

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

JUL 7 2003

STATE OF ILLINOIS  
Pollution Control Board

ROYER OIL COMPANY, )  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

PCB 03 - 180, PCB 03-186  
PCB 03 - 187

NOTICE OF FILING

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

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

PLEASE TAKE NOTICE that on the **Monday, July 7, 2003**, filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original, executed copy of two Petitions for Review of Illinois Environmental Protection Agency Decisions, Motion to Consolidate and Motion for Leave to File Amended Petition.

Dated: July 7, 2003.

Respectfully submitted,

**Royer 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  
173713v1

**CERTIFICATE OF SERVICE**

I, on oath state that I have served the attached Petitions for Review, Motion to Consolidate, and Motion to Amend 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 7<sup>th</sup> Day of July, 2003.



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

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

JUL 7 2003

ROYER OIL COMPANY, )  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB 03 - 180

**MOTION FOR LEAVE TO FILE AMENDED PETITION FOR REVIEW**

NOW COMES Royer Oil Company by its attorney, Carolyn Hesse of Barnes & Thornburg, pursuant to the Environmental Protection Act, 415 ILCS 5/1, *et seq.*, (the "Act") and 35 Ill. Adm. Code Section 5.400, *et seq.*, hereby requests leave to file an Amendment to the Petition for Review of Illinois Environmental Protection Agency Decisions for the above-captioned matter. In support of this Motion, Petitioner states as follows:

1. On July 1, 2003, Petitioner filed an appeal of Illinois Environmental Protection Agency decisions related to denial of a certain request for reimbursement.
2. In the Petition, Petitioner inadvertently listed the site LPC No. as the LUST Incident Number.
3. Petitioner wishes to correct this error and has attached hereto an Amended Petition containing the correct LUST Incident Number.

WHEREFORE, Petitioner, Royer Oil Company, respectfully requests that the Board grant it leave to file the Amended Petition in PCB 03-180.

Dated: July 7, 2003

Respectfully submitted,

**Royer 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  
173763v1

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

ROYER OIL COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03 - 180
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

Royer 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. Royer Oil Company ("Royer") is the owner of property located at 200 South Third, Greenville, Bond County, Illinois. The site was a gasoline service station that had underground storage tanks (USTs) on the property, which stored gasoline and diesel fuel.
2. LUST Incident Number 900202 was obtained following a site investigation.
3. On July 18, 2002, the Agency received Royer's request for reimbursement of costs from the Illinois Underground Storage Tank Fund (the "Request") for the period from January 1, 1998 to September 30, 1998, in the amount of \$45,659.12.

4. The Agency denied certain costs in the Request in a letter dated February 25, 2003, a copy of which is attached hereto as Exhibit A.
5. Royer is appealing this February 25, 2003 denial because the Agency denied certain costs by claiming that the owner/operator failed to demonstrate that the costs were reasonable.
6. Royer 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 2, 2003, the parties timely filed a joint notice to extend the appeal deadline. On April 17, 2003, the Board filed an order extending the appeal deadline until July 1, 2003, a copy of which is attached hereto as Exhibit B. Pursuant to the Board's April 17, 2003 order, this appeal is timely filed.

WHEREFORE, Royer 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,

**Royer 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

173770v1



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

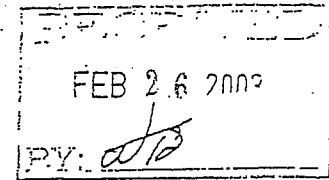
1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762



FEB 25 2003

Royer Oil Company
Attn: Stephen Royer
911 Railroad Street
Greenville, Illinois 62246

Re: LPC #0050055011 -- Bond County
Greenville/Royer Oil Co.
200 South Third
LUST Incident #900202
LUST FISCAL FILE

Dear Mr. Royer:

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 January 1, 1998 to September 30, 1998. The amount requested was \$45,659.12.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated August 5, 1996. 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 July 18, 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 \$41,028.81 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 owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or

ROCKFORD - 4302 North Main Street, Rockford, IL 61109 - (815) 398-3333
ELGIN - 595 South State, Elgin, IL 60120 - (815) 398-3333
OFFICE OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62734 - (217) 278-5800
Champaign, IL 61820 - (217) 278-5800
Greenville, IL 62234 - (618) 346-5120

A



FEB 26 2003

BY: *[Signature]*

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 Doug Tolan of my staff, or Karl Kaiser of the technical staff, at 217/782-6762.

Sincerely,

*[Signature of Douglas E. Oakley]*

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

DEO:DMT:ct\0331411.doc

cc: CW3M Company

Attachment A  
Technical Deductions

FEB 26 2003

*sto*

Re: LPC #0050055011 -- Bond County  
Greenville/Royer Oil Company  
200 South Third Street  
LUST Incident No. 900202  
LUST FISCAL FILE

Item #      Description of Deductions

1.      \$4,630.31, deduction in excessive groundwater treatment system lease/operation and maintenance costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

KEK

*KEK*

ILLINOIS POLLUTION CONTROL BOARD

April 17, 2003

ROYER OIL COMPANY,

Petitioner,

v.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Respondent.

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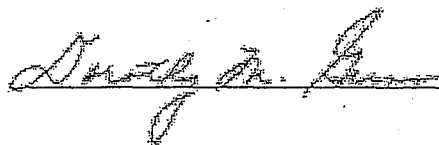
PCB 03-180  
(UST Appeal)  
(90-Day Extension)

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

On April 4, 2003, the parties timely filed a joint notice to extend the 35-day period within which Royer Oil Company may appeal a February 25, 2003 determination of the Illinois Environmental Protection Agency (Agency). See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(c), 105.208(a), (c). 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 corrective action costs, with modifications, for Royer Oil Company's leaking underground petroleum storage tank facility located at 200 South Third, Greenville, Bond County. The Board extends the appeal period until July 1, 2003, as the parties request. See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.208(a). If Royer 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 April 17, 2003, by a vote of 6-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

JUL 7 2003

STATE OF ILLINOIS  
Pollution Control Board

ROYER OIL COMPANY, )

Petitioner, )

v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )

Respondent. )

PCB 03 - 180, PCB 03-186

PCB 03- 187

MOTION TO CONSOLIDATE

NOW COMES Royer Oil Company by one of its attorneys, Carolyn Hesse of Barnes & Thornburg, pursuant to 35 Ill. Adm. Code 101.406 and hereby moves to consolidate three appeals of Illinois Environmental Protection Agency ("Agency") decisions that were filed on July 1, 2003 and July 7, 2003. In support of this motion, Petitioner states as follows:

1. One underground storage tank ("UST") appeal was filed on July 1, 2003 and two UST appeals were filed on July 7, 2003. The case numbers are: PCB 03 - 180, PCB 03- 186, and PCB 03-187.
2. All three appeals involve a denial of reimbursement of costs from the Leaking Underground Storage Tank Trust Fund to perform corrective action activities at property located at 200 South Third, Greenville, Bond County, Illinois. This property is owned by Royer Oil Company.
3. The corrective action activities related to all appeals are related to corrective action activities for the same underground storage tanks that leaked.

4. The three different Agency letters denying reimbursement apply to activities at the site, but cover differing periods of time and different costs and expenses related to the corrective action activities.
5. Because the factual basis of the three petitions are closely related, consolidating the three petitions into one proceeding will be more convenient to the Board, the Agency and Petitioner; consolidation will also result in a more expeditious and complete determination of the claims and would not cause material prejudice to any party. Further, consolidation of the claims will provide for a more efficient administration of justice and reduce duplication of efforts that would be required if the appeals were handled separately. The burden of proof for the three appeals is identical and will be based on nearly identical facts and background information.

WHEREFORE, Petitioner, Royer Oil Company, respectfully requests that the Board grant its motion to consolidate the three petitions filed on behalf of Royer Oil Company.

Dated: July 7, 2003

Respectfully submitted,

**Royer 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  
173705v1

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CLERK'S OFFICE

JUL 7 2003

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

ROYER OIL COMPANY, )  
)  
Petitioner, )  
)  
v. ) PCB 03 - 187  
) (UST Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

PETITION FOR REVIEW OF ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY DECISIONS

Royer 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. Royer Oil Company ("Royer") is the owner of property located at 200 South Third, Greenville, Bond County, Illinois. The site was a gasoline service station that had underground storage tanks (USTs) on the property, which stored gasoline and diesel fuel.
2. LUST Incident Number 900202 was obtained following a site investigation.
3. On July 23, 1996, the Agency received Royer's complete request for reimbursement of costs from the Illinois Underground Storage Tank Fund (the "Request") for the period from March 1, 1996 to May 31, 1996, in the amount of \$33,967.28.

4. The Agency denied certain costs in the Request in a letter dated March 3, 2003, a copy of which is attached hereto as Exhibit A.
5. Royer is appealing this March 3, 2003 denial because the Agency denied certain costs by claiming that the owner/operator failed to demonstrate that the costs were reasonable.
6. Royer 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 14, 2003, the parties timely filed a joint notice to extend the appeal deadline. On April 17, 2003, the Board filed an order extending the appeal deadline until July 7, 2003, a copy of which is attached hereto as Exhibit B. Pursuant to the Board's April 17, 2003 order, this appeal is timely filed.

WHEREFORE, Royer 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,

**Royer 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

173688v1





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 03 2003

MAR 3 2003  
*CK*

Royer Oil Company  
Attention: Stephen L. Royer  
911 Railroad Street  
Greenville, IL 62246

Re: LPC #0050055011 -- Bond County  
Greenville/Royer Oil Company  
200 South Third  
LUST Incident #900202  
LUST FISCAL FILE

Dear Mr. Royer:

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 March 1, 1996 to May 31, 1996. The amount requested was \$33,967.28.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated August 5, 1996. 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 July 23, 1996, 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 \$26,921.64 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.

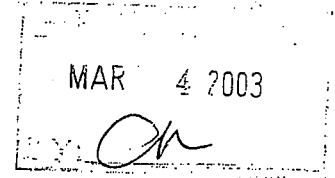
This constitutes the Agency's final action with regard to the above invoices. An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 22.18b(g) and Section 40 of the Act by filing a petition for a hearing within 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 owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463  
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

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 Kevin Mably of my staff or Karl Kaiser of Cliff Wheeler's staff at 217/782-6762.

Sincerely,

A handwritten signature in dark ink that reads "Douglas E. Oakley". The signature is written in a cursive style with a large, sweeping "D" and "O".

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

DEO:KM:jk\033103.doc

Attachment

cc: CW3M Company

Attachment A  
Accounting Deductions

MAR 4 2003  
*On*

Re: LPC #0050055011 -- Bond County  
Greenville/Royer Oil Company  
200 South Third  
LUST Incident #900202  
LUST FISCAL FILE

Item #      Description of Deductions

1.      \$402.56, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

CW3M Company-dated March 1996	\$137.13	No handling invoice billed direct to owner/operator
April 1996	\$242.99	No handling invoice billed direct to owner/operator
May 1996	\$20.03	Tools-Lowes
May 1996	\$2.41	Handling on denied cost

\$402.56 Total Accounting Deductions

DEO:KM:jk\033103.doc

Attachment A  
Technical Deductions

MAR 4 2003

*CM*

Re: LPC #0050055011 – Bond County  
Greenville/Royer Oil Company  
200 South Third  
LUST Incident #900202  
LUST FISCAL FILE

Item #      Description of Deductions

1.      \$6,643.08, deduction in excessive groundwater treatment lease/operation and maintenance costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

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ILLINOIS POLLUTION CONTROL BOARD

April 17, 2003

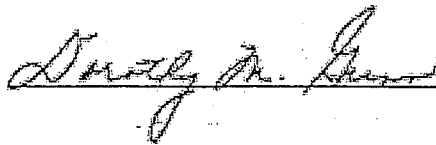
ROYER OIL COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-187
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	(90-Day Extension)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

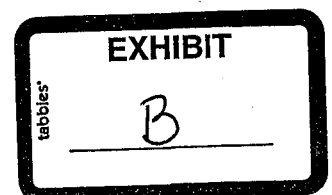
On April 14, 2003, the parties timely filed a joint notice to extend the 35-day period within which Royer Oil Company may appeal a March 3, 2003 determination of the Illinois Environmental Protection Agency (Agency). See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(c), 105.208(a), (c). Because 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 reimbursement of corrective action plan costs, with modifications, for Royer Oil Company's leaking underground petroleum storage tank facility located at 200 South Third, Greenville, Bond County. The Board extends the appeal period until July 7, 2003, as the parties request. See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.208(a). If Royer 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 April 17, 2003, by a vote of 6-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board



BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

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STATE OF ILLINOIS  
Pollution Control Board

ROYER OIL COMPANY, )  
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v. ) PCB 03 - 186  
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ILLINOIS ENVIRONMENTAL )  
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**PETITION FOR REVIEW OF ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY DECISIONS**

Royer 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. Royer Oil Company ("Royer") is the owner of property located at 200 South Third, Greenville, Bond County, Illinois. The site was a gasoline service station that had underground storage tanks (USTs) on the property, which stored gasoline and diesel fuel.
2. LUST Incident Number 900202 was obtained following a site investigation.
3. On February 26, 2002, the Agency received Royer's complete request for reimbursement of costs from the Illinois Underground Storage Tank Fund (the "Request") for the period from June 1, 1997 to December 31, 1997, in the amount of \$32,398.76.

4. The Agency denied certain costs in the Request in a letter dated March 3, 2003, a copy of which is attached hereto as Exhibit A.
5. Royer is appealing this March 3, 2003 denial because the Agency denied certain costs by claiming that the owner/operator failed to demonstrate that the costs were reasonable.
6. Royer 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 14, 2003, the parties timely filed a joint notice to extend the appeal deadline. On April 17, 2003, the Board filed an order extending the appeal deadline until July 8, 2003, a copy of which is attached hereto as Exhibit B. Pursuant to the Board's April 17, 2003 order, this appeal is timely filed.

WHEREFORE, Royer 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,

**Royer 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

173697v1





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 03 2003

MAR 5 2003

Royer Oil Company  
Attn: Stephen L. Royer  
911 Railroad Street  
Greenville, Illinois 62246

Re: LPC #0050055011 -- Bond County  
Greenville/Royer Oil Company  
200 South Third  
LUST Incident #900202  
LUST FISCAL FILE

Dear Mr. Royer:

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, 1997 to December 31, 1997. The amount requested was \$32,398.76.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated August 5, 1996. 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 February 26, 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 \$31,701.13 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

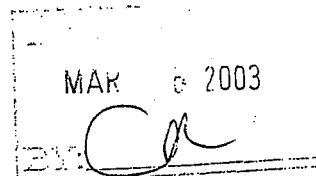
ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463  
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

Page 2

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  
3-12/814-3620



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 Kevin Mably of my staff or Karl Kaiser of Cliff Wheeler's staff at 217/782-6762.

Sincerely,

Handwritten signature of Douglas E. Oakley.

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

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Attachments

cc: CW<sup>3</sup>M

Attachment A  
Accounting Deductions

MAR 6 2003

Re: LPC #0050055011 -- Bond County  
Greenville/Royer Oil Company  
200 South Third  
LUST Incident No. 900202  
LUST FISCAL FILE

Item #      Description of Deductions

1.      \$339.13, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

CW <sup>3</sup> M Company – dated 6-97	\$22.00 Personnel
7-97	\$24.00 Personnel
8-97	\$17.00 Personnel
9-97	\$89.00 Personnel
10-97	\$134.00 Personnel
11-97	\$21.00 Personnel
12-97	\$32.00 Personnel
10-97	\$0.13 Handling

\$339.13 – Total Accounting Deductions

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Attachment A  
Technical Deductions

MAR 5 2003

*CM*

Re: LPC #0050055011 -- Bond County  
Greenville/Royer Oil Company  
200 South Third  
LUST Incident No. 900202  
LUST FISCAL FILE

Item #    Description of Deductions

1.        \$358.50, deduction in excessive groundwater treatment system lease/operation and maintenance costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

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ILLINOIS POLLUTION CONTROL BOARD

April 17, 2003

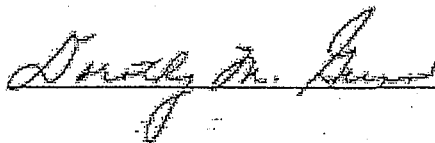
ROYER OIL COMPANY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 03-186  
 ) (UST Appeal)  
 ILLINOIS ENVIRONMENTAL ) (90-Day Extension)  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

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

On April 14, 2003, the parties timely filed a joint notice to extend the 35-day period within which Royer Oil Company may appeal a March 3, 2003 determination of the Illinois Environmental Protection Agency (Agency). See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(c), 105.208(a), (c). 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 reimbursement of corrective action plan costs, with modifications, for Royer Oil Company's leaking underground petroleum storage tank facility located at 200 South Third, Greenville, Bond County. The Board extends the appeal period until July 8, 2003, as the parties request. See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.208(a). If Royer 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 April 17, 2003, by a vote of 6-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

EXHIBIT  
B