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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

STATE OF ILLINOIS
Pollution Control Board

PCB 04-31
(UST appeal)

MOTION FOR LEAVE TO CLARIFY PETITION FOR REVIEW

NOW COMES Petitioner, BROADUS OIL, through its undersigned attorney, and pursuant to hearing officer order of March 18, 2004, hereby submits this motion for leave to clarify the requests set forth in the Petition for Review filed by Petitioner in this case.

For its clarification, Petitioner states as follows:

1. By order of March 18, 2004, the hearing officer made a suggestion that the "parties file motion for clarification of December 18, 2003, Board order where it appears petitioner may be appealing August 6, 2003 high priority corrective action plan budget rejection and September 8, 2003 partial rejection of application for payment from underground storage tank fund."
2. To clarify: Petitioner is indeed seeking review both of the August 6, 2003 rejection of Petitioner's High Priority Corrective Action Plan Budget amendment, and the Illinois Environmental Protection Agency's ("IEPA") September 8, 2003 final decision on Petitioner's LUST reimbursement package for work performed between May 1, 1997 and July 31, 2003.

3. By document dated August 6, 2003, which was received by Petitioner on August 8, 2003, the IEPA denied Petitioner's High Priority Corrective Action Plan Budget amendment. This document is attached as Exhibit A to the Request for Ninety Day Extension of Appeal Period filed by the IEPA on or about September 11, 2003.
4. On September 8, 2003, the IEPA issued to Petitioner its final decision on Petitioner's LUST reimbursement package for work performed between May 1, 1997 and July 31, 2003. Among other things, that LUST decision deducted a total of \$24,289.70 as costs associated with high priority site activities which exceeded the approved budget amounts (in other words, the September 8 LUST decision was made in part as a result of the IEPA's August 6 budget decision).
5. On September 10, 2003, Petitioner requested the IEPA's agreement for a ninety day extension as to both the August 6, 2003 decision and the September 8, 2003 decision. See Exhibit B to the Request for Ninety Day Extension of Appeal Period.
6. By pleading filed with this Board on September 15, 2003, the IEPA asked this Board to grant the extension as referenced in Petitioner's correspondence of September 10, 2003; the IEPA's request included a copy of Petitioner's September 10, 2003 letter. The ninety days requested was calculated from the first of the decisions (August 8, 2003), and was calculated by order of this Board to expire on December 11, 2003.

7. Petitioner filed the instant petition on December 10, 2003, seeking relief from both the August 6, 2003 and the September 8, 2003 IEPA final decisions.
8. Accordingly, the appeal deadline for both decisions was extended by the IEPA's September 15, 2003 pleading. The appeals were the subject of a single extension, and they are intimately related—the LUST Fund appeal turns upon the propriety of the IEPA's budget denial.

WHEREFORE, Petitioner, BROADUS OIL, requests that this Board accept this clarification, and instruct the parties to proceed with this matter to hearing.

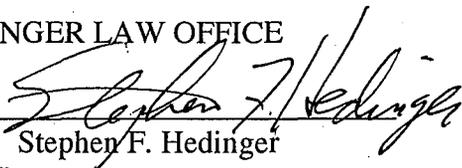
Respectfully submitted,

BROADUS OIL,
Petitioner,

By its attorney,

HEDINGER LAW OFFICE

By


Stephen F. Hedinger

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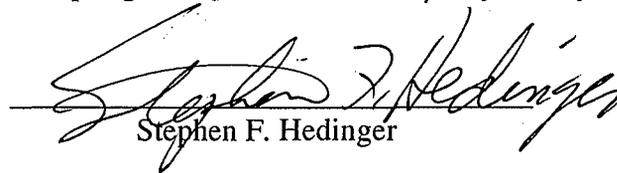
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NOTICE OF FILING AND PROOF OF SERVICE

To: Bradley Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

John Kim
Division of Legal Counsel
Illinois Environmental Protection Agency
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Springfield, IL 62794-9276

The undersigned certifies that an original and nine copies of Petitioner's Motion for Leave to Clarify Petition for Review were served upon the Clerk of the Illinois Pollution Control Board, and one copy was served upon the hearing officer and the above party of record in this case by enclosing same in envelopes with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office Mail Box in Springfield, Illinois on the 28th day of July, 2004.


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THIS FILING IS SUBMITTED ON RECYCLED PAPER