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

MAR 12 2004

STATE OF ILLINOIS
Pollution Control Board

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

PCB 04-158
UST Fund Appeal

NOTICE OF FILING

TO:	John Kim	Carol Sudman
	Special Assistant Attorney General	Hearing Officer
	Illinois Environmental Protection Agency	Illinois Pollution Control Board
	1021 North Grand Avenue East	1021 North Grand Avenue East
	P.O. Box 19276	P.O. Box 19274
	Springfield, Illinois 62794-9276	Springfield, Illinois 62794-9274

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 Decisions.

Dated: March 12, 2004

Respectfully submitted,

Hannel Oil Company

By: Carolyn S. Hesse
One of Its Attorneys

Carolyn S. Hesse
Barnes & Thornburg
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
176732v1

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MAR 12 2004

STATE OF ILLINOIS
Pollution Control Board


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

Carol Sudman
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274

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

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STATE OF ILLINOIS
Pollution Control Board

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

HANNEL OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 04- <u>158</u>
)	UST Fund Appeal
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

**PETITION FOR REVIEW OF ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY DECISIONS**

Hannel Oil Company, Inc. by its attorney, Carolyn S. Hesse of Barnes & Thornburg, pursuant to the Illinois Environmental Protection Act, 415 ILCS 5/1 *et. seq.* (the "Act") and 35 Illinois Administrative Code Section 105.400 *et. seq.*, hereby appeals certain decisions by the Illinois Environmental Protection Agency (the "Agency").

1. Hannel Oil Company, Inc. does business at property located at 802 West Morton, Jacksonville, Morgan County, Illinois as Hannel's Amoco. The site is a gasoline service station that has underground storage tanks (USTs) on the property, which store gasoline and diesel fuel.
2. LUST Incident Number 930437 was obtained following a site investigation.
3. On October 8, 2003, the Agency received Hannel's request for reimbursement of costs from the Illinois Underground Storage Tank Fund (the "Request") for the period from August 1, 2002 to November 30, 2002, in the amount of \$14,953.72.
4. The Agency denied certain costs in the Request in a letter dated February 23, 2004, a copy of which is attached hereto as Exhibit A.

5. Hannel is appealing this February 23, 2004 denial because the Agency denied certain costs by claiming that the owner/operator failed to demonstrate that certain costs were reasonable and as an adjustment in stock supplies charges.
6. Hannel disagrees with the Agency's decision and believes that the costs submitted for reimbursement are corrective action costs, are reasonable and are the types of costs that are eligible for reimbursement under the Act and implementing regulations.
7. The Agency's letter denying reimbursement, Exhibit A, provides no further explanation of the Agency's reasons or bases for denial that could aid Petitioner in setting forth its grounds of appeal. Nevertheless, the Agency's denial is a final decision that Petitioner must appeal to the Board in order to preserve and enforce Petitioner's right to reimbursement under the UST Fund.

WHEREFORE, Hannel Oil Company, Inc. respectfully requests that the Board enter an order that will provide that it be reimbursed from the UST Fund for its submitted costs and for its attorneys' fees and costs in bringing this appeal.

Respectfully submitted,

Hannel Oil Company

By: Carolyn S. Hesse
One of Its Attorneys

Carolyn S. Hesse, Esq.
Barnes & Thornburg
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
209271v1



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

FEB 23 2004

Hannel Oil Company, Inc.
Attention: E. Dean Hannel
Post Office Box 571
Carlinville, IL 62626

RECEIVED
FEB 25 2004
BY: *CR*

Re: LPC #1370200032 -- Morgan County
Jacksonville/Hannel's Amoco
802 West Morton
LUST Incident #930437
LUST FISCAL FILE

Dear Mr. Hannel:

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 1, 2002 to November 30, 2002. The amount requested was \$14,953.72.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated February 8, 1999. 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 October 8, 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 \$7,224.39 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 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

EXHIBIT

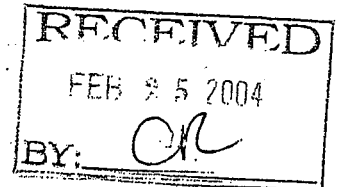
A

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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 Kevin Mably of my staff at 217/782-6762.

Sincerely,

A handwritten signature in cursive script that reads "Douglas E. Oakley".

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

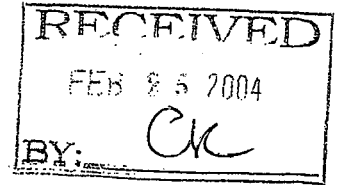
DEO:KM:jk\043225.doc

Attachment

cc: CW3M Company

Attachment A
Accounting Deductions

Re: LPC #1370200032 -- Morgan County
Jacksonville/Hannel's Amoco
802 West Morton
LUST Incident #930437
LUST FISCAL FILE



Item # Description of Deductions

1. \$29.33, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

CW3M Company-Invoice dated	8-02	\$4.00	Stock items
	10-02	\$17.33	Equipment
	10-02	\$8.00	Stock items

2. \$7,700.00, deduction for an adjustment in stock supplies charges (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

CW3M Company-Invoice dated	8-02	\$3,300.00	Justification and documentation for the cost of Bio-Slurry/Inoculation Batch (invoice) must be submitted and the cost should not be submitted as a "stock" item
	11-02	\$4,400.00	Justification and documentation for the cost of Bio-Slurry/Inoculation Batch (invoice) must be submitted and the cost should not be submitted as a "stock" item

\$7,729.33 Total Accounting Deductions