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**BEFORE THE POLLUTION CONTROL BOARD SEP 15 2003
OF THE STATE OF ILLINOIS**

STATE OF ILLINOIS
Pollution Control Board

BROADUS OIL,)
)
Petitioner,)
)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 04- 31
(LUST Appeal – Ninety Day Extension)

NOTICE


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

Erin E. Curley
Environmental Department Manager
Midwest Engineering Services, Inc.
4243 West 166th Street
Oak Forest, IL 60452

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent


John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: September 11, 2003

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Pollution Control Board

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ILLINOIS ENVIRONMENTAL)
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)
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**REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, John J. Kim, Assistant Counsel and Special Assistant Attorney General, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to December 11, 2003, or any other date not more than a total of one hundred twenty-five (125) days from the date of service of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On August 6, 2003, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On September 10, 2003, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The Petitioner represented that the final decision was received on August 8, 2003. (Exhibit B)
3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: September 11, 2003

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL

7002 3150 0000 1224 2414

AUG 06 2003

Broadus Oil Corporation
Mr. Steven Broadus
1006 West Main Street
Streator, IL 61364

Re: LPC # 0990500004 -- LaSalle County
Marseilles/ Broadus Oil
Main and Broadway St.
LUST Incident No. 942364 and 970520
LUST Technical File

Dear Mr. Broadus:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan Budget amendment (budget) submitted for the above-referenced incident. This budget, dated May 12, 2003, was received by the Illinois EPA on July 24, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The budget is rejected for the reason(s) listed below (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c) and 732.503(b)).

Pursuant to 35 Ill. Adm. Code 732.405(d), plans submitted to the Agency for review and approval, rejection or modification in accordance with the procedures in Subpart E must be submitted prior to the issuance of a No Further Remediation Letter. This budget was received after the December 17, 2002 issuance of the No Further Remediation Letter.

All future correspondence must be submitted to:

Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

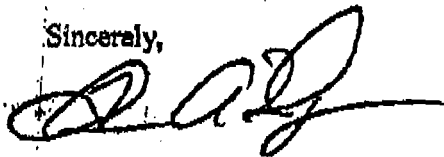
Page 2

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

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 need further assistance, please contact Dave Myers at 217/785-7491.

Sincerely,



Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

TAH:DM:drm\amHPCAPBUDDen.doc

Attachment: Appeal Rights

c: Rapps Engineering and Applied Science
Division File

Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4)(D) 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 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, IL 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
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544



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

SEP 08 2003

CERTIFIED MAIL #

70012310000212805497

Broadus Oil Corporation of Illinois
Attn: Steven P. Broadus
1006 West Main Street
Streator, Illinois 61364

Re: LPC #0990500004 -- LaSalle County
Marseilles/Broadus Oil
Main & Broadway Streets
LUST Incident No. 942364
LUST FISCAL FILE

Dear Mr. Broadus:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced LUST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), and 35 Ill. Adm. Code 732, Subpart F. This information is dated August 8, 2003 and was received by the Agency on August 12, 2003. The application for payment covers the period from May 1, 1997 to July 31, 2003. The amount requested is \$62,299.21.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the billing submittal received by the Agency on August 29, 1996 for \$12,352.33. 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.

On August 12, 2003, the Agency received your complete application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher for \$37,989.23 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 application for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date complete subsequent application for payment requests are received by the Agency. This constitutes the Agency's final action with regard to the above application(s) for payment.

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) and Section 40 of the Act by filing a

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) 278-5400
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 788-6892 • 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

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 applicant 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:

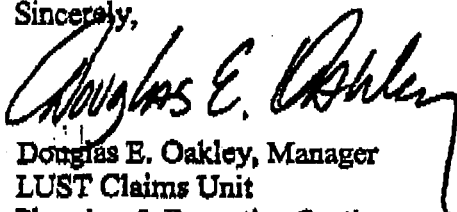
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

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 or require further assistance, please contact Niki Weller of my staff at 217/782-6762.

Sincerely,



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

DEO:NW:ct\031178.doc

Attachment

cc: Rapps Engineering & Applied Science

Attachment A
Accounting Deductions

Re: LPC #0990500004 -- LaSalle County
Marseilles/Broadus Oil
Main & Broadway Streets
LUST Incident No. 942364
LUST Fiscal File

Citations in this attachment are from and the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$24,289.70, deduction for costs associated with High Priority site activities. The billings submitted exceed the approved budget amounts. The Illinois EPA is unable to approve billings that exceed the approved budget amounts. (Section 57.8(a)(1) of the Act and 35 Ill. Adm. Code 732.601(f))

A deduction is being made in the amount of \$3,932.05 from the Personnel costs. The costs are over the approved budget amount.

A deduction is being made in the amount of \$20,357.65 from the Field Purchases and Other Costs. The costs are over the approved budget amount.

2. \$19.02, deduction for costs which are unreasonable as submitted. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh))

A deduction for costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs were not used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).

Deductions are being made from Other Costs for:

Outside Copies/Blueprint requested amt. \$10.84	amount of invoice \$9.85	deduction \$9.99
Outside Copies/Blueprint requested amt. \$46.20	amount of invoice \$42.00	deduction \$4.20
Mail/Express requested amt. \$14.09	amount of receipt \$12.81	deduction \$1.28
Mail/Express requested amt. \$23.00	amount of receipt \$10.45	deduction \$12.55

The actual amounts spent listed on the invoices/receipts were different than the amount requested. It appeared there was a markup or handling charge applied to the requested amount. Then a handling charge was applied also. A handling or markup cannot be applied twice.



midwest engineering services, inc.

geotechnical • environmental • materials engineers

4243 W. 166th Street
Oak Forest, IL 60452
708-535-9981
FAX 708-535-9987
www.midwesteng.com

VIA FACSIMILE ONLY

September 10, 2003

Mr. John Kim
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

RE: LPC# 0990500004 – LaSalle County
Marseilles/Broadus Oil Corporation
Main & Broadway
LUST Incident Nos. 942364 and 970520

Dear Legal Counsel:

On behalf of the owner/operator, Broadus Oil Corporation, Midwest Engineering Services, Inc. (MES), is requesting an extension of 90 days regarding the Agency's August 6, 2003 decision for denial of an Amended High Priority Corrective Action Budget that was submitted by RAPPS Engineering for the above referenced site. In addition, we are requesting an extension of 90 days regarding the Agency's September 8, 2003 decision regarding rejection of costs within a reimbursement claim associated with the Agency's decision of the Amended Budget denial. Attached are copies of the Agency's decision letters regarding this request. The IEPA letter dated August 6, 2003 was received certified mail by Broadus Oil on August 8, 2003. Broadus Oil Corporation is considering filing an appeal to the Illinois Pollution Control Board regarding this matter and will need additional time to prepare.

Please provide a written response to Broadus Oil Corporation and MES regarding the issuance of the extensions.

Sincerely,
Midwest Engineering Services, Inc.

Erin E. Curley
Erin E. Curley
Environmental Department Manager

CC: Mr. Steve Broadus – Broadus Oil Corporation


CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on September 11, 2003, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class Mail postage affixed thereto, upon the following named persons:

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

Erin E. Curley
Environmental Department Manager
Midwest Engineering Services, Inc.
4243 West 166th Street
Oak Forest, IL 60452

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent


John L. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
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