## BEFORE THE ILLINOIS POLLUTION CONTROL BOARD C

RECEIVED CLERK'S OFFICE

ILLINOIS STATE TOLL HIGHWAY AUTHORITY (Lincoln South HPCAP/B)),  Petitioner,	) ) )	MAY 10 2004 STATE OF ILLINOIS Pollution Control Board
v. ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	) PCB - 04-141 ) (UST Appeal) )	
Respondent.	)	

## **NOTICE OF FILING**

To: Renee Cipriano, Director

Illinois Environmental Protection Agency

1021 North Grand Avenue East

P.O. Box 19276

Springfield, IL 62794

John Kim, Esq.

Special Assistant Attorney General

Illinois Environmental Protection Agency

1021 North Grand Avenue East

P.O. Box 19276

Springfield, IL 62794

PLEASE TAKE NOTICE that on May 10, 2004 we filed with the Clerk of the Illinois Pollution Control Board the originals and nine (9) copies each, via personal delivery, of 1) Appearance of Special Assistant Attorneys General and 2) Petition for Review of Agency Modification of Budget for High Priority Corrective Action Plan for Des Plaines South for filing the above-entitled cause, copies of which are attached hereto.

Kenneth W. Funk

Special Assistant Attorney General

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that true and correct copies of the Notice of Filing, together with copies of the documents described above, were served upon the above-named Respondent by enclosing same in envelope addressed to said Respondent, certified mail, return receipt requested, and by depositing said envelopes in a U.S. Post Office Mail Box at Chicago, Illinois, with postage fully prepaid on the lotal day of May, 2004

Kenneth W. Funk

Special Assistant Attorney General

Kenneth W. Funk, Esq. Phillip J. Zisook, Esq. Karen Kavanagh Mack, Esq. Special Assistant Attorneys General 225 W. Washington Street, Suite 1700 Chicago, IL 60606 (312) 346-1460

THIS FILING IS SUBMITTED ON RECYCLED PAPER

## BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

)		CLERK'S OFFICE
)		MAY 1 0 2004
) )		STATE OF ILLINOIS Pollution Control Board
)	PCB - 04-141	
)	(UST Appeal)	
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## **APPEARANCE**

I, Kenneth W. Funk, hereby file the appearance of Deutsch, Levy & Engel, Chartered in this proceeding on behalf of the Illinois State Toll Highway Authority.

Kenneth W. Funk

Special Assistant Attorney General

Kenneth W. Funk, Esq.
Phillip J. Zisook, Esq.
Karen Kavanagh Mack, Esq.
Special Assistant Attorneys General
225 W. Washington Street
Suite 1700
Chicago, IL 60606
(312) 346-1460
Firm No. 90235

RECEIVED CLERK'S OFFICE

## BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAY 1 0 2004

ILLINOIS STATE TOLL HIGHWAY AUTHORITY (Lincoln South HPCAP/B)),	)	STATE OF ILLINOIS Pollution Control Board
Petitioner,	)	
<b>V.</b>	) PCB - 04-141 ) (UST Appeal	
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	,
Respondent.	)	

# PETITION FOR REVIEW OF AGENCY MODIFICATION OF HIGH PRIORITY CORRECTIVE ACTION PLAN AND BUDGET

Petitioner, the Illinois State Toll Highway Authority ("ISTHA") by its attorneys, Kenneth W. Funk, Phillip J. Zisook, and Karen Kavanagh Mack, as Special Assistant Attorneys General, petitions the Illinois Pollution Control Board, pursuant to 415 ILCS 5/57.7(c)(4)(D), 415 ILCS 57.8(I) and 415 ILCS 5/40, for review of the final determination of Respondent, the Illinois Environmental Protection Agency (the "Agency"), dated January 6, 2004, with respect to Petitioner's High Priority Corrective Action Plan and Budget, relating to its Lincoln Oasis South facility, and in support thereof, states:

- 1. ISTHA is the owner of the facility, including underground storage tanks and related piping, commonly known as the Lincoln Oasis South located at milepost 1.1 on Southbound Interstate 294 in South Holland, Illinois.
- 2. In 1994, Wight and Company, on ISTHA's behalf, notified the Illinois Emergency Management Agency that gasoline, diesel and waste oil target analytes were detected above the Tier I Remediation Objectives, to which the IEMA assigned Incident No. 94-1818.

- 3. On or about September 5, 2003, ISTHA submitted a High Priority Corrective Action Plan ("Plan"), including a Budget, to the Agency; and, on or about January 6, 2004, the Agency responded by materially modifying both the Plan and the Budget (the "Final Determination"). A true and complete copy of that Final Determination is attached hereto as Exhibit "A".
- 4. On or about January 27, 2004, ISTHA contacted the Agency by letter, and advised the Agency that it contested the Agency's modifications and requested a 90 day extension of the 35 day appeal period pursuant to §40 of the Environmental Protection Act. (415 ILCS 5/40(a)(1).)
- 5. On or about February 10, 2004, the Agency filed a request before the Board requesting a 90 day extension of the 35 day appeal period.
- 6. On or about February 19, 2004, the Board granted the Agency's request and extended the period within which Petitioner may file its appeal through and including May 11, 2004.
- 7. On April 14, 2004, ISTHA, the Agency approved ISTHA's corrective action completion report and issued a No Further Remediation Letter. A true and complete copy of the No Further Remediation Letter is attached hereto as Exhibit "B".
- 8. While ISTHA acknowledges the Agency's No Further Remediation Letter ("NFR Letter"), ISTHA accepts the NFR Letter with the reservation that ISTHA not be precluded from appealing the Agency's Final Determination of January 6, 2004 concerning the Corrective Action Plan and Budget.
- 9. ISTHA requests that the Board reverse the Agency's Final Determination with respect to its modification of the Lincoln Oasis South Corrective Action Plan and Budget, because *inter alia*, the Plan and remedial activities described therein are necessary and appropriate for the protection of human health and the environment and do not exceed the minimum necessary requirements of the

Act or the regulations promulgated thereunder. Additionally, the Budget included investigation costs, analytical costs, personnel costs, equipment costs and handling charges that were necessary and reasonable to execute the approved Plan.

- 10. With regard to the Plan, the Agency stated the following:
  - (1) Additional information needs to be provided concerning free product recovery if product continues to be encountered at the site.
  - (2) The owner/operator needs to clarify whether or not all of the incidents reported at the site are to be addressed at the same time.
  - (3) It is not acceptable to model the extent of contamination to surface water quality standards. Tier 2 calculations should be based on Class I groundwater objectives. All modeled off-site exceedences based on a Class I groundwater designation must be addressed.
  - (4) Tier 2 migration to groundwater objectives should not be calculated based on soil inhalation and ingestion objectives.
  - (5) All existing monitoring wells should be sampled six months after excavation activities are completed to determine contaminant levels and verify that Tier 2 objectives will be met.
  - (6) The Owner/Operator Property Summary form included in the submittal was for a different site.

On behalf of ISTHA, Wight and Company submitted additional information to the Agency on February 20, 2004, in response to the Agency's comments regarding the Plan. Wight and Company responded that:

- (1) Any free product had been removed on or before December 20, 2000; no free product was detected during the UST removal in September of 2003.
- (2) The remediation activities would address all of the incidents.

- (3) Equation R26 modeling can be used in accordance with the Tier 2 Groundwater Remediation Objectives in 35 Ill. Adm. Code 742.805 to show that the concentration of any contaminant of concern in groundwater discharging into a surface water will meet the applicable water quality standard under 35 Ill. Adm. Code 742.805.
- (4) The Tier 2 Remediation Objective for the migration to groundwater for Benzene and Toluene were calculated independently of the soil inhalation and soil ingestion routes. Using the methods in the Plan, the calculated values of the Migration to Class I Groundwater for Benzene and Toluene were determined to be less stringent than those established for the Ingestion or Inhalation Route for Industrial/Commercial or Construction Worker standard. Therefore, the site would be remediated to the Ingestion or Inhalation Route for Industrial/Commercial or Construction Worker standards, the more stringent of the remediation objectives.
- (5) The existing monitoring wells will be sampled six months after the excavation.
- (6) Wight and Company attached the correct Owner/Operator Property Summary Form to the February 20, 2004 correspondence.
- 11. ISTHA also appeals the Agency's modifications to the Budget that found that investigation, analysis, personnel and equipment costs were unreasonable. ISTHA asserts that the costs for those categories were required to develop the Corrective Action Plan.
- 12. ISTHA further appeals the Agency's modifications to the Budget that seek to apportion ISTHA's corrective action costs. The Agency's bases for apportionment were that (a) ISTHA was deemed eligible to access the LUST Fund for payment of corrective action costs for some, but not all of the USTs at the site; and (b) ISTHA failed to justify that all costs were attributable to each [eligible] UST at the site. However, on information and belief, the amount of contaminants from the eligible USTs exceeded the amount the Agency approved as eligible for apportionment by the Agency. Additionally, ISTHA demonstrated that the corrective action costs it incurred were attributable to the eligible USTs at the site. Accordingly, ISTHA's budget

information provided to the Agency sufficiently demonstrated the costs that were necessary and reasonable to execute the approved Plan, and the Agency erroneously apportioned ISTHA's corrective action costs. Therefore, the Agency's decision to apportion the costs should be reversed.

13. ISTHA reserves the right to present additional grounds for reversal of the Agency's determination, as they appear during the course of this Appeal.

WHEREFORE, the Petitioner, the Illinois State Toll Highway Authority, respectfully requests that this Board grant a hearing in this matter, reverse the Agency's January 6, 2004 determination (modification) of ISTHA's High Priority Corrective Action Completion Plan and Budget for Lincoln Oasis South, and remand this matter to the Agency with instructions to approve the Budget as aforesaid, and for any other relief as the Board deems just and appropriate.

Respectfully submitted,

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

One of their attorneys

Kenneth W. Funk, Esq. Phillip J. Zisook, Esq. Karen Kavanagh Mack, Esq. Special Assistant Attorneys General 225 W. Washington Street, Suite 1700 Chicago, IL 60606 (312) 346-1460



## 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

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL 7002 3150 0000 1227 5290

## JAN 0 6 2004

Illinois State Toll Highway Authority Attention: Steve Gillen 2700 Ogden Avenue Downers Grove, Illinois 60515

Re:

LPC #0312975141 - Cook County

South Holland / Lincoln Oasis

I-294, East Bound

LUST Incident No. 941818

LUST Technical File

Dear Mr. Gillen:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated September 5, 2003, was received by the Illinois EPA on September 10, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c)(4) of the Act and 35 III. Adm. Code 732.405(c), the plan is modified. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act and 35 III. Adm. Code 732:

- 1. Additional information needs to be provided concerning free product recovery if product continues to be encountered at this site.
- 2. The owner/operator needs to clarify whether or not all of the incidents reported at the subject site are to be addressed at the same time.
- 3. Please note that it is not acceptable to model the extent of contamination to surface water quality standards. Tier 2 calculations should be based on Class I groundwater objectives. All modeled off-site exceedences based on a Class I groundwater designation must be addressed.
- 4. Tier 2 migration to groundwater objectives should not be calculated based on soil inhalation and ingestion objectives.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815)
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (2
MARION - 2309 W. Mai

JAN. 09 '04 (FRI) 09:55

EXHIBIT

Sepport

W. Harrison St., Des Plaines, IL 60016 – (847) 294-4000 ersity St., Peoria, IL 61614 – (309) 693-5463 125 South First Street, Champaign, IL 61820 – (217) 278-5800 009 Mall Street, Collinsville, IL 62234 – (618) 346-5120 (618) 993-7200

25 PAGE. 2

- 5. All existing monitoring wells should be sampled six months after excavation activities are completed to determine contaminant levels and verify that Tier 2 objectives will be met.
- 6. The Owner/Operator Property Summary form included with this submittal was for a different site.

Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, the budget for the High Priority Corrective Action Plan is modified pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c). 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 reimbursement may be limited by Sections 57.8(e), 57.8(g) and 57.8(d) of the Act, as well as 35 Ill. Adm. Code 732.604, 732.606(s), and 732.611.

Please note that, if the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f)). Additionally, pursuant to Section 57.8(a)(5) of the Act and 35 Ill. Adm. Code 732.405(e), if reimbursement will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted.

NOTE: Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be reimbursable.

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.

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 Melinda Friedel, P.E. at 217/782-6762.

Sincerely,

Michael 7. forden

Unit Manager

Leaking Underground Storage Tank Section

Division of Remediation Management

Bureau of Land

Attachment: Attachment A

Appeal Rights

cc: Mary Kruk / Wight & Company

Division File

#### Attachment A

Re: LPC #0312975141 -- Cook County

South Holland / Lincoln Oasis

I-294, East Bound

LUST Incident No. 941818

LUST Technical File

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

## SECTION 1.

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

\$2,083.33	Investigation Costs
\$8,682.50	Analysis Costs
\$13,850.00	Personnel Costs
\$4,461.67	Equipment Costs
\$284,949.58	Field Purchases and Other Costs
\$7,94 <b>9.05</b>	Handling Charges

## **SECTION 2**

- \$209,076.18 for an adjustment in investigation, analysis, personnel, equipment costs, field purchases and handling charges. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 III. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 III. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
  - Investigation costs \$12,534.00 (adjustment made based on borings for site classification activities that were not previously approved; approvable amounts were also exceeded)
  - Analysis costs -- \$6,182.00 (adjustment made based on costs for site classification activities, costs associated with bioremediation analyses, and approvable amounts were exceeded)
  - Personnel costs -- \$17,520.00 (excessive hours for the work being performed)
  - Equipment costs \$7,092.00 (excessive time charged for the work to be performed and approvable amounts were exceeded)
  - Field purchases/other \$162,133.00 (allowable amount exceeded for ice and disposable gloves. \$128,443 above the allowable rate for excavation and backfill activities. \$33620 above the allowable rate for pavement removal/replacement activities.)
  - Handling charges \$3,615.18 (adjustment made based on previous cuts)

2. \$450,766.57 for an apportionment of costs. The Illinois EPA has determined that the apportionment shall be based on seven of the twelve USTs listed for this site were deemed ineligible for reimbursement (35 Ill. Adm. Code 732.608(b)). The Illinois EPA may apportion payment of costs for plans submitted under Section 57.7(c)(4)(E)(iii) of the Act if: (1) the owner or operator was deemed eligible to access the Fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and (2) the owner or operator failed to justify all costs attributable to each underground storage tank at the site (Section 57.8(m) of the Act and 35 Ill. Adm. Code 732.608).

## 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)(D) 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:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois 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



## 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

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

ENEE CIPRIANO, DIRECTOR

CERTIFIED MAIL 7002 3150 0000 1257 0845

## APR 14 2003

Illinois State Toll Highway Authority Attn: John Wagner 2700 Ogden Avenue Downers Grove, IL 60515

Re:

LPC #0310635373 -- Cook County

Des Plaines/Des Plaines Oasis (Des Plaines South) Northwest Tollway (I-90), East Bound, Mile Post 4.5

LUST Incident No. 941812 & 20021210

LUST Technical File

Dear Mr. Wagner:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Completion Report Addendum submitted for the above-referenced incident. This information is dated January 14, 2004 and was received by the Illinois EPA on January 20, 2004. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The High Priority Corrective Action Completion Report and associated Professional Engineer Certification indicate corrective action for the above-referenced site was conducted in accordance with the Corrective Action Plan approved by the Illinois EPA. The Corrective Action Completion Report demonstrates that the requirements of Section 57.7(c)(1)(E) of the Act and 35 Ill. Adm. Code 732.409(a)(2) have been satisfied.

Based upon the certification by Jinan Yan, a Licensed Professional Engineer, and pursuant to Section 57.10 of the Act (415 ILCS 5/57.10), your request for a no further remediation determination is granted under the conditions and terms specified in this letter.

Issuance of this No Further Remediation Letter (Letter), based on the certification of the Licensed Professional Engineer, signifies that: (1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with; (2) all corrective action concerning the remediation of the occurrence has been completed; and (3) no further corrective action concerning the occurrence is necessary for the protection of human health, safety, and the environment. Pursuant to Section 57.10(d) of the Act, this Letter shall apply in favor of the following parties:

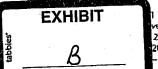
1. Illinois State Toll Highway Authority, the owner or operator of the underground storage tank system(s).

ROCKFORD 4302 North Main Street, Rockford, IL 61103 – (61)

£LOIN - 595 South State, Eigin, IL 60123 – (647) 6

BUREAU OF LAND - PEORIA - 7620 N. University St., Peorla, IL 61614 
SPRINGRIELD - 4500 5. Sixth Street Rd., Springfield, IL 62706 –

MARION - 2309 W. M



1 W. Harrison St., Des Plaines, IL 60016 – (847) 294-4000 versity St., Peorla, IL 61614 – (309) 693-5463 2125 South First Street, Champaign, II 61820 – (217) 278-5800 2009 Mall Street, Collinsville, IL 62234 – (618) 346-5120 – (618) 993-7200

- 2. Any parent corporation or subsidiary of such owner or operator.
- 3. Any co-owner or co-operator, either by joint tenancy, right-of-survivorship, or any other party sharing a legal relationship with the owner or operator to whom the Letter is issued.
- 4. Any holder of a beneficial interest of a land trust or inter vivos trust whether revocable or irrevocable.
- 5. Any mortgagee or trustee of a deed of trust of such owner or operator.
- 6. Any successor-in-interest of such owner or operator.
- 7. Any transferee of such owner or operator whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest.
- 8. Any heir or devisee of such owner or operator.

This Letter and all attachments, including but not limited to the Leaking Underground Storage Tank Environmental Notice, must be filed within 45 days of receipt as a single instrument with the Office of the Recorder or Registrar of Titles in the county in which the above-referenced site is located. This Letter shall not be effective until officially recorded by the Office of the Recorder or Registrar of Titles of the applicable county in accordance with Illinois law so it forms a permanent part of the chain of title for the above-referenced property. Within 30 days of this Letter being recorded, an accurate and official copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA. For recording purposes, it is recommended that the Leaking Underground Storage Tank Environmental Notice of this Letter be the first page of the instrument filed.

#### CONDITIONS AND TERMS OF APPROVAL

## LEVEL OF REMEDIATION AND LAND USE LIMITATIONS

- 1. This site was classified as High Priority in accordance with Section 57.7(b)(3) of the Act and 35 Ill. Adm. Code 732.304. In accordance with 35 Ill. Adm. Code 732.404(a), the owner or operator has remediated or eliminated each of the criteria that caused the site to be classified as High Priority. The remediation objectives for the above-referenced site described in the Leaking Underground Storage Tank Environmental Notice of this Letter were established in accordance with the requirements of the Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742) rules.
- As a result of the release from the underground storage tank system(s) associated with the above-referenced incident, the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter, shall not be used in a manner inconsistent with the following land use limitation: The land use shall be industrial/commercial. The groundwater under the site shall not be used as a potable water supply.

- 3. The land use limitation specified in this Letter may be revised if:
  - a. Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
  - b. A new No Further Remediation Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

## PREVENTIVE, ENGINEERING, AND INSTITUTIONAL CONTROLS

Preventive:

Prior to commencement of any future excavation and/or construction in or near the contaminated zone of the remediation site, a safety plan for this remediation site is required that is consistent with National Institute for Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities; Occupational Safety and Health Administration regulations, particularly in 29 CFR 1910 and 1926; state and local regulations; and other U.S. EPA guidance as provided. At a minimum, the plan should address possible worker exposure if any future excavation and construction activities occur within the contaminated soil. The areas to be addressed by the safety plan is indicated on the attached Site Base Map.

The groundwater under the site described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter shall not be used as a potable supply of water. No person shall construct, install, maintain, or utilize a potable water supply well. In accordance with Section 3.65 of the Act, "potable" means generally fit for human consumption in accordance with accepted water supply principles and practices.

Engineering:

A building that is sufficient in thickness to inhibit the inhalation and ingestion of the contaminated media must remain over the contaminated soil as outlined in the attached Site Base Map. This building is to be properly maintained as an engineered barrier to inhibit inhalation and ingestion of the contaminated media.

Institutional:

This Letter shall be recorded as a permanent part of the chain of title for the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter.

5. Failure to establish, operate, and maintain controls in full compliance with the Act, applicable regulations, and the approved Corrective Action Plan, if applicable, may result in voidance of this Letter.

#### OTHER TERMS

 Any contaminated soil or groundwater removed or excavated from, or disturbed at, the abovereferenced site, more particularly described in the Leaking Underground Storage Tank

Environmental Notice of this Letter, must be handled in accordance with all applicable laws and regulations under 35 Ill. Adm. Code Subtitle G.

 Further information regarding the above-referenced site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

> Illinois Environmental Protection Agency Attention: Freedom of Information Act Officer Bureau of Land - #24 1021 North Grand Avenue East Post Office Box 19276 Springfield, IL 62794-9276

- 8. Pursuant to 35 Ill. Adm. Code 732.704, should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the owner or operator of the leaking underground storage tank system(s) associated with the above-referenced incident and the current title holder of the real estate on which the tanks were located, at their last known addresses. The notice shall specify the cause for the voidance, explain the provisions for appeal, and describe the facts in support of the voidance. Specific acts or omissions that may result in the voidance of this Letter include, but shall not be limited to:
  - a. Any violation of institutional controls or industrial/commercial land use restrictions;
  - b. The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
  - c. The disturbance or removal of contamination that has been left in-place in accordance with the Corrective Action Plan or Completion Report;
  - d. The failure to comply with the recording requirements for the Letter;
  - e. Obtaining the Letter by fraud or misrepresentation; or
  - f. Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment.

Submit an accurate and official copy of this Letter, as recorded, 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

If you have any questions or need further assistance, please contact the Illinois EPA project manager, Steve Jones, at 217/524-1253.

630 969 7520;

Sincerely,

Hernando A. Albarracin

Unit Manager

Leaking Underground Storage Tank Section

Division of Remediation Management

Bureau of Land

SINSTHA DesPlaines South Oasis 941812 & 20021210 CACR 2.doc

Attachments: Leaking Underground Storage Tank Environmental Notice

Site Base Map

c: Wight & Company

Division File

#### PREPARED BY:

Name:

John Wagner

Illinois State Toll Highway Authority

Address:

Northwest Tollway (I-90), East Bound Mile Post 4.5

Des Plaines, IL

#### RETURN TO:

Name:

John Wagner

Illinois State Toll Highway Authority

Address:

2700 Ogden Avenue

Downers Grove, IL 60515

## (THE ABOVE SPACE FOR RECORDER'S OFFICE)

#### LEAKING UNDERGROUND STORAGE TANK ENVIRONMENTAL NOTICE

THE OWNER AND/OR OPERATOR OF THE LEAKING UNDERGROUND STORAGE TANK SYSTEM(S) ASSOCIATED WITH THE RELEASE REFERENCED BELOW, WITHIN 45 DAYS OF RECEIVING THE NO FURTHER REMEDIATION LETTER CONTAINING THIS NOTICE, MUST SUBMIT THIS NOTICE AND THE REMAINDER OF THE NO FURTHER REMEDIATION LETTER TO THE OFFICE OF THE RECORDER OR REGISTRAR OF TITLES OF COOK COUNTY IN WHICH THE SITE DESCRIBED BELOW IS LOCATED.

Illinois EPA Number: 0310635373

LUST Incident No.: 941812 and 20021210

Illinois State Toll Highway Authority, the owner and/or operator of the leaking underground storage tank system(s) associated with the above-referenced incident, whose address is 2700 Ogden Avenue, Downers Grove, Illinois, has performed investigative and/or remedial activities for the site identified as follows and depicted on the attached Site Base Map:

1. Legal Description or Reference to a Plat Showing the Boundaries: That part of Section 25, Township 41 North, Range 11 East of the Third Principal Meridian in Cook County, Illinois described as follows: Commencing at the Northeast Corner of the Southeast Quarter of said Section 25; thence South 88°56′37" West, on the North line of the said Southeast Quarter, 403.15 feet; thence North 70°37′56" West, 1165.76 feet; thence South 65°59′58" West, 735.21 feet; thence South 51°37′31" West, 91.27 Feet; thence South 55°53′05" East, 253.00 feet; thence South 32°43′21" East, 595.70 feet; thence South 70°37′03" East 280.00 feet; thence South 19°22′57" West, 30.00 feet; thence South 70°37′03" East 240.00 feet, thence North 64°45′53" East, 165.34 feet; thence North 65°41′11" East, 104.00 feet; thence North 30°53′20" East, 194.60 feet; thence North 89°00′48" East, 278.25 feet; thence North 13°49′38" East, 69.38 feet; thence North 72°12′27" West, 53.33 feet; thence North 72°39′26" West, 36.02 feet;

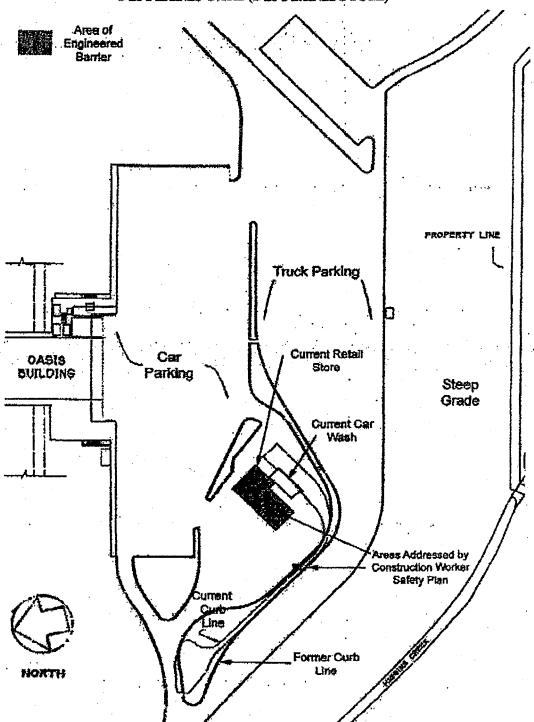
thence North 75°33'49" West, 27.66 feet; thence North 78°04'18" West, 43.96 feet; thence North 40°40'35" West, 5.59 feet; thence North 70°37'03" West, 1445.38 feet; thence South 19°22'57" West, 7.29 feet; thence North 62°59'30" West, 61.78 feet to the point of the beginning.

- Common Address: Northwest Tollway (I-90), East Bound, Mile Post 4.5
- 3. Real Estate Tax Index/Parcel Index Number: 08-25-400-010-8002
- 4. Site Owner: Illinois State Toll Highway Authority
- 5. Land Use Limitation: The land use shall be industrial/commercial. The groundwater under the site shall not be used as a potable water supply.
- 6. See the attached No Further Remediation Letter for other terms.

SJUSTHA DesPlaines South Oasis 941812 & 20021210 CACR 2.doc

Leaking Underground Storage Tank Environmental Notice

SITE BASE MAP LPC #0310635373 -- COOK COUNTY DES PLAINES OASIS (DES PLAINES SOUTH)



Scale: I inch equals approximately 125 ft