

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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MAY 09 2003

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)

BROWNFIELD SITE RESTORATION)
PROGRAM)

(AMENDMENTS TO 35 ILL.ADM.)
CODE 740))

R03-20
(Rulemaking)

NOTICE

Dorothy Gunn, Clerk
Pollution Control Board
James R. Thompson Center
100 W. Randolph, Ste. 11-500
Chicago, Illinois 60601

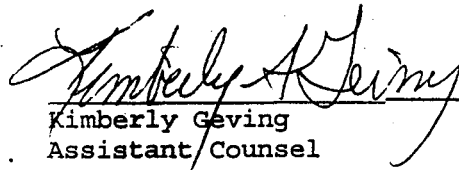
Robert T. Lawley
Dept. Of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702

Attorney General's Office
Environmental Bureau
188 W. Randolph, 20th Floor
Chicago, Illinois 60601

See Attached Service List

PLEASE TAKE NOTICE that I have today filed with the Office of
the Clerk of the Pollution Control Board the Errata Sheet Number 2
of the Illinois Environmental Protection Agency, a copy of which is
herewith served upon you.

ENVIRONMENTAL PROTECTION AGENCY
OF THE STATE OF ILLINOIS

By: 

Kimberly Geving
Assistant Counsel

DATE: May 06, 2003
Agency File #:
Illinois Environmental
Protection Agency

1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
BROWNFIELD SITE RESTORATION) R03-20
PROGRAM) (Rulemaking)
)
(AMENDMENTS TO 35 ILL. ADM. CODE 740))
)

ERRATA SHEET NUMBER 2

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA") through one of its attorneys, Kimberly A. Geving, and submits this ERRATA SHEET NUMBER 2 to the Illinois Pollution Control Board ("Board") and the participants listed on the Service List.

Based upon some questions asked by the Board at the first hearing in this matter held on April 30, 2003, the Illinois EPA is amending its proposal to clarify the issues raised by the Board. Additionally, the Agency would like to note that there are many references in Part 740 to statutory language that are still in capital letters as opposed to italics. It might be prudent, based on the latest version of the Secretary of State's Style Manual, for the Board to convert all statutory references into italics.

Section

740.100(c) *To establish and administer a program for the payment of remediation costs to be known as the Brownfields Site Restoration Program whereby the Agency, with the assistance of the Department of Commerce and Economic Opportunity ("DCEO"), through the program, shall provide remediation applicants with financial assistance for the investigation and remediation of abandoned or underutilized properties. (Section 58.15(B)(a)(1) of the Act)*

740.120 "DCEO" means the Department of Commerce and Economic Opportunity

(previously known as the Department of Commerce and Community Affairs).

“REMEDATION COSTS” MEANS REASONABLE COSTS PAID FOR INVESTIGATING AND REMEDIATING REGULATED SUBSTANCES OF CONCERN CONSISTENT WITH THE REMEDY SELECTED FOR THE SITE. FOR PURPOSES OF Subpart G and I and H of this Part, “REMEDATION COSTS” SHALL NOT INCLUDE COSTS INCURRED PRIOR TO JANUARY 1, 1998, COSTS INCURRED AFTER THE ISSUANCE OF A NO FURTHER REMEDIATION LETTER UNDER Subpart F of this Part, OR COSTS INCURRED MORE THAN 12 MONTHS PRIOR TO ACCEPTANCE INTO THE SITE REMEDIATION PROGRAM under this Part. (Section 58.2 of the Act)

740.900(b) *For each State fiscal year in which funds are made available to the Agency for payment under this Subpart, the Agency must, subject to the availability of funds, allocate 20% of the funds to be available to Remediation Applicants within counties with populations over 2,000,000. The remaining funds must be made available to all other Remediation Applicants counties in the State state. (Section 58.15(B)(a)(2) of the Act)*

740.900(d) *Only those remediation projects for which a No Further Remediation Letter is issued by the Agency after December 31, 2001 are eligible to participate in the Brownfields Site Restoration Program. The program does not apply to any sites that have received a No Further remediation Letter prior to December 31, 2001 or to costs incurred prior to DCEO DCCA approving a site eligible for the Brownfields Site Restoration Program. (Section 58.15(B)(a)(4) of the Act)*

740.901(a) *Prior to submitting an application to determine eligibility to DCEO the ~~Department of Commerce and Community Affairs~~, a Remediation Applicant shall first submit to the Agency its proposed remediation costs. The Agency shall make a pre-application assessment, which is not to be binding upon DCEO the ~~Department of Commerce and Community Affairs~~ or upon future review of the project, relating only to whether the Agency has adequate funding to reimburse the applicant for the remediation costs if the applicant is found to be eligible for reimbursement of remediation costs. (Section 58.15(B)(b) of the Act)*

740.901(b) *If the agency determines that it is likely to have adequate funding to reimburse the applicant for remediation costs, the remediation Applicant may then submit to DCEO the ~~Department of Economic and Community Affairs~~ [“DCCA”] an application for review of eligibility. (Section*

58.15(B)(b) of the Act) To be eligible for payment, an RA must have a minimum capital investment in the redevelopment of the site. Procedures for applying for eligibility and for obtaining a determination from DCEO ~~must be obtained from DCEO DCCA~~ are set forth [at 14 Ill. Adm. Code Part 521].

- 740.901(c) Once DCEO ~~DCCA~~ has determined that an RA is eligible, the RA may submit an application to the Agency in accordance with Section 740.910 or Section 740.911 of this Part.
- 740.901(d) The Agency must rely on DCEO's ~~DCCA's~~ decision as to eligibility. The maximum amount of the payment to be made to the RA for remediation costs may not exceed the "net economic benefit" to the State of the remediation project, as determined by DCEO ~~DCCA~~, *based on factors including, but not limited to, the capital investment, the number of jobs created, the number of jobs retained if it is demonstrated the jobs would otherwise be lost, capital improvements, the number of construction-related jobs, increased sales, material purchases, other increases in service and operational expenditures.* (Section 58.15(B)(b)(3) of the Act)
- 740.910(b)(3) *A true and correct copy of the DCEO's ~~Department of Commerce and Community Affairs'~~ letter approving eligibility, including the net economic benefit of the remediation project* (Section 58.15(B)(e)(4) of the Act);
- 740.910(b)(5) None of the costs were incurred before approval of the site by the DCEO ~~Department of Commerce and Community Affairs~~ as eligible for the Brownfields Site Restoration Program; and
- 740.911(b) The application must be on forms prescribed and provided by the Agency, shall be accompanied by the applicable fee for review as provided in Section 740.920(b) of this Subpart, and must include, at a minimum, the following information:
- 740.911(b)(3) *A true and correct copy of DCEO's ~~the Department of Commerce and Community Affairs'~~ letter approving eligibility, including the net economic benefit of the remediation project* (Section 58.15(B)(f)(4) of the Act);
- 740.911(b)(5) None of the costs were incurred before approval of the site by the DCEO ~~Department of Commerce and Community Affairs~~ as eligible for the Brownfields Site Restoration Program; and

- 740.920(a) The fee for the preliminary review of estimated remediation costs conducted under Section 740.805 of this Part shall be \$500 for each remediation site reviewed. (Derived from Section 58.15(B)(j)(2) of the Act)
- 740.920(b) The fee for the final review of remediation costs under Section 740.910 or Section 740.911 of this Part shall be \$1000 for each remediation site reviewed. (Derived from Section 58.15(B)(j)(1) of the Act)
- 740.930(b) Costs incurred before approval of the site by DCEO ~~the Department of Commerce and Community Affairs~~ as eligible for the Brownfields Site Restoration Program;

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Kimberly A. Geving
Assistant Counsel
Division of Legal Counsel

Date: May 6, 2003

1021 North Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached Errata Sheet Number 2 on behalf of the Illinois Environmental Protection Agency upon the person to whom it is directed, by placing a copy in an envelope addressed to:

Dorothy M. Gunn, Clerk
Pollution Control Board
James R. Thompson Center
100 West Randolph St., Ste 11-500
Chicago, Illinois 60601
(1st Class)

Robert T. Lawley
Dept. Of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702
(1st Class)

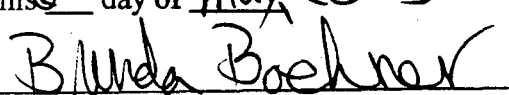
Attorney General's Office
Environmental Bureau
188 W. Randolph, 20th Floor
Chicago, Illinois 60601
(1st Class)

See Attached Service List
(1st Class)

and mailing it from Springfield, Illinois on 5/6/03



SUBSCRIBED AND SWORN TO BEFORE ME

this 6th day of May 2003

Notary Public



THIS FILING IS SUBMITTED ON RECYCLED PAPER

R 03-20 SERVICE LIST*
IN THE MATTER OF: BROWNFIELDS SITE RESTORATION PROGRAM; AMENDMENTS TO 35 ILL. ADM. CODE 740
 Updated April 11, 2003

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APR 14 2003 10:00AM FROM ILLINOIS POLLUTION CONTROL BOARD 3161-6611

R 03-20 SERVICE LIST*

IN THE MATTER OF: BROWNFIELDS SITE RESTORATION PROGRAM; AMENDMENTS TO 35 ILL ADM. CODE 740

Updated April 11, 2003

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*Subject to change without notification. Please contact the Clerks Office at 312-814-3461 to obtain the current list.