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CLERK'S OFFICE

MAY 24 2007

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

PCB No. 07- 120  
(LUST Appeal - Ninety Day Extension)

**REQUEST FOR NINETY DAY EXTENSION**  
**OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, James G. Richardson, Special Assistant Attorney General, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board ("Board") grant an extension of the thirty-five (35) day period for petitioning for a hearing to August 23, 2007, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

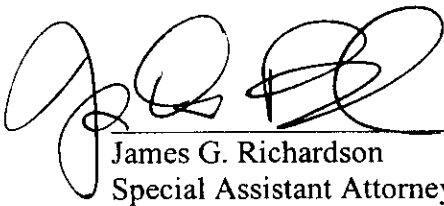
1. On April 18, 2007, the Illinois EPA issued a final decision to the Petitioner.
2. On May 18, 2007, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief the Petitioner did receive the final decision on April 20, 2007.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson  
Special Assistant Attorney General

Dated: May 22, 2007

1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**



1899187-56

# 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

217/782-6762

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

## RECEIVED

CERTIFIED MAIL #

APR 18 2007

APR 18 2007

7004 2510 0001 8623 9653

BY: SB/NO

Ruth Oil Express Mart  
Attention: Mr. Cork Pheiffer  
c/o Southwest Bank/Commercial Lending  
Jennifer Vescogni - Acct. #0032713725  
#2 Carlyle Plaza Drive  
Belleville, Illinois 62221

*998/31M - \$49,001.71 (\$13,409.30) = \$36,594.21  
Run  
104NR*

Re: LPC #1750205012 -- Stark County  
Wyoming/Ruth Oil Express Mart  
201 West Williams  
Leaking UST Incident No. 992831  
Leaking UST FISCAL FILE

*VENDORS - \$ 38,815.95  
(1) KROX LF # 8242006*

Dear Mr. Pheiffer:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced Leaking UST 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 7, 2006 and was received by the Agency on September 26, 2006. The application for payment covers the period from June 1, 2006 to August 25, 2006. The amount requested is \$72,820.16.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the billing submittal received by the Agency on April 25, 2000 for \$61,793.63. 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 26, 2006, the Agency received your application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher for \$60,410.86 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 application 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.

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

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 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:

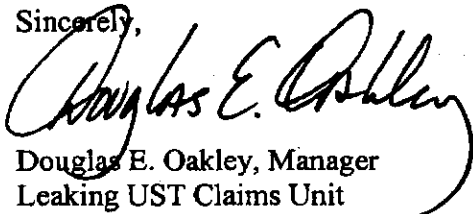
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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 Susan Brock of my staff or Jenni Rossi of the technical staff at 217/782-6762.**

Sincerely,



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

DEO:SB:bjh\0727710.doc

Attachment

cc: United Science Industries, Inc.

Attachment A  
Technical Deductions

Re: LPC #1750205012 -- Stark County  
Wyoming/Ruth Oil  
201 West Williams  
Leaking UST Incident No. 992831  
Leaking UST Fiscal File

Citations in this attachment are from the Environmental Protection Act (Act) in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

- #013424 →
1. \$2,146.29, deduction for costs for personnel costs for building demolition that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c).
  2. \$2,311.63, deduction for costs for equipment costs for building demolition that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c).
- #013424 →

Attachment A  
Accounting Deductions

Re: LPC #1750205012 -- Stark County  
Wyoming/Ruth Oil Express Mart  
201 West Williams  
Leaking UST Incident No. 992831  
Leaking UST Fiscal File

Citations in this attachment are from the Environmental Protection Act (Act) in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item #      Description of Deductions

*Rem → #013533*  
1.      \$1,705.27, deduction for costs that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 732.606(gg). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act; therefore, such costs are not approved pursuant to Section 57.7(c)(4)(C) of the Act because they may be used for corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

Analysis Costs: No invoice was provided for Prairie Analytical.

*Rem #013533*  
2.      \$102.80, deduction for costs that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 732.606(gg). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act; therefore, such costs are not approved pursuant to Section 57.7(c)(4)(C) of the Act because they may be used for corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

Deduction for costs for sample shipping that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c).

*#013533 - 3-01-05-99  
#013424 - 4-7-40*  
3.      \$253.39, deduction for costs for VOA kits and Per Diem that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c).

4. \$0.10, deduction for costs requested that are based on mathematical errors. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 732.606(ff). In addition, such costs are not approved pursuant to Section 57.7(c)(4)(C) of the Act because they are not reasonable.

#013423  
NR

Deduction for total personnel costs.

5. \$2,127.43, deduction for costs for personnel costs that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c).

#013424

6. \$1,045.00, deduction for costs for personnel costs for building demolition that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c).

#013424

7. \$1,120.46, deduction for costs for equipment costs that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c).

#013424

8. \$1,500.43, deduction for costs for construction debris disposal that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c).

Vendor  
know →  
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9. \$96.50, deduction for costs for permits that are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c).

#013424

\$7,951.38 Total Accounting Deductions

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#013533 - \$1994.06  
#013424 - \$10,415.24  
-----  
\$12,409.30



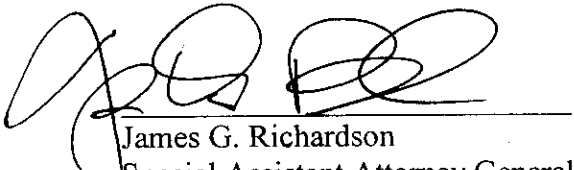
## CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on May 22, 2007 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by first class mail of the United States Postal Service upon the persons as follows:

Dorothy Gunn  
Clerk  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601-3218

Mandy L. Combs  
The Sharp Law Firm, P.C.  
P.O. Box 906  
Mt. Vernon, Illinois 62864

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Special Assistant Attorney General  
Division of Legal Counsel  
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