illinois 62794-9276 100 West Randolph Street
Chicago, Illinois 60601

PLEASE TAKE NOTICE that on the Monday, July 14, 2003, filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original, executed copy of one Petition for Review of Illinois Environmental Protection Agency Decisions and Appearance for Carolyn S. Hesse.

Dated: July 14, 2003.

Respectfully submitted,

Owens Oil Company

By: Carolyn S. Hesse
One of Its Attorneys

Carolyn S. Hesse
Barnes & Thornburg
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
174687v1

CERTIFICATE OF SERVICE

I, on oath state that I have served the attached one Petition for Review and Appearance by placing a copy in an envelope addressed to:

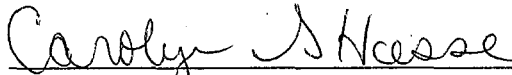
U.S. MAIL

John Kim
Special Assistant Attorney General
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

HAND DELIVERY

Dorothy Gunn
Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601

from One North Wacker Drive, Suite 4400, Chicago, Illinois, before the hour of 5:00 p.m., on this 14th Day of July, 2003.



Carolyn S. Hesse

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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CLERK'S OFFICE

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STATE OF ILLINOIS
Pollution Control Board

OWENS OIL COMPANY,)
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Petitioner,)
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v.) PCB 03 - 197
) (UST Appeal)
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PROTECTION AGENCY,)
)
Respondent.)

APPEARANCE

NOW COMES the undersigned, Carolyn S. Hesse, and enters an appearance for the
Petitioner, Owens Oil Company, in the above captioned matter.

Dated: July 14, 2003

Respectfully submitted,

Owens Oil Company

By: Carolyn S Hesse
One of Its Attorneys

Carolyn S. Hesse, Esq.
Barnes & Thornburg
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313

174684v1

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

OWENS OIL COMPANY,)	
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Petitioner,)	
)	
v.)	PCB 03 - 197
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

RECEIVED
CLERK'S OFFICE

JUL 14 2003

STATE OF ILLINOIS
Pollution Control Board

**PETITION FOR REVIEW OF ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY DECISIONS**

Owens Oil Company, by its attorney, Carolyn S. Hesse of Barnes & Thornburg, pursuant to the Illinois Environmental Protection Act, 415 ILCS 5/1 *et. seq.* (the "Act") and 35 Illinois Administrative Code Section 105.400 *et. seq.*, hereby appeals certain decisions by the Illinois Environmental Protection Agency (the "Agency").

1. Owens Oil Company ("Owens") is the owner of property located at 401 North Main, Greenfield, Greene County, Illinois. The site was a gasoline service station that had underground storage tanks (USTs) on the property, which stored gasoline.
2. LUST Incident Number 892547 was obtained following a site investigation.
3. On December 11, 2002, the Agency received Owens' complete request for reimbursement of costs from the Illinois Underground Storage Tank Fund (the "Request") for the period from June 1, 1998 to May 31, 1999 in the amount of \$43,173.32.

4. The Agency denied certain costs in the Request in a letter dated March 11, 2003, a copy of which is attached hereto as Exhibit A.
5. Owens is appealing this March 11, 2003 denial because the Agency denied certain costs by claiming that the owner/operator failed to demonstrate that the costs were reasonable.
6. Owens disagrees with the Agency's decision and believes that the costs submitted for reimbursement are reasonable corrective action costs and are the types of costs that are eligible for reimbursement under the Act and implementing regulations.
7. The Agency's letter denying reimbursement, Exhibit A, provides no further explanation of the Agency's reasons or bases for denial that could aid Petitioner in setting forth its grounds of appeal. Nevertheless, the Agency's denial is a final decision that Petitioner must appeal to the Board in order to preserve and enforce Petitioner's right to reimbursement under the UST Fund.
8. On April 18, 2003, the parties timely filed a joint notice to extend the appeal deadline. On May 1, 2003, the Board filed an order extending the appeal deadline until July 15 2003, a copy of which is attached hereto as Exhibit B. Pursuant to the Board's May 1, 2003 order, this appeal is timely filed.

WHEREFORE, Owens Oil Company respectfully requests that the Board enter an order that will provide that it be reimbursed from the UST Fund for its submitted costs and for its attorneys' fees and costs in bringing this appeal.

Respectfully submitted,

Owens Oil Company

By: Carolyn S. Hesse
One of Its Attorneys

Carolyn S. Hesse, Esq.
Barnes & Thornburg
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313

174580v5



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. Box 19276, SPRINGFIELD, ILLINOIS 62794-9276
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR RENEE CIPRIANO, DIRECTOR

217/782-6762

MAR 12 2003
CR

MAR 11 2003

Owens Oil Company
c/o John T. Owens Revocable Living
Trust dated August 10, 1990
Route 1, Box 184
Carrollton, IL 62016

Re: LPC #0610155002 -- Greene County
 Greenfield/Owens Oil Company
 401 North Main
 LUST Incident #892547
 LUST FISCAL FILE

Dear Sir/Madam:

The Agency has completed the review of the request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for the above-referenced facility. The invoices reviewed covered the period from June 1, 1998 to May 31, 1999. The amount requested was \$43,173.32.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated March 20, 1995. Listed in Attachment A are the costs which are not being reimbursed from this request and the reasons these costs are not being reimbursed.

On December 11, 2002, the Agency received your complete request for payment for this claim. As a result of the Agency's review of this claim, a voucher for \$40,672.07 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Agency received your complete request for payment of this claim. Subsequent claims that have been/are submitted will be processed based upon the date complete subsequent billings requests are received by the Agency.

This constitutes the Agency's final action with regard to the above invoices. An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 22.18b(g) and Section 40 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

ROCKFORD - 4302 North Main Street, Rockford, IL 61109
ELGIN - 595 South State, Elgin, IL 60120
BUREAU OF LANDS - 7620 N. University St., Peoria, IL 61614
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62777

PLAINFIELD - 60016 - (617) 294-4000
614 - (800) 693-5463
CHAMPAIGN - 61820 - (317) 278-5800
JESSUP - 62234 - (618) 346-5120

A

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:

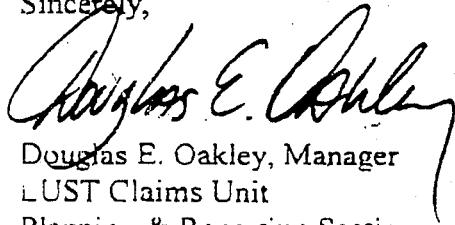
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
217/782-5544

If you have any questions, please contact Susan Brock of my staff or Jay Gaydosh of the technical staff at 217/782-6762.

Sincerely,



Douglas E. Oakley, Manager
LUST Claims Unit
Planning & Reporting Section
Bureau of Land

DEO:SB:jk\032963.doc

Attachment

cc: CW3M Company

Attachment A
Accounting Deductions

MAR 12 2003
CR

Re: LPC #0610155002 -- Greene County
Greenfield/Owens Oil Company
401 North Main
LUST Incident #892547
LUST FISCAL FILE

- | <u>Item #</u> | <u>Description of Deductions</u> |
|---------------|---|
| 1. | \$9.50, deduction for an adjustment in costs due to a lack of supporting documentation (Section 22.18b(d)(4)(C) of the Environmental Protection Act). |

The following deductions have been made for postage, no receipts:

August 1998 (\$2.02); September 1998 (\$1.10); October 1998 (\$1.10); January 1999 (\$1.10); February 1999 (\$1.43); March 1999 (\$0.33); April 1999 (\$2.42)

- | | |
|----|--|
| 2. | \$16.75, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act). |
|----|--|

Deduction for mileage November 10, 1998 for M. Staab. Traveled the same day and worked the same hours as F. Jones (\$8.75).

Deduction for unreasonable cost for General Project Manager, March 1999 (\$8.00).

\$26.25 Total Accounting Deductions

DEO:SB:jk\032963.doc

Attachment A
Technical Deductions

Re: LPC #0610155002 - - Grene County
Greenfield/Owens Oil Company
401 Main St.
LUST Incident No. 892547
LUST FISCAL FILE

Item # Description of Deductions

1. \$2,475.00, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

JFG\892547-3 LCU Attachment A

ILLINOIS POLLUTION CONTROL BOARD

May 1, 2003


OWENS OIL COMPANY (June 1, 1998 to)
May 31, 1999),)
)
Petitioner,)
)
v.) PCB 03-197
) (UST Appeal)
ILLINOIS ENVIRONMENTAL) (90-Day Extension)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On April 18, 2003, the parties timely filed a joint notice to extend the 35-day period within which Owens Oil Company may appeal a March 11, 2003 determination of the Illinois Environmental Protection Agency (Agency). See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402, 105.406. Because the postmark date of the joint request is within the time for filing, the joint request was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency approved the payment of corrective action costs, with modifications, for Owens Oil Company's leaking underground petroleum storage tank facility located at 401 North Main, Greenfield, Greene County. The Board extends the appeal period until July 15, 2003, as the parties request. See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. If Owens Oil Company fails to file an appeal on or before that date, the Board will dismiss this case and close the docket.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 1, 2003, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

