

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BEELINE PROPERTIES, LLC,)	
)	
Petitioner,)	
)	
v,)	PCB No. 24-074
)	(LUST Fund Appeal)
)	
ILLINOIS ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING/PROOF OF SERVICE

Don Brown, Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, IL 60601-3218
E-mail: don.brown@illinois.gov

Melanie A. Jarvis
Deputy Chief Counsel – Land Enforcement
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
E-mail: melanie.jarvis@illinois.gov

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board a Petition for Review of LUST Fund Determination, a copy of which is herewith served upon the above parties of record in this cause. The undersigned hereby certifies that a true and correct copy of this Notice of Filing/Proof of Service, together with a copy of the document described above, were today served on Respondent by electronic and/or physical mail to the addresses listed above, on this 21st day of August, 2024.

Respectfully submitted,
BEELINE PROPERTIES, LLC, Petitioner

By: 
Stephen F. Hedinger

Sorling Northrup
Stephen F. Hedinger, of Counsel
1 North Old State Capitol Plaza, Suite 200
P.O. Box 5131
Springfield, IL 62705
Telephone: (217) 544-1144
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E-mail: sfhedinger@sorlinglaw.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

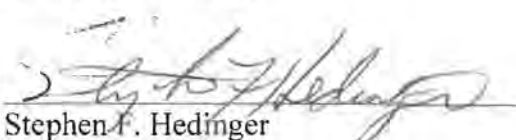
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AGENCY,)	
)	
Respondent.)	

ENTRY OF APPEARANCE

The undersigned, Stephen F. Hedinger and the firm Sorling Northrup, hereby enter their appearance as counsel of record in this proceeding for and on behalf of Petitioner, BEELINE PROPERTIES, LLC.

Date: August 21, 2024

Respectfully submitted,
SORLING NORTHRUP

By: 
Stephen F. Hedinger

Sorling Northrup
Stephen F. Hedinger, of Counsel
1 North Old State Capitol Plaza, Suite 200
P.O. Box 5131
Springfield, IL 62705
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PETITION FOR REVIEW OF LUST FUND DETERMINATION

NOW COMES Petitioner, BEELINE PROPERTIES, LLC, through its undersigned attorneys, Sorling Northrup, Stephen F. Hedinger, of counsel, and pursuant to Sections 40 and 57.8(i) of the Illinois Environmental Protection Act, 415 ILCS 5/40 and 5/57.8(i), hereby appeals the Illinois Environmental Protection Agency's ("Illinois EPA") April 11, 2024 final decision denying payment of any part of Petitioner's December 8, 2023 request for reimbursement from the Leaking Underground Storage Tank Fund ("LUST Fund"). In support, Petitioner states as follows:

1. Petitioner operates a gasoline service station located at 430 Stanford Ave., Springfield, Illinois (hereinafter the "Facility"), and operates underground storage tanks ("USTs") containing petroleum products at that location. The Facility has been assigned Illinois EPA facility ID number 1671203337.

2. In 1999, the Facility was owned and operated by Petitioner's predecessor, Illinois Ayers Oil Company (hereinafter "Illinois Ayers"), which reported to the Illinois Emergency

Management Agency a release of petroleum products from one or more of the USTs at the Facility. The reported release was assigned Incident Number 19991372 (hereinafter "the Incident").

3. In 2008, Illinois Ayers submitted, and the Illinois EPA approved, a High Priority Corrective Action Plan and Budget to address the Incident.

4. In 2019, the Illinois EPA sent to Illinois Ayers a letter stating that the Illinois EPA had conducted a record review for the Facility which revealed limited information concerning the Incident, and requesting that Illinois Ayers contact the Illinois EPA concerning the Incident within 30 days of the letter's date.

5. On or about September 27, 2021, the Illinois EPA sent to Illinois Ayers another letter concerning the Incident, noting that as of that date, remediation at the Facility remained incomplete because "[b]oth soil and groundwater contamination are still present and have yet to be defined both on and off-site," and so "additional investigatory action work is warranted at the property."

6. By letter dated December 28, 2022, Petitioner notified the Illinois EPA that it was now the Facility Owner and as such would close the outstanding Incident number; the letter accompanied a completed "Election to Proceed as 'Owner'" form pursuant to section 57.2 of the Environmental Protection Act, 415 ILCS 5/57.2.

7. On or about November 7, 2023, Petitioner notified the Illinois EPA that it had completed site investigation activities that had been approved in 2008, and submitted supporting information including a site map, soil and groundwater analytical results, boring logs, and other relevant information.

8. By submittal on December 8, 2023 (hereinafter the "Reimbursement Request"), Petitioner requested reimbursement of \$17,676.87 from the LUST Fund for costs incurred in

conducting the site investigation activities at the site which had been authorized and approved by the Illinois EPA in 2008.

9. By letter dated April 11, 2024 (hereinafter the "Final Action"), the Illinois EPA informed Petitioner of its final action with respect to the Reimbursement Request, which denied any payment from the LUST Fund of the costs requested by Petitioner, stating as the basis for the denial that the incurred costs that had been subject of the budget approved in 2008 had already been paid and were therefore unreasonable, and that the costs had not been adequately documented by Petitioner. A true and correct copy of the Final Action is attached hereto and incorporated herein as Exhibit 1.

10. With this Petition, Petitioner appeals the Final Action on the grounds that the remediation work addressed by the Reimbursement Request was fully authorized and budgeted by prior Illinois EPA action, that the work authorized by the 2008 approval had not been completed or conducted, regardless of whether the Illinois EPA had previously authorized reimbursement for the work, and that the costs and expenses sought by the submittal were fully and adequately documented by Petitioner.

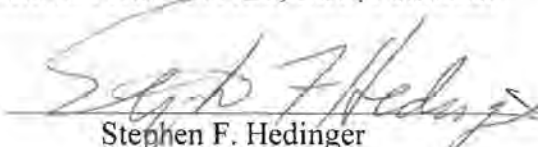
11. Petitioner accordingly requests that this Board award Petitioner an additional total of \$17,676.87 for reimbursement from the LUST Fund, award to Petitioner its attorney fees incurred in seeking this additional reimbursement, and order and direct the Illinois EPA to promptly reimburse Petitioner for the challenged costs.

WHEREFORE Petitioner, BEELINE PROPERTIES, LLC, respectfully requests that this Board reverse the Illinois EPA's reimbursement denial, award to Petitioner the reimbursement amounts in the Reimbursement Request, award Petitioner its attorney fees for pursuing this action,

and grant to Petitioner all such other and further relief as the Board deems available and appropriate.

Dated: August 21, 2024

Respectfully submitted,
BEELINE PROPERTIES, LLC, Petitioner

By: 
Stephen F. Hedinger

Sorling Northrup
Stephen F. Hedinger, of Counsel
1 North Old State Capitol Plaza, Suite 200
P.O. Box 5131
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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 #

9589 0710 5270 1326 4524 57

APR 11 2024

Beeline Properties, LLC
C/O Perry Environmental, Inc
900 South Spring Street
Springfield, Illinois 62704

Re: 1671203337 -- Sangamon County
Springfield/Illinois Ayers Oil Company
430 Stanford Avenue
Incident-Claim No.: 991372 -- 74387
Queue Date: December 13, 2023
Leaking UST Fiscal File

Dear Mr. Joshi:

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 December 08, 2023, and was received by the Illinois EPA on December 13, 2023. The application for payment covers the period from January 25, 2023, to December 7, 2023. The amount requested is \$17,676.87.

On December 13, 2023, the Illinois EPA received your application for payment for this claim. As a result of the Illinois EPA's review of this application for payment, a voucher cannot be prepared for submission to the Comptroller's office for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date 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 \$10,000.00, 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.

2125 S. First Street, Champaign, IL 61820 (217) 278-5800
115 S. LaSalle Street, Suite 2203, Chicago, IL 60603
1101 Eastport Plaza Dr., Suite 100, Collinsville, IL 62234 (618) 346-5120
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000

595 S. State Street, Elgin, IL 60123 (847) 608-3131
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

PLEASE PRINT ON RECYCLED PAPER



Attachment A
Accounting Deductions

Re: 1671203337 – Sangamon County
Springfield / Illinois Ayers Oil Co
430 Stanford Avenue
Incident-Claim No.: 991372 -- 74387
Queue Date: December 13, 2023
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. \$17,676.87, deduction for costs due to no approved free product removal, site investigation, or corrective action budget. The Illinois EPA is unable to approve billings for free product removal conducted more the 45 days after the confirmation of the presence of free product, site investigation or corrective action activities without an approved budget pursuant to Section 57.8(a)(1) of the Act and 35 Ill. Adm. Code 734.605(f).

Deduction for site investigation or corrective action costs 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).

In addition, deduction for costs, 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 and 35 Ill. Adm. Code 734.630(o) 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.

- There is no budget approved for the costs being requested in the above referenced claim. The budget received by the Illinois EPA on June 27, 2008, as referenced on the *General Information for the Budget and Billing Forms* form included in the above referenced submittal, was previously utilized, i.e. all of the work associated with the 2008 plan and budget has already been completed. This work has already been reimbursed by the Illinois EPA in the claim received by the Illinois EPA on January 27, 2009.

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 Amanda Ausmus of my staff at (217) 524-3860 or at Amanda.Ausmus@illinois.gov.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Rossi for J. Rossi". The signature is written in a cursive style.

Jennifer Rossi
Interim Unit Manager
Special Projects and Financial Unit
Leaking Underground Storage Tank Section
Bureau of Land

Attachments: A
Appeal Rights

c: Gouri Joshi
Leaking UST Claims Unit