

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 - 195  
) (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 14<sup>th</sup> Day of July, 2003.

  
\_\_\_\_\_  
Carolyn S. Hesse

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

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STATE OF ILLINOIS  
Pollution Control Board

OWENS OIL COMPANY, )

Petitioner, )

v. )

PCB 03 - 195  
(UST Appeal)

ILLINOIS ENVIRONMENTAL )  
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**

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JUL 14 2003

STATE OF ILLINOIS  
*Pollution Control Board*

OWENS OIL COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03 - 195
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**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 May 1, 1999 to December 31, 1999 in the amount of \$11,850.79.

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

174580v3



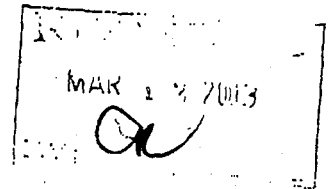
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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. BLAGOIEVICH, GOVERNOR      RENEE CIPRIANO, DIRECTOR

217/782-6762

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 May 1, 1999 to December 31, 1999. The amount requested was \$11,850.79.

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 \$10,564.98 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 LAND - PEORIA - 7620 N. University St., Peoria, IL 61614  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62776



PLAINFIELD - 60016 - 00471 294 3000  
16614 - 18091 693 5463  
CHAMPAIGN - 61820 - 42171 278 5000  
MONTICELLO - 62254 - 00160 310 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:

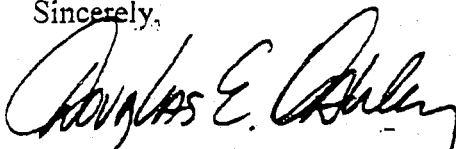
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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\032966.doc

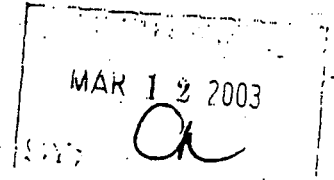
Attachment

cc: CW3M Company



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.      \$1,210.60, deduction in personnel costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).
2.      \$70.59, deduction in subcontractors costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

JFG\892547-4 LCU Attachment A

Attachment A  
Accounting Deductions

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

Item #      Description of Deductions

1.      \$4.62, 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:

May 1999 (\$1.10); June 1999 (\$0.66); July 1999 (\$1.10); August 1999 (\$0.66);  
September 1999 (\$1.10)

\$4.62 Total Accounting Deductions

DEO:SB:jk\032966.doc

ILLINOIS POLLUTION CONTROL BOARD  
May 1, 2003


OWENS OIL COMPANY (May 1, 1999 to December 31, 1999),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-195
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	(90-Day Extension)
	)	
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

