

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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CLERK'S OFFICE

AUG 19 2005

STATE OF ILLINOIS
Pollution Control Board

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

PCB No. 06- 26
(LUST - 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

Carolyn S. Hesse
Barnes & Thornburg
Suite 4400
One North Wacker Drive
Chicago, IL 60606-2833

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: August 18, 2005

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

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AUG 19 2005

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

STATE OF ILLINOIS
Pollution Control Board

PCB No. 06- 26
(LUST – Ninety Day Extension)

**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 November 17, 2005, 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 July 14, 2005, the Illinois EPA issued a final decision to the Petitioner.
(Exhibit A)
2. On August 9, 2005, 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 documentation provided by the Petitioner represented that the final decision was received on July 15, 2005. (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

A handwritten signature in black ink, appearing to read "John J. Kim", is written over a horizontal line.

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: August 18, 2005

This filing submitted on recycled paper.

08/05/2005 14:39 2175228812

CW3M COMPANY

PAGE 02



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

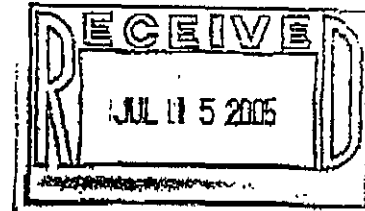
JUL 14 2005

CERTIFIED MAIL #

7004 2510 0001 8645 8368

Telzrow Oil Company
Attn: Jim Telzrow
P.O. Box 571
Carlinville, Illinois 62626

Re: LPC #0830255041 - Jersey County
Jerseyville/Telzrow Oil Company
605 South State Rd.
LUST Incident No. 20031133
LUST FISCAL FILE



Dear Mr. Telzrow:

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 February 18, 2005 and was received by the Agency on March 2, 2005. The application for payment covers the period from December 1, 2003 to December 31, 2004. The amount requested is \$40,165.78.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the billing submittal received by the Agency on May 18, 2004 for \$90,437.96. 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 April 26, 2005, 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 \$27,053.03 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 - 9311 W. Harrison St., Des Plaines, IL 60018 - (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 ENVIRONMENTAL PROTECTION - 7620 N. University St., Peoria, IL 61614 - (309) 693-3462 • CHAMPAIGN - 2135 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4300 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINGSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5130
MARION - 2309 W. Main St., Suite 117, Marion, IL 62959 - (618) 993-7200

EXHIBIT

A

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CW3M COMPANY

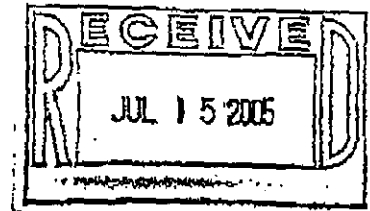
PAGE 03

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 or Eric Kuhlman of the technical section at 217/782-6762.

Sincerely,

A handwritten signature in cursive script, appearing to read "Douglas E. Oakley".

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

DEO:NW.mls\051503.doc

Attachment

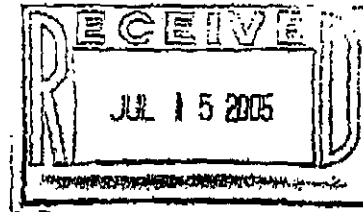
cc: CW3M

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CW3M COMPANY

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Attachment A
Technical Deductions

Re: LPC #0830255041 - Jersey County
Jerseyville / Telzrow Oil Company
605 South State Street
LUST Incident No. #20031133
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. \$4,040.25, deduction for costs associated with site investigation activities. The billings submitted exceed the approved budget amounts. Therefore, 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))

The Illinois EPA has determined that these costs are not reasonable as submitted since their drilling costs exceed the approved budgeted amount for investigation costs.

2. \$9,072.50, 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)).

The Illinois EPA has determined that these costs are not reasonable as submitted, and these costs are not consistent with the requirement for a line item estimate of all costs associated with the development, implementation, and completion of site evaluation activities required in 35 Ill. Adm. Code 732.307 (35 Ill. Adm. Code 732.305(b)(2)).

Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.

EK:EK\

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LIT ; Title XVI

CW3M COMPANY

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Page 1 of 1



ILLINOIS EPA

Rod R. Blagoje

L.I.T. Search

IEMA # 20031133

LPG # 0830255041

Site: Telzrow Oil Co.

Bills Received	Status Code	Amount Requested	Amount Paid	Voucher Date	Deductible
5/18/2004	VOP	90437.96	80437.96	9/9/2004	10000
3/2/2005	ACC	40165.78	0		0

Site (Main)	Tank Operator	General	Title XVI	TACO	Search
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BARNES & THORNBURG

Attorneys at Law

One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313

Fax Number: (312) 759-5646

FAX COVER SHEET

<u>NAME</u>	<u>COMPANY NAME</u>	<u>TELECOPY NO.</u>
TO: Mr. John Kim	IEPA	(217) 782-9807

FROM: Carolyn S. Hesse
DIRECT DIAL: (312) 214-8301
DATE: August 9, 2005

NUMBER OF PAGES (INCLUDING THIS COVER SHEET):

If you have difficulty receiving this Fax, please call Barnes & Thornburg at 312-214-8823

- ☐ Original to follow by mail
☐ Original will not follow by mail

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Indianapolis Fort Wayne South Bend Elkhart Chicago Washington, D.C.

BARNES & THORNBURG LLP

Carolyn S. Hesse
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Chicago, IL 60606-2833 U.S.A.
(312) 357-1313
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August 9, 2005

VIA FACSIMILE & FEDERAL EXPRESS

Mr. John Kim
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

Re: LPC #0830255041 - Jersey County
Jerseyville / Telzrow Oil Company
605 South State Road
LUST Incident No. 20031133

Dear John:

On July 14, 2005, the Illinois Environmental Protection Agency issued a letter with respect to the above-referenced LUST Incident regarding a request dated February 18, 2005 for reimbursement of corrective action costs for corrective action performed pursuant to a CAP budget that was previously approved by IEPA. The Agency received this request on March 2, 2005. (However, there appears to be a clerical error in the third paragraph which states that the complete application for payment was received on April 26, 2005. Both the first paragraph and a search of IEPA's database indicate that the application was received on March 2, 2005.) The property referred to as Telzrow Oil Company is located in Jerseyville, Illinois. A copy of the July 14, 2005 letter is attached.

Telzrow Oil Company believes that, based upon discussions with the Illinois Environmental Protection Agency and for other reasons, that we will be able to resolve the issues raised in the Agency's letter. However, we believe that we will not be able to resolve these issues by the deadline for filing an appeal of these issues to the Illinois Pollution Control Board. Thus, this is a request for a 90-day extension pursuant to the Illinois

Chicago

Elkhart

Fort Wayne



olis

South Bend

Washington, D.C.

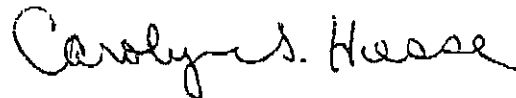
Mr. John Kim
August 9, 2005
Page 2

Environmental Protection Act Section 40(a)(1) and 35 IAC 105.406 to allow us to continue these discussions and to try to resolve the issues raised in the enclosed letter.

If, for any reason, the Agency will not seek the 90-day extension, please notify me immediately so that I may file an appeal to the Board. If you have any questions or comments, please do not hesitate to contact me.

Sincerely yours,

BARNES & THORNBURG LLP



Carolyn S. Hesse

CSH/jmr
Enclosure

cc: William Sinnott
Carol L. Rowe

288400v1

BARNES & THORNBURG LLP

CERTIFICATE OF SERVICE


I, the undersigned attorney at law, hereby certify that on August 18, 2005, 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

Carolyn S. Hesse
Barnes & Thornburg
Suite 4400
One North Wacker Drive
Chicago, IL 60606-2833

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent



John J. Kim
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