

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

OCT 23 2006

STATE OF ILLINOIS
Pollution Control Board

VILLAGE OF WILMETTE,)
)
 Petitioner,)
)
 v.)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
 Respondent.)

PCB No. *07-27*
06

NOTICE OF FILING

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

Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544

William D. Ingersoll, Manager
Illinois Environmental Protection Agency
James R. Thompson Center
100 West Randolph Street
Suite 11-300
Chicago, IL 60601

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue,
P.O. Box 19276
Springfield, Illinois 62794-9276

PLEASE TAKE NOTICE that on October 23, 2006, I have filed with the office of the Clerk of the Pollution Control Board a PETITION TO REVIEW ILLINOIS ENVIRONMENTAL PROTECTION AGENCY DECISION, copies of which are herewith served upon you.

Respectfully submitted,



VILLAGE OF WILMETTE,
Respondent

Mary Beth Cyze
Assistant Corporation Counsel
Village of Wilmette
1200 Wilmette Avenue
Wilmette, IL 60091
847/853-7505

Dated: October 23, 2006

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Petition for Review of Illinois Environmental Protection Agency Decision was mailed, first class, to the following on October 23, 2006:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

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

It is hereby certified that a true copy of the foregoing Petition for Review of Illinois Environmental Protection Agency Decision was hand delivered to the following on October 23, 2006.

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



Mary Beth Cyze

Mary Beth Cyze
Assistant Corporation Counsel
Village of Wilmette
1200 Wilmette Avenue
Wilmette, Illinois 60091
(847) 853-7505

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

OCT 23 2006

STATE OF ILLINOIS
Pollution Control Board

VILLAGE OF WILMETTE,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 07-27

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

The Village of Wilmette ("Village"), a municipal corporation, by and through its attorney and pursuant to the Illinois Environmental Protection Act and the Illinois Administrative Code, hereby appeals a certain decision of the Illinois Environmental Protection Agency (IEPA) as set forth below:

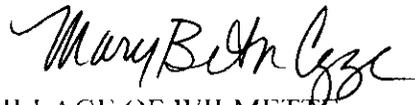
1. The Village, as owner of a former underground leaking storage tank, performed and completed all investigative and/or remedial activities required by IEPA at the Village's site located at 710 Ridge Road, Wilmette, Illinois 60091. The Site was referred to as IEPA #0313305091 and LUST Incident #982714.
2. The Village was issued a No Further Remediation (NFR) letter for the site, and thereafter, filed its final reimbursement request with IEPA. (Exhibit A).
3. This Petition involves a final budget request that was **less than** the IEPA approved budget amount and arises from the IEPA's final decision denying the Village's request to amend the budget so as to modify the amounts within certain subcategories

of the overall budget. (Exhibit B). The IEPA's decision, by letter dated September 14, 2006, states that its decision was final and appealable.

4. The Village requested that IEPA join in an appropriate request to the Illinois Pollution Control Board for a 90-day extension of the 35-day appeal period. (Exhibit C). By letter dated October 19, 2006, EPA denied the Village's request. (Exhibit D).
5. The Village is appealing the IEPA's decision of September 14, 2006, and also requests that, given the public policy issues raised by this appeal, that IEPA be deemed to have joined in this appeal notwithstanding IEPA's refusal to join in this appeal. This Petition for Review is timely filed.

WHEREFORE, the Village respectfully requests that the Board: 1) enter an order directing the IEPA to approve the Billing Package and Budget Amendment #3, as set forth in Exhibit A hereto; 2) deem the IEPA to have joined in this appeal; and, 3) approve the Village's attorney's fees and costs in bringing this appeal.

Respectfully submitted,



VILLAGE OF WILMETTE,
Respondent

Mary Beth Cyze
Assistant Corporation Counsel
Village of Wilmette
1200 Wilmette Avenue
Wilmette, IL 60091
847/853-7505

Dated: October 23, 2006



engineering and constructing a better tomorrow

August 4, 2006

Ms. Valerie Davis
Illinois Environmental Protection Agency
LUST Claims Unit, Planning & Reporting Section
Bureau of Land
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

**RE: LPC #0313305091 – Cook County
Wilmette/Wilmette, Village of
710 Ridge Road (Police Station)
LUST Incident No. 982714
LUST Technical File
MACTEC Project No. 3205050405.03**

Dear Ms. Davis:

Enclosed please find an original and one (1) copy of two (2) different sets of Illinois Environmental Protection Agency (IEPA) Budget and Billing Form for Leaking Underground Storage Tank Sites for the above referenced LUST incident. One set of forms represents **Budget Amendment No. 3** and the other set represents a **Billing Package** for the final reimbursement request for the implementation of the Corrective Action at the site. MACTEC Engineering and Consulting, Inc. (MACTEC) is submitting these forms on behalf of the Village of Wilmette (Wilmette). The budget amendment is being submitted along with the final reimbursement request in an effort to simplify and expedite the review and approval process.

The total approved budget is currently \$607,703.08 which was approved by IEPA via the letter dated July 11, 2002. The budget amendment is requesting an increase of \$12,109.25 in the "Personnel Costs" category and an increase of \$2,728.31 in the "Handling Charges" category of the previous budget plan. Therefore, Wilmette is requesting that IEPA approve a total budget increase of \$14,837.56. The billing package is requesting reimbursement of \$132,632.58.

As part of this currently approved budget, to date IEPA has reimbursed Wilmette \$426,950.91. (Note, an additional \$3,597.89 was reimbursed, for a total to date reimbursed amount of \$430,548.80, but this additional amount was not covered by the currently approved budget.) Therefore, of the total approved budget of \$607,703.08, the total reimbursement amount (including the current request) is \$559,583.49, which is \$48,119.59 less than the currently approved budget.

Ex. A

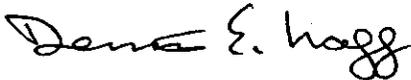
Ms. Valerie Davis
Illinois Environmental Protection Agency
August 4, 2006
Page 2

The attached spreadsheet shows a summary of the categorical breakdown of the budget and reimbursement amounts.

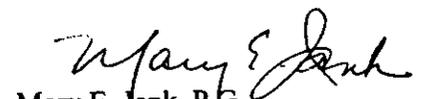
Please feel free to contact either of us if you have any questions or require any additional information.

Sincerely,

MACTEC Engineering and Consulting, Inc.



Dennis E. Nagg
Principal Scientist



Mary E. Jank, P.G.
Principal Geologist

Enclosure

cc: Brigitte Mayerhofer, Wilmette
Paul Hahn, Wilmette
Mary Beth Cyze, Wilmette

TOTAL IEPA BUDGET AND REIMBURSEMENT AMOUNTS

**VILLAGE OF WILMETTE
POLICE STATION/HOWARD PARK LUST SITE
IEMA NO. 982714**

CATEGORY	CURRENTLY APPROVED BUDGET	BUDGET AMENDMENT NO. 3	TOTAL REQUESTED BUDGET	PREVIOUSLY REIMBURSED	CURRENT REIMBURSEMENT REQUEST	TOTAL PREVIOUS & CURRENT REIMBURSEMENT	DIFFERENCE (BUDGET MINUS REIMBURSED)
Investigation Costs	\$5,493.00	\$0.00	\$5,493.00	\$4,944.88	\$279.12	\$5,224.00	\$269.00
Analysis Costs	\$17,988.00	\$0.00	\$17,988.00	\$2,571.00	\$8,259.00	\$10,830.00	\$7,158.00
Personnel Costs	\$147,903.50	\$12,109.25	\$160,012.75	\$97,647.50	\$62,364.50	\$160,012.00	\$0.75
Equipment Costs	\$5,627.00	\$0.00	\$5,627.00	\$0.00	\$4,311.04	\$4,311.04	\$1,315.96
Field Purchases and Other Costs	\$416,389.79	\$0.00	\$416,389.79	\$309,867.21	\$52,309.14	\$362,176.35	\$54,213.44
Handling Charges	\$14,301.79	\$2,728.31	\$17,030.10	\$11,920.32	\$5,109.78	\$17,030.10	\$0.00
TOTAL	\$607,703.08	\$14,837.56	\$622,540.64	\$426,950.91	\$132,632.58	\$559,583.49	\$62,957.15



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

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

CERTIFIED MAIL

7004 2510 0001 8587 3995

SEP 14 2006

Village of Wilmette
Attn: Paul Hahn
1200 Wilmette Road
Wilmette, Illinois 60091

Re: LPC #0313305091 -- Cook County
Wilmette/Village of Wilmette
710 Ridge Road (Police Station)
Leaking UST Incident No. 982714
Leaking UST Technical File



Dear Mr. Hahn:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan Budget (budget) submitted for the above-referenced incident. This budget, dated August 4, 2006, was received by the Illinois EPA on August 7, 2006. Citations in this letter are from the Environmental Protection Act (Act) in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The budget is rejected for the reason listed below (Section 57.7(c) of the Act and 35 Ill. Adm. Code 732.405(c) and 732.503(b)).

The budget was submitted after the issuance of a No Further Remediation Letter. Pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 732.405(d)), any corrective action plan or budget must be submitted to the Illinois EPA for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of 35 Ill. Adm. Code 732 prior to the issuance of a No Further Remediation Letter.

All future correspondence must be submitted 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

Exhibit B

Page 2

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

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 Valerie Davis at 217-785-7492.

Sincerely,



Clifford L. Wheeler
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

CLW:VAD\

Attachment: Appeal Rights

c: Mactec
BOL File

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) 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



engineering and constructing a better tomorrow

October 12, 2006

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
PO Box 19276
Springfield, Illinois 62794-9276

**RE: LPC #0313305091 – Cook County
Wilmette/Wilmette, Village of
710 Ridge Road (Police Station)
LUST Incident No. 982714
MACTEC Project No. 3205050405.03**

To Whom It May Concern:

Pursuant to Sections 40 and 57.7(c)(4) of the Illinois Environmental Protection Act (Act) and on behalf of the Village of Wilmette, MACTEC Engineering and Consulting, Inc. (MACTEC) hereby requests a 90-day extension to the 35-day appeal period for the rejection of the amended budget request for the above-referenced site. The amended budget request was dated August 4, 2006. The final decision letter issued by IEPA was dated September 14, 2006 (copy attached) and was received by MACTEC on September 18, 2006.

Accordingly, we request that the Agency prepare and file with the Illinois Pollution Control Board the appropriate request for a 90-day extension of the 35-day appeal period for this purpose. Please send the Village of Wilmette and MACTEC a copy of the extension request that the Agency files with the Pollution Control Board for this purpose.

Please let either of us know if you need any additional information. Thank you for your assistance with this matter.

Sincerely,
MACTEC Engineering and Consulting, Inc.

Dennis E. Nagg FW WITH PERMISSION

Dennis E. Nagg
Principal Scientist

Mary E. Janik
Mary E. Janik, P.G.
Principal Geologist

Enclosure

cc: Brigitte Mayerhofer, Wilmette
Paul Hahn, Wilmette
Mary Beth Cyze, Wilmette

Exhibit C



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 DOUGLAS P. SCOTT, DIRECTOR

(217)782-5544
(TDD: 217-782-9143)

Author's Direct Line: (217)782-9827
E-Mail: william.ingersoll@epa.state.il.us
Telefax: 217-782-9807

October 19, 2006

Mr. Dennis E. Nagg
MACTEC Engineering and Consulting, Inc.
5440 N. Cumberland Avenue, Suite 250
Chicago, Illinois 60656

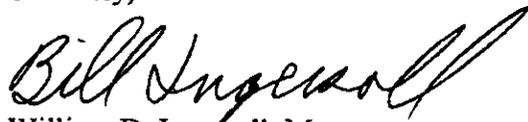
Re: #0313305091 - Cook County
Wilmette/Wilmette, Village of
710 Ridge Road (Police Station)
LUST Incident No. 982714

Dear Mr. Nagg:

I am in receipt of your letter dated October 12, 2006 requesting an extension of the time in which to appeal the Illinois EPA's September 14, 2006 decision regarding the above incidents and site. Since the issue relating to budget submittal after the issuance of the No Further Remediation Letter is not likely to be resolved through the additional time, please be advised that the request for an extension of time is DENIED. Your time to appeal the earlier decision is not extended.

If you have any questions, please feel free to contact me.

Sincerely,


William D. Ingersoll, Manager
Enforcement Programs

cc: Clifford L. Wheeler, BOL/LUST Section

Exhibit D