

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

JAN 13 2005

RICHARD KARLOCK,

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Respondent.

PCB No. 05-127  
(UST Appeal)

STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

TO: Ms. Dorothy Gunn  
Clerk of the Board  
Illinois Pollution Control Board  
100 W. Randolph Street  
Suite 11-500  
Chicago, IL 60601

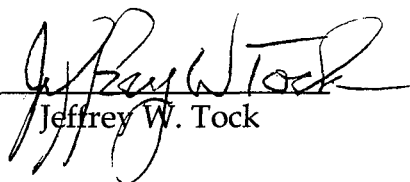
John Kim, Esq.  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62764-9276

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies each of an Entry of Appearance of Jeffrey W. Tock and Petition for Review of LUST Fund Reimbursement Decision, copies of which are herewith served upon you.

Respectfully Submitted

RICHARD KARLOCK,  
Petitioner,

By:

  
Jeffrey W. Tock

Dated: January 13, 2005

Jeffrey W. Tock  
Harrington & Tock  
201 W. Springfield Ave., Suite 601  
P.O. Box 1550  
Champaign, Illinois 61824-1550  
Telephone: (217) 352-4167

vlb/Complain.jef/HDC/Karloek-NoticeAppeal

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JAN 18 2005

STATE OF ILLINOIS  
Pollution Control Board

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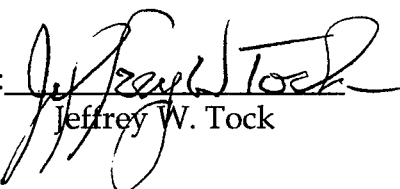
PCB No. 05-127  
(UST Appeal)

ENTRY OF APPEARANCE

NOW COMES Jeffrey W. Tock, of the law firm of Harrington & Tock, and  
hereby enters his appearance on behalf of Petitioner, RICHARD KARLOCK, in  
the above-referenced matter.

Respectfully Submitted

RICHARD KARLOCK,  
Petitioner,

By:   
Jeffrey W. Tock

Dated: January 13, 2005

Jeffrey W. Tock  
Harrington & Tock  
201 W. Springfield Ave., Suite 601  
P.O. Box 1550  
Champaign, Illinois 61824-1550  
Telephone: (217) 352-4167

vlb/Complain.jef/HDC/Karlock-EntryApp

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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RICHARD KARLOCK,

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vs.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Respondent.

PCB No. 05-127  
(UST Appeal)

STATE OF ILLINOIS  
Pollution Control Board

PETITION FOR REVIEW OF LUST FUND REIMBURSEMENT DECISION

NOW COMES Petitioner, Richard Karlock (hereinafter "Petitioner"), by and through his attorneys, Harrington & Tock, pursuant to Section 57.8(i) of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/57.8(i)), and hereby requests review of the decision by the Respondent, Illinois Environmental Protection Agency ("Agency"), regarding reimbursement of site investigation activities. In support of this Petition, the Petitioner states as follows:

1. Petitioner is the owner of certain property located at 522 S. Main Street, Rankin, Illinois, hereinafter referred to as "the Site".
2. Petitioner is the owner of underground storage tanks ("USTs") formerly located at the site.
3. On September 14, 2004, Petitioner submitted to the Agency his complete application for partial payment for site investigation activities at the site pursuant to 735 ILCS 5/57.8.

4. By letter dated December 10, 2004, the Agency denied the request for reimbursement, stating "An approved site investigation completion report has not been submitted. (Sections 57.7(a)(5) and 57.12(c) and (d) of the Act and 35 Ill.Adm.Code 732.100 and 732.105)." (The Agency's letter is attached as Exhibit A.)
5. A site investigation completion report as required by the Agency cannot be prepared until all on-site and, if appropriate as in this case, all off-site investigation has been completed.
6. Petitioner is seeking review of the Agency's December 10, 2004, determination rejecting reimbursement for the above-referenced matter. The Agency's determinations are arbitrary and contrary to the specific statutory authorization for Petitioner to submit application for partial payment. (735 ILCS 5/57.8.)
7. Supporting documentation for the requested costs was included in a Site Investigation Status Report, dated May 21, 2004, submitted June 16, 2004, and received by the agency on June 18, 2004. This report included documentation of site specific sampling methods and results, field activities and the use of Tier 1 remediation objectives at the site, an interpretation of the results, and concluded that additional investigation is necessary.

8. The work documented in the Site Investigation Status Report was conducted in general conformance with the Site Investigation Work Plan, which was approved by the Agency, as per its letter dated January 2, 2004.
9. A budget for the referenced work plan was approved by the Agency, as per its letter dated January 2, 2004. The costs requested in the denied reimbursement were incurred while executing the approved work plan and were within the approved budget.
10. As per Section 57.8 of the Act, "the owner or operator may submit a complete application for final or partial payment to the Agency for activities taken in response to a confirmed release".
11. As per the determination letter dated December 10, 2004, the Owner/Operator Billing Certification Form for the reimbursement package was sent to the IEPA via certified U.S. mail on January 4, 2005 (Exhibit B).

WHEREFORE, for the above and foregoing reasons, Petitioner, Richard Karlock, respectfully requests that the Illinois Pollution Control Board grant the following relief:

1. Find that the Agency's December 10, 2004 decision is arbitrary and without statutory authority;
2. Reverse the Agency's decision regarding reimbursement;
3. Remand this matter to the Agency with instructions to approve the reimbursement;

4. Award Petitioner reasonable consulting fees and expenses incurred in bringing this action; and,
5. Award such further relief as deemed just and equitable in these premises.

RICHARD KARLOCK,  
Petitioner,

By: 

Jeffrey W. Tock

Dated: January 13, 2005

Jeffrey W. Tock  
Harrington & Tock  
201 W. Springfield Ave., Suite 601  
P.O. Box 1550  
Champaign, Illinois 61824-1550  
Telephone: (217) 352-4167



# 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

DEC 10 2004

RECEIVED

DEC 13 2004

HDC ENGINEERING

Richard Karlock  
515 So. Johnson  
Rankin, Illinois 60960

**EXHIBIT A**

Re: LPC #1830705004 -- Vermilion County  
Rankin/Karlock, Richard  
522 South Main St.  
LUST Incident No. 20021180  
LUST FISCAL FILE

Dear Mr. Karlock:

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 September 14, 2004 and was received by the Agency on September 16, 2004. The application for payment covers the period from February 1, 2003 to August 18, 2004. The amount requested is \$26,245.05.

The deductible amount for this claim is \$15,000.00, which was previously deducted from the billing submittal received by the Agency on February 25, 2003 for \$95,273.27. 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 September 16, 2004, 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 cannot be prepared for submission to the Comptroller's office 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 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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (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 LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200



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:

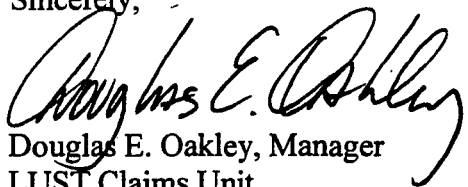
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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 at 217/782-6762.**

Sincerely,



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

DEO:NW:bjh\04323.doc

Attachment

cc: HDC Engineering

**Attachment A**  
**Accounting Deductions**

**Re:   LPC #1830705004 -- Vermilion County**  
**Rankin/Karlock, Richard**  
**522 South Main St.**  
**LUST Incident No. 20021180**  
**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.       \$26,245.05, deduction for costs lacking supporting documentation. An approved site investigation completion report has not been submitted. (Sections 57.7(a)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 732.100 and 732.105).**

**When the site investigation completion report has been approved, fax/send a copy of the Agency letter approving the site investigation completion report and request a re-review.**

**Also, the claim was missing the Owner/Operator Billing Certification Form. The form that was enclosed was for budget certification. I have enclosed a copy of the Billing Certification form.**

**DEO:NW:bjh\04323.doc**



January 4, 2005

201 W. Springfield Ave., Suite 300  
P.O. Box 140  
Champaign, Illinois 61824-0140  
BUS. (217) 352-6976  
FAX (217) 356-0570

Niki Weller  
LUST Claims Unit  
Illinois Environmental Protection Agency  
1021 North Grand avenue East  
PO Box 19276  
Springfield, Illinois 62794-9276

EXHIBIT B

Re: LPC #1830705004 – Vermilion County  
Rankin/Karlock, Richard  
522 South Main Street  
LUST Incident # 20021180  
LUST FISCAL FILE

Dear Ms. Weller:

Per our conversation, enclosed is the billing certification for the reimbursement package for the referenced site. Richard Karlock has authorized HDC to sign LUST program documents on his behalf; a copy of the authorization is also enclosed.

If you have any questions, please call myself or Kevin Saylor at (217) 352-6976.

Regards,  
HDC ENGINEERING

A handwritten signature in black ink, appearing to read "BW" or "Walsh", written in a cursive style.

Bill Walsh  
Environmental Professional

U.S. Postal Service

**CERTIFIED MAIL RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$ 1.60
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	—
Total Postage & Fees	\$

Walsh

Postmark  
Here

# 01380

Sent To

NIKI WELER - IEPA

Street, Apt. No.,  
or PO Box No.

PO Box 19276

City, State, ZIP+4

SPRINGFIELD IL 62794-9276

PS Form 3800, June 2002

See Reverse for Instructions

7003 2260 0001 3330 4242

Illinois Environmental Protection Agency

Owner/Operator and Professional Engineer Billing Certification Form for  
Leaking Underground Storage Tanks Sites

I hereby certify that the attached bills are for performing Site Investigation  
activities at Karlock Service Station / Farney's Garage LUST site for the billing  
period of March 1, 2003 to June 1, 2004. I further certify that the costs included in  
this billing are not for corrective action in excess of the minimum requirements of 415 ILCS 5/57. I further  
certify that costs ineligible for payment from the Fund pursuant to 35 Illinois Administrative Code Section  
732.606 are not included in this billing package. Such ineligible costs include but are not limited to:

- Costs associated with ineligible tanks.
- Costs associated with site restoration (e.g., pump islands, canopies).
- Costs associated with utility replacement (e.g., sewers, electrical, telephone, etc.).
- Costs incurred prior to IEMA notification.
- Costs associated with planned tank pulls.
- Legal defense costs.
- Costs incurred prior to July 28, 1989.
- Costs associated with installation of new USTs or the repair of existing USTs.

I further certify that this billing and all attachments thereto were prepared under my direction or supervision  
in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the  
information submitted therein. I affirm that the information is, to the best of my knowledge and belief, true,  
accurate and complete and the costs for remediating said LUST site are correct and reasonable. Such  
affirmation is made under penalty of perjury as defined in Section 32.2 of the Criminal Code of 1961, Ill.  
Rev. Stat. 1991, ch. 38, par. 32.2. I am aware that there are significant penalties for submitting false  
information, including the possibility of fine and imprisonment for knowingly committing violations.

Owner/Operator: Bill Walsh for Richard Karlock Title: Environmental Professional

Signature: [Signature] Date: 1.3.05

Subscribed and sworn to before me the 3rd day of January, 2005.  
(Budget Proposals and Budget Amendments must be notarized when the certification is signed.)

[Signature] Seal:  
(Notary Public)

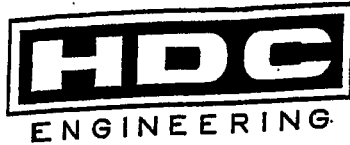
P.E.: Kevin Saylor Seal:

P.E. Signature: [Signature] Date: 1.3.05

Subscribed and sworn to before me the 3rd day of January, 2005.  
(Budget Proposals and Budget Amendments must be notarized when the certification is signed.)

[Signature] Seal:  
(Notary Public)

The Agency is authorized to require this information under 415 ILCS 5/1. Disclosure of this information is  
required. Failure to do so may result in the delay or denial of any budget or payment requested hereunder.  
This form has been approved by the Forms Management Center.



201 W. Springfield Ave., Suite 300  
P.O. Box 140  
Champaign, Illinois 61824-0140  
BUS. (217) 352-6976  
FAX (217) 356-0570

September 5, 2002

To Whom It May Concern:

HDC Engineering is an authorized representative of Karlock Service Station to sign documents relating to the underground storage tank (UST) removal and site remediation activities located at 522 South Main Street, Rankin, IL 60960, commonly known as Karlock Service Station/Farley's Garage. The authorization extends to actions necessary to satisfy requirements from the Office of the Illinois State Fire Marshal, Illinois Environmental Protection Agency, landfill for soil disposal, laboratory for soil/water analysis, and other agencies and/or businesses concerning the above site for the work stated.

Respectfully,

A handwritten signature in black ink, appearing to read "Richard Karlock", written over a horizontal line.

Richard Karlock  
Karlock Service Station  
119 West Patton  
Paxton, IL 60957

RECEIVED  
CLERK'S OFFICE

JAN 13 2005

STATE OF ILLINOIS  
Pollution Control Board

**CERTIFICATE OF SERVICE**

I, Jeffrey W. Tock, the undersigned, certify that I have served the attached

ENTRY OF APPEARANCE OF JEFFREY W. TOCK and PETITION FOR

REVIEW OF LUST FUND REIMBURSEMENT DECISION upon:

Ms. Dorothy Gunn  
Clerk of the Board  
Illinois Pollution Control Board  
100 W. Randolph Street  
Suite 11-500  
Chicago, IL 60601

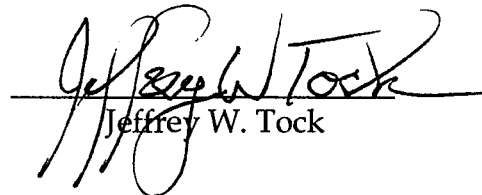
John Kim, Esq.  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62764-9276

Richard Karlock  
119 W. Patton St.  
Paxton, IL 60957

Kevin Saylor, P.E.  
HDC Engineering  
201 W. Springfield Avenue, Suite 300  
Champaign, Illinois 61820

by Federal Express, sent on January 13, 2005.

Jeffrey W. Tock  
Harrington & Tock  
201 W. Springfield Ave., Suite 601  
P.O. Box 1550  
Champaign, Illinois 61824-1550  
Telephone: (217) 352-4167

  
Jeffrey W. Tock