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MAR 12 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

JOE'S MOBIL,)	
)	
Petitioner,)	
)	
v.)	PCB 04-151
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: John Kim
Special Assistant Attorney General
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

PLEASE TAKE NOTICE that on March 12, 2004, filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original, executed copy of a Petition for Review of Illinois Environmental Protection Agency Decision.

Dated: March 12, 2004

Respectfully submitted,

Joe's Mobil

By: Carolyn S Hesse
One of Its Attorneys


Carolyn S. Hesse
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
209535v1

CERTIFICATE OF SERVICE

I, on oath state that I have served the attached Petition for Review of Illinois Environmental Protection Agency Decisions by placing a copy in an envelope addressed to:

John Kim
Special Assistant Attorney General
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

from One North Wacker Drive, Suite 4400, Chicago, Illinois, before the hour of 5:00 p.m., on this 12th Day of March, 2004.



Carolyn S. Hesse

5. By letter dated February 19, 2004, the Agency modified the Budget. *See* Exhibit A.
6. The Agency's letter of February 19, 2004 provides no additional information regarding why IEPA modified the Budget.
7. The Agency's February 19, 2004 letter includes an attachment labeled appeal rights as the Agency's decision is a final decision, appealable to the Illinois Pollution Control Board.

WHEREFORE, Joe's Mobil respectfully requests that the Board enter an order requiring the Agency to approve the Corrective Action Plan Budget and to allow the cleanup to proceed at this facility and for Joe's Mobil's attorneys' fees and costs in bringing this appeal.

Respectfully submitted,

Joe's Mobil

By: Carolyn S Hesse
One of Its Attorneys

Carolyn S. Hesse, Esq.
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
209533v1



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

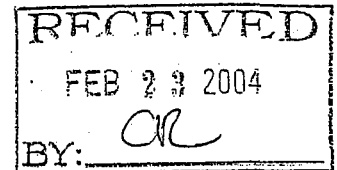
217/782-6762

CERTIFIED MAIL

7002 3150 0000 1254 6031

FEB 19 2004

Joe's Mobil
Attn: Joe Tishkau
P.O. Box 298
Farmersville, Illinois 62533



Re: LPC #1350200002 - Montgomery County
Farmersville/Tishkau, Joe
501 Witt St.
LUST Incident No. 922767 & 20011334
LUST Technical File

Dear Mr. Tishkau:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan Budget (budget) submitted for the above-referenced incident. This budget, dated October 20, 2003, was received by the Illinois EPA on October 22, 2003. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The budget is modified pursuant to Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 732.503(b). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A have been approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of reimbursement may be limited by Sections 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 732.606(s) and 732.611.

Please note that, if the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f)). Additionally, pursuant to Section 57.8(a)(5) of the Act, if reimbursement will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted.

NOTE: Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that has not been approved prior to the issuance of an NFR Letter will not be reimbursable.

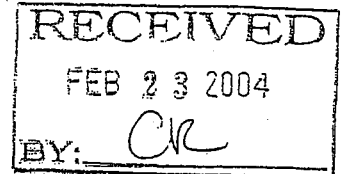
Pursuant to Sections 57.7(b)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 732.100 and 732.105 the Illinois EPA requires that a Corrective Action Completion Report that achieves

EXHIBIT
A

Page 2

compliance with applicable remediation objectives be submitted within 30 days after completion of the plan 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



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

Please note that, if within four years after the approval of this plan, compliance with the applicable remediation objectives has not been achieved and a Corrective Action Plan has not been submitted, the Illinois EPA requires the submission of a status report pursuant to Section 57.7(b)(6) of the Act.

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 Jay F. Gaydosh at 217-785-0231.

Sincerely,

A handwritten signature in cursive script that reads "Hernando A. Albarracin".

Hernando A. Albarracin
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

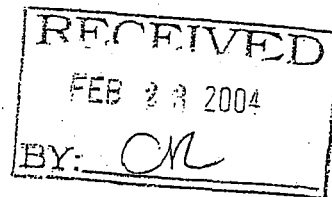
HAA: JFG\922767 CAP Budget Review Letter

Attachment: Attachment A
Appeal Rights

cc: CW3M Company
Division File

Attachment A

Re: LPC #1350200002 - Montgomery County
Farmersville/Tishkau, Joe
501 Witt St.
LUST Incident No. 922767 & 20011334
LUST Technical File



Citations in this attachment are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

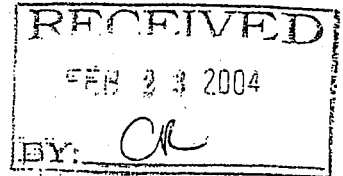
SECTION 1

As a result of the Illinois EPA's modification(s) in Section 2 of this Attachment A, the following amounts have been approved:

\$ 4,990.00	Investigation Costs
\$ 13,082.00	Analysis Costs
\$ 22,240.00	Personnel Costs
\$ 891.00	Equipment Costs
\$274,582.00	Field Purchases and Other Costs
\$ 10,517.00	Handling Charges

SECTION 2

1. \$135.00 for an adjustment in Investigation Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
2. \$4,893.00 for an adjustment in Analysis Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
3. \$49,038.00 for an adjustment in Personnel Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.



- 4. \$175.00 for an adjustment in Equipment Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
- 5. \$47,337.95 for an adjustment in Field Purchases & Other Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
- 6. \$1,321.05 for an adjustment in handling charges. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607):

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
\$0 - \$5,000	12%
\$5,001 - \$15,000	\$600 plus 10% of amount over \$5,000
\$15,001 - \$50,000	\$1,600 plus 8% of amount over \$15,000
\$50,001 - \$100,000	\$4,400 plus 5% of amount over \$50,000
\$100,001 - \$1,000,000	\$6,900 plus 2% of amount over \$100,000

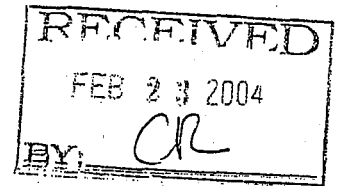
Deductions identified in items 1 through 5 resulted in a lower total uses to calculate handling charges.

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