

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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FEB 19 2016

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS RAILWAY, LLC,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 16- 85
(LUST Appeal – Ninety Day
Extension)

NOTICE



ORIGINAL

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

David L. Rieser
K & L Gates LLP
70 West Madison Street, Suite 3100
Chicago, Illinois 60602

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: February 16, 2016
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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PROTECTION AGENCY,)
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PCB No. 16- **85**
(LUST Appeal – Ninety Day
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**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 May 26, 2016, 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:

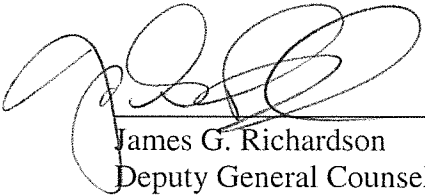
1. On January 19, 2016, the Illinois EPA issued a final decision to the Petitioner.
2. On February 9, 2016, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, the Petitioner received the final decision on or about January 22, 2016.

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: February 16, 2016

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) 782-2829
BRUCE RAUNER, GOVERNOR LISA BONNETT, DIRECTOR

217/524-3300

CERTIFIED MAIL

7012 0470 0001 2970 9272

JAN 19 2016

Illinois Railway, LLC
Attention: Ken Rose
430 West Madison Street
Ottawa, Illinois 61350

Re: LPC #0998995017 -- LaSalle County
Wedron / Illinois Railway – Right of Way
County Highway 21 and Walnut Street
Leaking UST Incident No. #20130463
Leaking UST Technical File

Dear Mr. Rose:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Site Investigation Completion Report (report) submitted for the above-referenced incident. This report, dated September 22, 2015, was received by the Illinois EPA on September 22, 2015. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

The report is rejected for the reason(s) listed in Attachment A (Sections 57.7(a)(5) and 57.7(c)(4) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)).

Pursuant to Sections 57.7(a)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, a revised report must be submitted within 30 days of the date of this letter 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

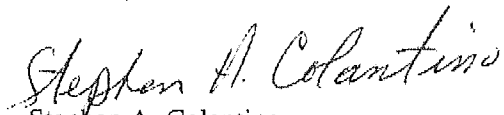
Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

Page 2

If you have any questions or need further assistance, please contact the Illinois EPA project manager, Eric Kuhlman, at 217-785-5715.

Sincerely,



Stephen A. Colantino
Acting Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

SAC:EK:PA

Attachment: A, Appeal Rights

c: CDM Smith, Inc.
BOL File

Attachment A

Re: LPC #0998995017 -- LaSalle County
Wedron / Illinois Railway -- Right of Way
County Highway 21 and Walnut Street
Leaking UST Incident No. #20130463
Leaking UST Technical File

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

1. The Stage 1 site investigation must be designed to gather initial information regarding the extent of on-site soil and groundwater contamination that, as a result of the release, exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. The Stage 1 site investigation must consist of a soil investigation; a groundwater investigation, if required; and an initial water supply well survey.

Groundwater investigation:

- a. A groundwater investigation is required under the following circumstances:
 - i. There is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - ii. Free product that may impact groundwater is found to need recovery in compliance with 35 Ill. Adm. Code 734.215; or
 - iii. There is evidence that contaminated soils may be or may have been in contact with groundwater, except that, if the owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Illinois EPA that no recharge is evident during the 24 hours following pumping, the owner or operator does not have to complete a groundwater investigation, unless the Illinois EPA's review reveals that further groundwater investigation is necessary.
- b. If a groundwater investigation is required, the owner or operator must install five groundwater monitoring wells. One monitoring well must be installed in the location where groundwater contamination is most likely to be present. The four remaining wells must be installed at the property boundary line or 200 feet from the UST system, whichever is less, in opposite directions from each other. The wells must be installed in locations where they are most likely to detect groundwater contamination resulting from the release and provide information regarding the groundwater gradient and direction of flow.

- c. One soil sample must be collected from each five-foot interval of each monitoring well installation boring drilled pursuant to 35 Ill. Adm. Code 734.315(a)(2)(B). Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval. All soil samples exhibiting signs of contamination must be analyzed for the applicable indicator contaminants. For borings that do not exhibit any signs of soil contamination, samples from the following intervals must be analyzed for the applicable indicator contaminants, provided that the samples must not be analyzed if other soil sampling conducted to date indicates that soil contamination does not extend to the location of the monitoring well installation boring:
- i. The five-foot intervals intersecting the elevations of soil samples collected pursuant to 35 Ill. Adm. Code 734.210(h), excluding backfill samples, that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.
 - ii. The five-foot interval immediately above each five-foot interval identified in (i) above; and
 - iii. The five-foot interval immediately below each five-foot interval identified in subsection (i) above.
- d. Following the installation of the groundwater monitoring wells, groundwater samples must be collected from each well and analyzed for the applicable indicator contaminants.
- e. As a part of the groundwater investigation, an in-situ hydraulic conductivity test must be performed in the first fully saturated layer below the water table. If multiple water-bearing units are encountered, an in-situ hydraulic conductivity test must be performed on each such unit.
- i. Wells used for hydraulic conductivity testing must be constructed in a manner that ensures the most accurate results.
 - ii. The screen must be contained within the saturated zone.

(Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.315)

Upon review of this report, the Agency has determined that further groundwater investigation is required since:

- i. **there is evidence that groundwater wells in the area have been impacted by a release,**

- ii. there is evidence that contaminated soils may have been in contact with groundwater.

Therefore, since a groundwater investigation is required the owner or operator must install five groundwater monitoring wells. One monitoring well must be installed in the location where groundwater contamination is most likely to be present. The four remaining wells must be installed at the property boundary line or 200 feet from the UST system, whichever is less, in opposite directions.

2. The Stage 2 site investigation must be designed to complete the identification of the extent of soil and groundwater contamination at the site that, as a result of the release, exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. The investigation of any off-site contamination must be conducted as part of the Stage 3 site investigation. (Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.320)

Upon review, the historical data does not adequately define the extent of the onsite soil and groundwater contamination at the site.

Therefore, a Stage 2 site investigation must be designed to determine to complete the identification of the extent of the soil and groundwater contamination, as a result of the release.

3. For purposes of 35 Ill. Adm. Code 734, for aviation turbine fuels, jet fuels, diesel fuels, gas turbine fuel oils, heating fuel oils, illuminating oils, kerosene, lubricants, liquid asphalt and dust laying oils, cable oils, crude oil, crude oil fractions, petroleum feedstocks, petroleum fractions, and heavy oils, the indicator contaminants must be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics listed in Appendix B of 35 Ill. Adm. Code 734. For leaded aviation turbine fuels, lead must also be an indicator contaminant. (Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.405(c))

The indicator contaminants for kerosene are benzene, ethylbenzene, toluene, total xylenes, and polynuclear aromatics listed in Appendix B of 35 Ill. Adm. Code 734.

As such, the Illinois EPA only requires that the supporting documentation be submitted for the applicable indicator contaminants for kerosene, including the tabular summary.

4. Soil boring logs must be kept for all soil borings. The logs must be submitted in the corresponding site investigation plan, site investigation completion report, or corrective action completion report on forms prescribed and provided by the Illinois EPA and, if specified by the Illinois EPA in writing, in an electronic format. At a minimum, soil boring logs must contain the following information:

- a. Sampling device, sample number, and amount of recovery;
- b. Total depth of boring to the nearest six inches;
- c. Detailed field observations describing materials encountered in boring, including but not limited to soil constituents, consistency, color, density, moisture, odors, and the nature and extent of sand or gravel lenses or seams equal to or greater than one inch in thickness;
- d. Petroleum hydrocarbon vapor readings (as determined by continuous screening of borings with field instruments capable of detecting such vapors);
- e. Locations of sample(s) used for physical or chemical analysis;
- f. Groundwater levels while boring and at completion; and
- g. Unified Soil Classification System (USCS) soil classification group symbols in accordance with ASTM Standard D 2487-93, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference in 35 Ill. Adm. Code 734.120, or other Illinois EPA-approved method.

(Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.425(c))

The soil borings logs submitted do not show the locations of samples used for chemical analysis. As such, the Illinois EPA cannot verify the depth of the soil contamination indicated by the chemical analysis of the soil samples collected.

Therefore, the Illinois EPA will require additional supporting documentation be submitted to the Agency to confirm the depths of the soil samples collected from each boring considered relevant.

EK:P

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:

John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson 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

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CERTIFICATE OF SERVICE

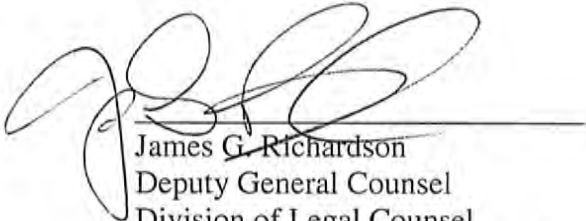
STATE OF ILLINOIS
Pollution Control Board

I, the undersigned attorney at law, hereby certify that on the afternoon of February 16, 2016 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
Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

David L. Rieser
K & L Gates LLP
70 West Madison Street, Suite 3100
Chicago, Illinois 60602

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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