

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MOTO, INC., )  
Petitioner, )  
 )  
v. )  
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Respondent. )

PCB 08- 43  
(LUST Appeal – Ninety Day  
Extension)

RECEIVED  
CLERK'S OFFICE

JAN 07 2008

STATE OF ILLINOIS  
Pollution Control Board

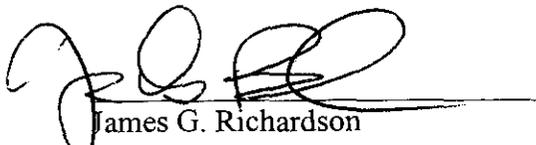
NOTICE

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

Jim Bowling  
United Science Industries, Inc.  
P.O. Box 360  
Woodlawn, Illinois 62898

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  
Assistant Counsel

Dated: January 2, 2008  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

MOTO, INC. )  
Petitioner, )  
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v. )  
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ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
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PCB No. 08-  
(LUST Appeal – Ninety Day Extension)

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JAN 07 2008

STATE OF ILLINOIS  
Pollution Control Board

**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, Assistant 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 April 23, 2008, 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:

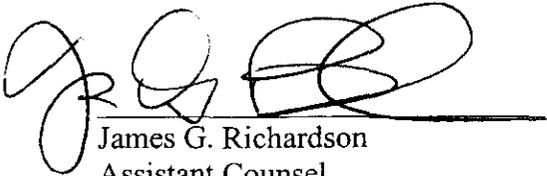
1. On December 18, 2007, the Illinois EPA issued a final decision to the Petitioner.
2. On December 21, 2007, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief the Petitioner did receive the final decision on December 20, 2007.

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  
Assistant Counsel

Dated: January 2, 2008

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**

**RECEIVED  
CLERK'S OFFICE**

**JAN 07 2008**

**STATE OF ILLINOIS  
Pollution Control Board**

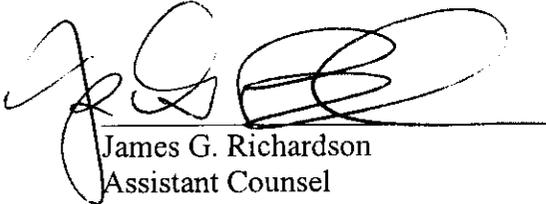
**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on January 2, 2008 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

Jim Bowling  
United Science Industries, Inc.  
P.O. Box 360  
Woodlawn, Illinois 62898

**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**



James G. Richardson  
Assistant 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)



## 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

DOUGLAS P. SCOTT, DIRECTOR

(217) 782-6762

**CERTIFIED MAIL**

7007 0220 0000 0148 0010

DEC 18 2007

FKG Oil Company (Moto, Inc.)  
Joseph Hooten  
721 West Main Street (P. O. Box 122)  
Belleville, IL 62220

Re: LPC #0490255075 - Effingham County  
Effingham/FKG Oil Company (Effingham Motomart)  
I-70 and Highway 45 (15451 North U.S. Highway 45)  
Leaking UST Incident No. 983001  
Leaking UST Technical File

Dear Mr. Hooten:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan submitted for the above-referenced incident. The Illinois EPA received the plan, dated August 2007, on August 21, 2007. Citations in this letter are from the Environmental Protection Act (Act), in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c) of the Act and 35 Ill. 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 Ill. Adm. Code 732:

1. The plan states that the total soil porosity is the same for the SSL and RBCA models. Please note that Equation S24 shall be used to calculate the total soil porosity for the SSL model and Equations R21, R22 and R23 shall be used to calculate the total soil porosity for the RBCA model.
2. The plan does not include a sufficiently detailed discussion of how input variable  $S_d$  was determined. The owner or operator shall provide a sufficiently detailed discussion or use the default (200 centimeters) in Equation R26.
3. The owner or operator used an RfC of 0.1 in the Tier 2 calculation for total xylenes for the construction worker inhalation exposure route. Please note that the RfC for total xylenes for the construction worker inhalation exposure route is 0.3; therefore, the Tier 2 remediation objective for total xylenes for the construction worker inhalation exposure route is approximately 105 mg/kg.

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) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

In addition, the Illinois EPA has the following comments regarding the plan:

1. The plan does not include a sufficiently detailed discussion of how input variables  $d$  and  $d_a$  were determined. A sufficiently detailed discussion is not necessary at this time, because the default dilution factor (20) was used in the Tier 2 calculations for the soil component of the groundwater ingestion exposure route.
2. The plan states that the pH of the sample taken from soil boring ST-1A was 7.74; therefore, the soil does not exhibit a pH less than or equal to 2.0 or greater than or equal to 12.5. Please note that soil boring ST-1A was drilled in an unimpacted area of the site; therefore, the pH sample is not sufficient to demonstrate compliance with 35 Ill. Adm. Code 742.305(d). The owner or operator does not need to collect a new pH sample unless 35 Ill. Adm. Code 742, Subpart C will be used to exclude the exposure routes.
3. The Tier 2 remediation objectives for total xylenes for the industrial-commercial inhalation and soil component of the groundwater ingestion exposure routes exceed the soil saturation limit. The Tier 2 soil remediation objective for ethylbenzene for the residential inhalation exposure route exceeds the soil saturation limit. Pursuant to 35 Illinois Administrative Code (35 Ill. Adm. Code) 742.220(a) and (b), the Tier 2 remediation objective for the inhalation and soil component of the groundwater ingestion exposure routes for any organic contaminant that has a melting point below 30 degrees Celsius shall not exceed the soil saturation limit.

Pursuant to Section 57.7(c) of the Act and 35 Ill. Adm. Code 732.405(c), the High Priority Corrective Action Plan Budget is modified. 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(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.

If the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget is not required (Section 57.7(c) of the Act). If payment from the Fund 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 and approved prior to the issuance of a No Further Remediation (NFR) Letter (Section 57.8(a)(5) of the Act and 35 Ill. Adm. Code 732.405(e)). Costs associated with a plan or budget that has not been approved prior to the issuance of an NFR Letter will not be paid.

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

Page 3

If you have any questions or need assistance, please contact Trent Benanti at (217) 524-4649.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Lowder". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael T. Lowder  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

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Attachments: Attachment A  
Appeal Rights

c: United Science Industries, Inc.  
Division File

Attachment A

Re: LPC #0490255075 – Effingham County  
Effingham/FKG Oil Company (Effingham Motomart)  
I-70 and Highway 45 (15451 North U.S. Highway 45)  
Leaking UST Incident No. 983001  
Leaking UST Technical File

**SECTION 1**

The High Priority Site Investigation Corrective Action Plan Budget was previously approved for:

\$ 5,965.39	Drilling and Monitoring Well Costs
\$ 3,606.35	Analytical Costs
\$ 0.00	Remediation and Disposal Costs
\$ 0.00	UST Removal and Abandonment Costs
\$ 0.00	Paving, Demolition, and Well Abandonment Costs
\$21,697.50	Total Consulting Fees

Based on the Illinois EPA's modifications listed in Section 2 of this Attachment A, the following amounts are approved:

\$ 1,270.48	Drilling and Monitoring Well Costs
\$ 1,227.10	Analytical Costs
\$ 0.00	Remediation and Disposal Costs
\$ 0.00	UST Removal and Abandonment Costs
\$ 1,217.85	Paving, Demolition, and Well Abandonment Costs
\$16,982.40	Total Consulting Fees

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 57.8(f) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 732.607.

Therefore, the total cumulative budget is approved for:

\$ 7,235.87	Drilling and Monitoring Well Costs
\$ 4,833.45	Analytical Costs
\$ 0.00	Remediation and Disposal Costs
\$ 0.00	UST Removal and Abandonment Costs
\$ 1,217.85	Paving, Demolition, and Well Abandonment Costs
\$38,679.90	Consulting Personnel Costs

**SECTION 2**

1. \$38,804.99 for consulting personnel time costs that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh).

The Illinois EPA received a High Priority Site Investigation Corrective Action Plan and High Priority Site Investigation Corrective Action Plan Budget on August 28, 2006. Said plan and budget outlined all corrective action activities completed to date, including the preparation of said plan and budget.

The budget at-hand includes \$38,804.99 in actual consulting personnel time costs. The actual consulting personnel time costs are related to the preparation of High Priority Corrective Action Plans and High Priority Corrective Action Budgets that were received by the Illinois EPA on September 2, 2004, December 20, 2004 and August 28, 2006.

It would not be reasonable for the Illinois EPA to reimburse the owner or operator for consulting personnel time costs that are duplicative.

2. \$24,062.66 to \$33,515.16 for consulting personnel time costs that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh).

The budget at-hand includes \$24,062.66 to \$33,515.16 in actual consulting personnel time costs that are related to the preparation of High Priority Corrective Action Plans and High Priority Corrective Action Budgets that were received by the Illinois EPA on September 2, 2004 and December 20, 2004. Both plans and budgets were denied.

It would not be reasonable for the Illinois EPA to reimburse the owner or operator for the preparation of plans and budgets that are unacceptable and unapprovable.

3. \$24,062.66 to \$33,515.16 for consulting personnel time costs that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh).

The budget at-hand includes \$24,062.66 to \$33,515.16 in actual consulting personnel time costs that are related to the preparation of High Priority Corrective Action Plans and High Priority Corrective Action budgets that were received by the Illinois EPA on September 2, 2004 and December 20, 2004. Both plans and budgets proposed to address the contamination with sodium persulfate and PermeOx injections. Both plans and budgets were denied, in part, because the owner or operator did not provide a discussion of the inputs for the sodium persulfate and PermeOx calculations.

The High Priority Corrective Action Plan received by the Illinois EPA on August 28, 2006 proposed to address the contamination with sodium persulfate and PermeOx if favorable results could be obtained from the sodium persulfate pilot study. The plan and budget were approved with modifications.

The plan and budget at-hand propose to address the contamination by re-sampling the soil and groundwater, because the time frame for obtaining favorable results from the sodium persulfate pilot study has gone beyond the original expectations.

It would not be reasonable for the Illinois EPA to reimburse the owner or operator for consulting personnel time costs that are associated with a form of corrective action (remedial technology) that was never implemented.

4. The consulting personnel time costs associated with monitoring well abandonment (senior technician - \$688.20) are not approved as part of this budget. These costs are included in the monitoring well abandonment rate, for which a maximum rate of \$10.59 per foot applies. These costs exceed the maximum payment amounts set forth in Subpart H, Appendix D and/or Appendix E of 35 Ill. Adm. Code 732. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.606(ccc). In addition, such costs are not approved pursuant to Section 57.7(c)(4)(C) of the Act because they are not reasonable.
  
5. The consultant's materials costs associated with monitoring well abandonment (environmental utility vehicle for tech for monitoring well abandonment documentation - \$61.64) are not approved as part of this budget. These costs are included in the monitoring well abandonment rate, for which a maximum rate of \$10.59 per foot applies. These costs exceed the maximum payment amounts set forth in Subpart H, Appendix D and/or Appendix E of 35 Ill. Adm. Code 732. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.606(ccc). In addition, such costs are not approved pursuant to Section 57.7(c)(4)(C) of the Act because they are not reasonable.

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## 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:

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