

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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JUN 9 2003

GRAHAM C-STORES COMPANY,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 03- 228
(LUST - Ninety Day Extension)

STATE OF ILLINOIS
Pollution Control Board

NOTICE

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

Ronald W. Schrack, P.E.
Schrack Environmental Consulting, Inc.
1415 West 22nd Street
Tower Floor
Oak Brook, IL 60523

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: June 4, 2003

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

GRAHAM C-STORES COMPANY,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

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(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 September 2, 2003, or any other date not more than a total of one hundred twenty-five (125) days from the date of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On April 30, 2003, the Illinois EPA issued a final decision to the Petitioner regarding a request for reimbursement from the Underground Storage Tank Fund. (Exhibit A)

2. On May 28, 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 did not represent when the final decision was received. (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 C. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
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Dated: June 4, 2003

This filing submitted on recycled paper.



99734.01

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

APR 30 2003

Graham C-Stores Company
Attn: Michael O. Graham
33978 North Highway 45, P.O. Box 89
Grayslake, Illinois 60030

Re: LPC #0894385182 -- Kane County
Elgin/Elgin Citgo (Unoven)
1580 Larkin Avenue
LUST Incident #920155
LUST FISCAL FILE

Dear Mr. Graham:

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 August 8, 2001 to December 31, 2002. The amount requested was \$28,112.38.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated August 25, 1994. This deductible was associated with Incident #920155. The \$10,000.00 deductible that is associated with Incident #930813 is being taken from this billing package. In addition to the deductible, there are costs from this request that are not being reimbursed. 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 28, 2003, 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 \$12,382.72 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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, MA
DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
CHAMPAIGN - Champaign, IL 61820 - (217) 278-5800
INNSVILLE, IL 62234 - (618) 346-5120

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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 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:

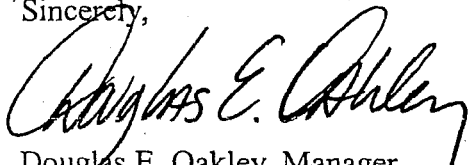
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

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 Nancy Moore of my staff at 217/782-6762.

Sincerely,



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

DEO:NM:ct\0325012.doc

Attachment

cc: Schrack Environmental Consulting, Inc.

Attachment A
Accounting Deductions

Re: LPC #0894385182 -- Kane County
Elgin/Elgin Citgo (Unoven)
1580 Larkin Avenue
LUST Incident No. 920155
LUST FISCAL FILE

Item # Description of Deductions

1. \$136.55, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

These deductions are being taken from Schrack Environmental Consulting, Inc. (SECI) Invoice #3770 dated December 9, 2002:

- a. The rate for Macrocore Sampler Liners is being reduced on GeoServe Invoice #021121.03 dated November 21, 2002 (\$37.00)
- b. A deduction is being made from Equipment Costs for a support vehicle. Only one support vehicle is eligible per day. The Weekly Worksheet shows both vehicles were charged on November 21, 2002 (\$50.00).
- c. The Mileage that is associated with the second support vehicle on November 21, 2002 is being deducted from Field Purchases (\$45.05).
- d. The rate charged for Mileage is being reduced (\$4.50).

2. \$127.50, deduction for an adjustment in costs due to a lack of supporting documentation (Section 22.18b(d)(4)(C) of the Environmental Protection Act):

These deductions are being taken from SECI Invoice #3370 dated December 9, 2002:

- a. The additional Support Vehicle, not previously deducted, is disallowed. The Equipment summary sheet indicates that the support vehicles were rented, but there was no evidence from the rental company included in the claim. Also, the mileage for this vehicle is being paid, so the charge for the vehicle is ineligible. Only a vehicle or mileage can be claimed, not both (\$50.00).
- b. The Equipment summary sheet indicates that the copier was rented, so there must be a receipt from the company where the copies were made (\$77.50).

3. \$630.00, deduction for costs associated with seeking reimbursement from the Underground Storage Tank Fund (Section 22.18(e)(1)(C) and 22.18b(a)(3) of the Environmental Protection Act).

- a. The personnel charges for Project Manager (9.0 hours @ \$70.00) for the task "Expenditure Review" is being deducted from Remediation Unlimited, Inc. Invoice #11012 dated May 17, 2002. This invoice lists "Reimbursement Application" as one of the tasks billed.
4. \$4,835.61, deduction for costs associated with ineligible Tanks (Section 22.18b(a)(5) of the Environmental Protection Act).
 - a. It was discovered that the costs for pulling the two ineligible tanks (550 gallon Used Oil tank and 1,000 gallon Heating Oil tank) on August 18, 1992 and August 19, 1992 were paid in error. These were submitted in the billing package received by the Agency on December 29, 1993 requesting \$77,904.00. These costs are being re-claimed in this current billing submittal. Following are the specific charges associated with the ineligible tanks that are included in this deduction:
 - i. Dames & Moore Invoice #007-11740 dated August 14, 1992 for the period covering July 11, 1992 through August 7, 1992 includes a memo to Richard Horn of Unocal outlining the activities completed and billed on this invoice. All three tasks listed are for preparation to remove the two ineligible tanks (\$2,431.23).
 - ii. Dames & Moore Invoice #007-11970 dated October 9, 1992 for the period from August 15, 1992 to September 11, 1992:
 1. Personnel costs for the week ending August 21, 1992 (\$2,159.60)
 2. Expenses on August 18, 1992 and August 19, 1992 for meals, gas, mileage and film (\$58.11)
 3. Equipment used the week ending August 21, 1992 (\$100.00)
This invoice lists "Removal of USTs" on the front page, and there is a memo to Richard Horn of Unocal from Dames & Moore dated August 14, 1992 that states that this invoice includes costs for the task "Removed and disposed of the two USTs".
 - iii. Dames and Moore Invoice #007-12143 dated October 30, 1992:
 1. Film developing for the film that was used during the tank removals (\$9.17)
 2. Equipment rental on August 18, 1992 (\$77.50).



*Environmental Site Assessments
and
Remediation Management Services*

May 28, 2003

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

RE: LPC # 0894385182 -- Kane County
Elgin/Elgin CITGO - Graham C - Stores Co.
1580 Larkin Avenue
LUST Incident Number: 920155

Dear Mr. Kim:

This correspondence is being submitted to request a 90 day extension to resolve the issues associated with the LUST reimbursement request filed for the above referenced property. A copy of the April 30, 2003 determination letter received from the IEPA for the subject site is provided as **Attachment A**.

SECI, the consultant and agent for the owner of the subject property, submitted a correspondence to Ms. Nancy Moore of the LUST Claims Unit responding to the deductions made in the aforementioned determination letter. A copy of the May 7, 2003 response letter submitted by SECI is provided in **Attachment B**.

The property owner would prefer to resolve this issue without filing an appeal with the Illinois Pollution Control Board. If you have any questions concerning this correspondence, please feel free to contact me at 630 -2 43 - 1777. Thank you for your assistance with this matter.

Sincerely,

Ronald W. Schrack, P.E.

President

PN: 99934.01

CC: Mr. Michael O. Graham - Graham C - Stores Company

B



CERTIFICATE OF SERVICE


I, the undersigned attorney at law, hereby certify that on June 4, 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

Ronald W. Schrack, P.E.
Schrack Environmental Consulting, Inc.
1415 West 22nd Street
Tower Floor
Oak Brook, IL 60523

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