# Objection to the Denial of Excess Liability Trust Fund Claim ELTF No. 200401501-3, Crystal Flash #28, Crystal Flash Petroleum, LLC, Indianapolis, Marion County, Indiana 2009 OEA 80, (07-F-J-3884)

OFFICIAL SHORT CITATION NAME: When referring to 2009 OEA 80, cite this case as *Crystal Flash #28*, 2009 OEA 80.

#### **TOPICS**:

underground storage tank
free product
excavation
reimbursement
costs
corrective action
initial site characterization
corrective action plan
tank removal
328 IAC 1-3-5(d)(14)
field screening
monitored natural attenuation (MNA)

## **PRESIDING ENVIRONMENTAL LAW JUDGE:**

Catherine Gibbs

## **PARTY REPRESENTATIVES:**

IDEM: April Lashbrook, Esq.

Petitioner: Thomas Baker, Esq., David Hatchett, Esq.; Hatchett & Hauck LLP

#### **ORDER ISSUED**:

June 30, 2009

## **INDEX CATEGORY:**

Land

#### PREVIOUS CASE ACTIVITY:

Non-final order preceding this final order:

<u>Crystal Flash #28, 2009 OEA 80nf</u> in .doc format <u>Crystal Flash #28, 2009 OEA 80nf</u> in .pdf format

## **FURTHER CASE ACTIVITY:**

[none]

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STATE OF INDIANA )	BI	EFORE THE INDIANA OFFICE OF
)	El	NVIRONMENTAL ADJUDICATION
COUNTY OF MARION )		
IN THE MATTER OF:	)	
	)	
OBJECTIONS TO DENIAL OF EXC	ESS )	
LIABILITY TRUST FUND CLAIM	)	
NO. 200401501-3, CRYSTAL FLASH #28		CAUSE NO. 07-F-J-3884
CRYSTAL FLASH PETROLEUM, L	LC )	
INDIANAPOLIS INDIANA		

# FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

This matter having come before the Court on the Joint Stipulations of Facts Concerning OEA's February 2, 2009 Findings of Fact, Conclusions of Law and Order, filed on June 25, 2009, which pleading is a part of the Court's record; and the Court, being duly advised and having read the Joint Stipulations, now finds that judgment may be entered and makes the following findings of fact, conclusions of law and final order as follows:

## **FINDINGS OF FACT**

- 1. On January 14, 2009, a hearing regarding the Petition for Review filed in this matter by the Petitioner, Crystal Flash Petroleum LLC was held. Evidence was presented.
- 2. On February 2, 2009, the presiding Environmental Law Judge (the ELJ) entered Findings of Fact, Conclusions of Law and Order in this matter.
- 3. The Findings of Fact entered on February 2, 2009 are incorporated into this Final Order.
- 4. The Joint Stipulations of Fact Concerning OEA's February 2, 2009 Findings of Fact, Conclusions of Law and Order are adopted and incorporated into this Final Order.

#### **CONCLUSIONS OF LAW**

- 1. This is an Order issued pursuant to I.C. § 4-21.4-3-27. Findings of Fact that may be construed as Conclusions of Law and Conclusions of Law that may be construed as Findings of Fact are so deemed.
- 2. Conclusions of Law No. 1 through 14 entered on February 2, 2009 are incorporated into this Final Order.

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3. The Joint Stipulations of Fact Concerning OEA's February 2, 2009 Findings of Fact, Conclusions of Law and Order are adopted and incorporated into this Final Order.

#### **FINAL ORDER**

**AND THE COURT**, being duly advised, hereby **ORDERS**, **ADJUDGES AND DECREES** that the IDEM, in accordance with the Joint Stipulations of Fact Concerning OEA's February 2, 2009 Findings of Fact, Conclusions of Law and Order shall reimburse the Petitioner in the amount of \$9,132.09 within thirty (30) days of the effective date of this Order.

You are hereby further notified that pursuant to provisions of I.C. § 4-21.5-7.5, the Office of Environmental Adjudication serves as the Ultimate Authority in the administrative review of decisions of the Commissioner of the Indiana Department of Environmental Management. This is a Final Order subject to Judicial Review consistent with applicable provisions of I.C. § 4-21.5. Pursuant to I.C. § 4-21.5-5-5, a Petition for Judicial Review of this Final Order is timely only if it is filed with a civil court of competent jurisdiction within thirty (30) days after the date this notice is served.

IT IS SO ORDERED this 30th day of June, 2009 in Indianapolis, IN.

Hon. Catherine Gibbs Environmental Law Judge