

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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SEP 02 2003

EASTMAN CHEMICAL COMPANY,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 04- 27
(RCRA - Ninety Day Extension)

STATE OF ILLINOIS
Pollution Control Board

NOTICE

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

Daryl Dierwechter
HSES Director, NA CASPI
Eastman Chemical Company
400 East Cottage Place
Carpentersville, IL 60110

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

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: August 28, 2003

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STATE OF ILLINOIS
Pollution Control Board

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

EASTMAN CHEMICAL COMPANY,)
 Petitioner,)
 v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
 Respondent.)

PCB No. 04- 27
(RCRA – 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, John J. Kim, Assistant Counsel and 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 November 26, 2003, or any other date not more than a total of one hundred twenty-five (125) days from the date of service of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On July 23, 2003, the Illinois EPA issued a final decision to the Petitioner regarding the Petitioner's RCRA Closure Activities. (Exhibit A)

2. On August 8, 2003, 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 join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The Petitioner did not represent when the final decision was received, though the Illinois EPA hereby asserts that service would not have been completed any earlier than July 24, 2003, which was one day following the date of the letter. (Exhibit B)

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,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: August 28, 2003

John Chitwood - ext. 109

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/524-3300

July 23, 2003

CERTIFIED MAIL

7002 3150 0000 1219 7585

Eastman Chemical Company
Attention: Jeff Nelson
400 East Cottage Place
Carpentersville, Illinois 60110

Re: 0890200001 -- Kane County
Eastman Chemical
ILD005083316
Log No. C-522-M-6
Received: February 19, 2003
RCRA Closure

Dear Mr. Nelson:

This is in response to the February 18, 2003 submittal made on behalf of Eastman Chemical Company by Harish G. Rao, P.E., Ph.D of Levine Fricke regarding RCRA closure activities at the above-referenced facility. As you know, a plan to complete closure of a 15,000 gallon above-ground tank, a 2,500 gallon underground tank and their associated piping/trenches (also referred to as "SWMU 3") at the subject facility was approved by Illinois EPA on March 16, 1990 (Log No. C-522); several modifications to this plan have also been approved Illinois EPA (Log No. C-522-M-1 thru C-522-M-5), the last being on March 25, 1998. A substantial amount of investigation and remediation efforts have been completed to date on this project, including installation/operation of a soil vapor extraction system and continued groundwater monitoring.

Dr. Rao's submittal included a document entitled Modification to RCRA Closure plan for Solid Waste Management Unit 3, dated February 18, 2003. The introduction to this document indicates the following elements comprise the proposed modifications to the closure plan:

- Continuation of manufacturing operations at the Site.
- Termination of operation of the SVE System, which cannot function properly given the site geologic conditions.
- Modification of groundwater monitoring to an annual program with locations (one upgradient and four downgradient) suited to monitoring potential contaminant migration from the SWMU 3 area to the downgradient Site border, and notification if there is indication of any migration contaminants of concern (COCs) that threaten human health or the environment.

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) 270-3600
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINGSVILLE - 2009 Mall Street, Collingsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

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Mr. Jeff Nelson
C-522-M-6
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- Maintenance of adequate engineered barriers at the Site to prevent exposure to soil or groundwater at the Site.
- Commitment to address remaining SWMU 3 contaminants in soil and groundwater upon 1) observation (via the groundwater monitoring program) that COCs in groundwater have migrated to downgradient monitoring points, or 2) termination of SWMU 3 area manufacturing operations and demolition of the East Production Building.

Illinois EPA has completed its review of the subject submittal and has determined that it cannot be approved as a closure plan modification request at this time for the following reasons:

1. 35 Ill. Adm. Code 725.213(b) allows Illinois EPA to approve requests to extend the time needed to complete closure of a former hazardous waste management unit. To approve such a request for this closure project, information must be submitted by the facility demonstrating that: (1) additional time is necessary to complete closure; and (2) the owner/operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unit, including compliance with all applicable interim status requirements. No such information was contained in the submittal.
2. 35 Ill. Adm. Code 725.297 requires an owner/operator of a former hazardous waste tank undergoing closure remove or decontaminate all waste residues, contaminated structures/equipment containment components and contaminated soil. This regulation goes on to state that if an owner/operator cannot remove or decontaminate all contaminated soils at the tank, then the unit must be closed as a landfill and receive post-closure care in accordance with 35 Ill. Adm. Code 725.410 and Subparts G and H. Given the fact that Eastman Chemical has not removed or decontaminated all contaminated soil from the vicinity of the subject tank, then it may be appropriate to close this unit as a landfill and provide the required post-closure care of the unit.
3. A review of Illinois EPA files indicates that the subject tanks did not have appropriate secondary containment. Thus, it appears as though the facility should develop a contingent plan for closing this unit as a landfill and then providing post-closure care for the unit (see 35 Ill. Adm. Code 725.297). In addition, estimates for the cost of this contingent scenario should be developed and financial assurance for closure should be established in this amount if it is greater than the cost of completing "clean closure" of the unit.
4. The Illinois EPA does not concur with Eastman's proposal to address groundwater COCs associated with SWMU 3 upon termination of manufacturing operations and demolition of buildings at the site. The COCs in groundwater must be addressed at this time.

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Consequently, as found in Item 6 below, Eastman must submit a revised groundwater monitoring plan for SWMU 3 to the Illinois for review and approval.

5. Quarterly groundwater monitoring must continue in accordance with the requirements outlined in the Illinois EPA letter dated March 25, 1998, until such time that the Illinois EPA reviews and approves a revised groundwater monitoring plan for SWMU 3 (see Item 6 below).
6. Within ninety (90) days, Eastman must submit to the Illinois EPA for review and approval, at the address provided in Item 8 below, a revised groundwater monitoring plan for SWMU 3 that addresses the groundwater contamination associated with SWMU 3. The revised plan must include, but need not be limited to, the following:
 - a. Proposed measures to determine the full extent and amount of the LNAPL beneath the East Production Building. The activities proposed must be sufficient to adequately characterize the free product associated with SWMU 3. Because the free product remaining at the site is a continual source of groundwater contamination, Eastman must propose a course of action to address this issue.
 - b. A plan to further define the extent of groundwater contamination in the vicinity of wells 509S, 510S and 511S. The plan must identify additional groundwater activities that will be necessary to determine if groundwater has been impacted downgradient of the aforementioned wells. A plan addressing any investigation of groundwater must include at a minimum details addressing: (1) COCs; (2) proposed locations for additional groundwater monitoring wells, if necessary; (3) sampling and analysis procedures; (4) a course of action; and (5) any other pertinent information.
7. The following options in regards to clean closure for groundwater at SWMU 3 are available to the facility once the remaining free product at the facility has been adequately delineated and removed to the maximum extent practicable:
 - a. Groundwater monitoring must continue until such time that the applicable groundwater quality requirements of 35 Ill. Adm. Code 620 and 35 Ill. Adm. Code 742 are met for four consecutive quarters. If groundwater is found to be free of contamination for four consecutive quarters, then the groundwater monitoring requirements for SWMU 3 will be satisfied. However, groundwater monitoring must continue until it can be demonstrated to the Illinois EPA's satisfaction that the quality of groundwater meets the applicable cleanup requirements and the free product at the site has been adequately addressed.

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- b. If clean closure of groundwater cannot be achieved as described in Condition 4(a) above, Eastman may elect to address remaining COCs in groundwater at SWMU 3 by developing 35 Ill. Adm. Code 742 Tiered Approach to Corrective Action (TACO) GROs. TACO provides flexibility in developing site-specific remediation objectives including the exclusion of exposure routes and three tiers for selecting remediation objectives. Regardless of the approach proposed by the facility, the applicable criteria found in 35 Ill. Adm. Code 742 must be addressed thoroughly with site-specific information.
 - c. If clean closure of groundwater cannot be achieved as described in Conditions 4(a) and 4(b) above, Eastman may elect to propose the establishment of a Groundwater Management Zone (GMZ) in accordance with 35 Ill. Adm. Code 620.250. A GMZ is a three-dimensional region containing groundwater being managed to mitigate impairment caused by the release of contaminants at the site. The establishment of a GMZ, associated with RCRA closure activities, must be approved by the Illinois EPA under an existing corrective action process.
8. Eastman shall submit the information required by Item 6 above to the Illinois EPA at the address provided below:
- Illinois EPA
Bureau of Land - #33
Permit Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
9. Based upon a review of all available information, it appears as though Eastman Chemical should make an evaluation to determine if the subject tanks could be "clean-closed" at this time by meeting remediation objectives developed in accordance with 35 Ill. Adm. Code 742. Due to the fact that it has been thirteen years since closure of the subject units began, if a demonstration cannot be made that closure of the units meets acceptable remediation objectives, then it appears as though Eastman should submit a closure plan modification request proposing that the units be closed as a landfill and receive the required post-closure care. Detailed plans for either option must be submitted to Illinois EPA for review and approval. Guidance for developing closure plan modifications is attached.

This letter shall constitute Illinois EPA's final decision on the subject submittal. Within 35 days of the date of mailing of the Illinois EPA's final decision, the applicant may petition for a hearing before the Illinois Pollution Control Board to contest the decision of the Illinois EPA, however,

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the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed ninety days by written notice provided to the Board from the applicant and the Illinois EPA within the 35-day initial appeal period.

Work required by this letter, your submittal or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the Structural Engineering Licensing Act of 1989. This letter does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

Should you have any questions regarding the groundwater related aspects of this project, please contact Jeff Guy at 217/558-2710. Questions regarding other aspects of this project should be directed to James K. Moore, P.E. at 217/524-3295.

Sincerely,



Joyce L. Munie, P.E.
Manager, Permit Section
Bureau of Land

JLM:JKM:bjh032083s.doc

Attachment: RCRA Closure Plan Guidance

cc: Harish G. Rao

TOTAL P.06

TOTAL P.07
TOTAL P.07

EASTMAN
www.eastman.com

Eastman Chemical Company
400 East Cottage Place
Carpentersville, Illinois 60110

August 8, 2003

CERTIFIED MAIL

Illinois EPA
Attention: Jeff Guy
Bureau of Land- #33
Permit Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Re: 0890200001 - Kane County
Eastman Chemical
ILD005083316
Log No. C-522-M-6
RCRA Closure

Dear Mr. Guy:

As discussed during our telephone conversation on August 6, 2003, representatives of Eastman Chemical Company (Eastman) will be meeting with Illinois EPA (IEPA) on Thursday, August 28, 2003 at 1:30 pm. The purpose of the meeting will be to discuss Eastman's Modification to RCRA Closure Plan for Solid Waste Management Unit 3 and IEPA's subsequent response letter (dated July 23, 2003). A more detailed meeting agenda was e-mailed to you on August 1, 2003.

Since we were unable to schedule the meeting within the 35-day time limit specified in IEPA's July 23, 2003 letter, Eastman is requesting a 30-day extension to the deadline for petitioning for a hearing.

Thank you for your assistance in arranging the meeting. I look forward to meeting with you on August 28th. Also, please respond to our request for the 30-day extension at your earliest convenience.

Sincerely,



Daryl Dierwechter
HSES Director, NA CASPI
Eastman Chemical Company



Responsible Care®
A Public Commitment

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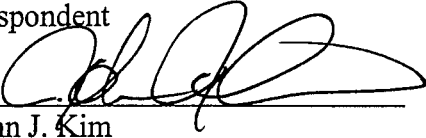
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on August 28, 2003, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class Mail postage affixed thereto, upon the following named persons:

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

Daryl Dierwechter
HSES Director, NA CASPI
Eastman Chemical Company
400 East Cottage Place
Carpentersville, IL 60110

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
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