

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUN 08 2012

STATE OF ILLINOIS
Pollution Control Board

BRIMFIELD AUTO & TRUCK,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 12- 134
(LUST Appeal – Ninety Day
Extension)

ORIGINAL

RETURN TO CLERK'S OFFICE

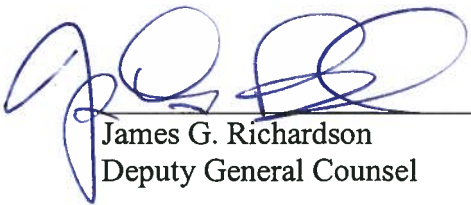
NOTICE

John Therriault
Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Robert M. Riffle
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, Illinois 61602-1611

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY


James G. Richardson
Deputy General Counsel

Dated: June 6, 2012
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

RECEIVED
CLERK'S OFFICE

JUN 08 2012

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BRIMFIELD AUTO & TRUCK,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 12- 134
(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, Deputy General Counsel, 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 September 4, 2012, 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:

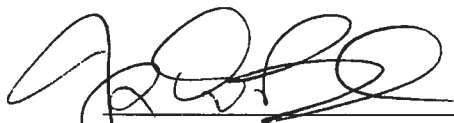
1. On April 30, 2012, the Illinois EPA issued a final decision to the Petitioner.
2. On June 5, 2012, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief the Petitioner did receive the final decision on or about May 2, 2012.

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
Deputy General Counsel

Dated: June 6, 2012

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



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397
PAT QUINN, GOVERNOR JOHN J. KIM, INTERIM DIRECTOR

217/782-6762

CERTIFIED MAIL

APR 30 2012

7009 3410 0002 3749 3273

Brimfield Auto & Truck
Mr. Larry Satterfield
Post Office Box 107
Brimfield, Illinois 61512

Re: LPC #1430155012 -- Peoria County
Brimfield Auto & Truck
408 East Knoxville
Leaking UST Incident No. 923484 & No. 20080373
Leaking UST Technical File

Dear Mr. Satterfield:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Stage I Site Investigation Plan Budget (budget) submitted for the above-referenced incident. This budget, dated March 28, 2012, was received by the Illinois EPA on March 28, 2012. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The budget is modified pursuant to Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) or 734.510(b). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of payment from the Fund 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 734.630 and 734.655.

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

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

4302 N. Main St., Rockford, IL 61103 (815)987-7760
595 S. State, Elgin, IL 60123 (847)608-3131
2125 S. First St., Champaign, IL 61820 (217)278-5800
2009 Mall St., Collinsville, IL 62234 (618)346-5120

9511 Harrison St., Des Plaines, IL 60016 (847)294-4000
5407 N. University St., Arbor 113, Peoria, IL 61614 (309)693-5462
2309 W. Main St., Suite 116, Mazon, IL 62959 (618)993-7200
100 W. Randolph, Suite 11-300, Chicago, IL 60601 (312)814-6026

PLEASE PRINT ON RECYCLED PAPER

Page 2

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 me at 217-785-3913

Sincerely,

A handwritten signature in black ink, appearing to read "Harry A. Chappel". The signature is fluid and cursive, written over a white background.

Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section

Cc: MECRS, Inc.
BOL File

C:\Documents and Settings\epanuser\Desktop\HAC\Leaking UST PROJECTS\Brimfield Auto & Truck\Stage 1 approval letter.docx

Attachment A

Re: LPC # 1430155012 -- Peoria County
Brimfield Auto & Truck
408 East Knoxville
Leaking UST Incident No. 923484 & No. 20080373
Leaking UST Technical File

SECTION 1

Stage 1 - Actual Costs

As a result of the Illinois EPA's modifications in Section 2 of this Attachment A, the following amounts are approved:

\$3,360.75	Drilling and Monitoring Well Costs
\$4,351.15	Analytical Costs
\$0	Remediation and Disposal Costs
\$0	UST Removal and Abandonment Costs
\$0	Paving, Demolition, and Well Abandonment Costs
\$7,326.09	Consulting Personnel Costs
\$146.85	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

This is your notification that payment of costs will be apportioned upon review and approval of your application for payment from the UST Fund. Eligibility of tanks is based upon the determination made by the Office of the State Fire Marshal. The two methods of apportionment follow:

Volume of tanks

Five eligible USTs totaling 4,240 gallons, one ineligible UST with a capacity of 300 gallons, for a total of 4,540 gallons..

$4,240 \text{ eligible gallons} \div 4,540 \text{ total gallons} = 0.93$ (percentage apportioned to the owner or operator for eligible USTs based upon volume of tanks).

Number of tanks

Five eligible USTs + one ineligible USTs = six total USTs. Five eligible USTs ÷ six total USTs = 0.83 (percentage apportioned to the owner or operator for eligible USTs based upon number of tanks)

Based upon the above calculations and the determination as to which method is more favorable to the owner or operator, any payments from the UST Fund made to the owner or operator will be apportioned at 93 percent of the total amount approved. Therefore, 7 percent will be deducted from the payment amount due to apportionment.

SECTION 2

STAGE 1 Modifications

1. The drilling rate has been reduced to \$26.09 per foot. Only 75 foot of drilling was approved (5 borings X 15 foot per boring). The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

The monitoring well rate has been reduced to \$18.72 per foot. Only 75 foot of monitoring well was approved (5 wells X 15 foot per well). The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Based upon the above deduction, a total of \$ 2,956.45 was deducted from drilling & monitoring well costs.

2. \$3,635.28 for costs associated with improperly collected, transported, or analyzed laboratory samples. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(q). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs. These cost also exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Soil samples (12) collected from below the depth to water while drilling and the associated encore samplers are not eligible based on the above.

RECEIVED
CLERK'S OFFICE
JUN 08 2012
STATE OF ILLINOIS
Pollution Control Board

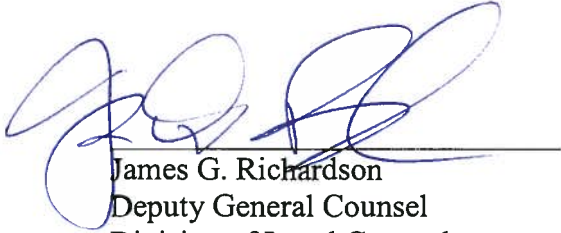
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on June 6, 2012 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:

John Therriault
Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Robert M. Riffle
Elias, Meginnis, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, Illinois 61602-1611

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)