

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADAM KIETA,)	
Petitioner,)	
)	
v.)	PCB 16-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

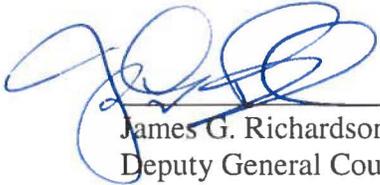
NOTICE

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

William D. Ingersoll
Attorney at Law
Brown, Hay & Stephens, LLP
P.O. Box 2459
Springfield, Illinois 62705

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: December 18, 2015
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

ADAM KIETA,)	
Petitioner,)	
)	
v.)	PCB No. 16-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL)	Extension)
PROTECTION AGENCY,)	
Respondent.)	

**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 March 27, 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:

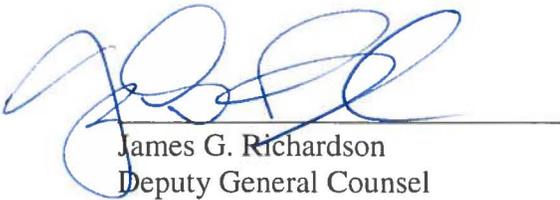
1. On November 20, 2015, the Illinois EPA issued a final decision to the Petitioner.
2. On December 11, 2015, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend 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 November 23, 2015.

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: December 18, 2015

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

NOV 20 2015

7012 0470 0001 2970 8657

Adam Kieta
1712 Aspen Drive
Mount Prospect, IL 60056

Re: LPC #0316700008—Cook County
Chicago/ Kieta, Adam
7560 West Addison Street
Leaking UST Incident No. 20140661
Leaking UST Technical File

Dear Mr. Kieta:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated July 21, 2015, was received by the Illinois EPA on July 24, 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 plan and the associated budget are rejected for the reason(s) listed below (Sections 57.7(b) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b), 734.510(a) and 734.510(b)).

The plan is rejected for the following reason(s):

1. Pursuant to 35 Ill. Adm. Code 734.335(a) (1) within 30 days after the Agency approves the site investigation completion report, the owner or operator shall submit to the Agency for approval a corrective action plan designed to mitigate any threat to human health, human safety, or the environment resulting from the underground storage tank release. [415 ILCS 5/57.7(b)(2)]. The corrective action plan must address all media impacted by the UST release and must contain an executive summary that identifies the objectives of the corrective action plan and the technical approach to be utilized to meet such objectives. The Corrective Action Plan relies on the remediation of free product present. In accordance with 35 Ill. Adm. Code 734.215(a)(1) under any circumstance in which conditions at a site indicate the presence of free product, owners or operators must remove, to the maximum extent practicable, free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water, while initiating or continuing any actions required pursuant to this Part or other applicable laws or regulations. In meeting the requirements of this Section, owners or operators must conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, State, and federal regulations. The Corrective Action Plan proposes spreading free product into less contaminated zones and remediating the soil through which the free product is dispersed.

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2. IEPA Field Operations Personnel mobilized to the site on October 29, 2015 to check the free product levels in the monitoring wells. An oil/water interface probe was used on all of the wells and also submerged a bailer on most of the wells on the site. No wells have any free product, even the wells that are within the free product zone as depicted on the map. Only one of the wells (MW-5) had a slight petroleum (gasoline) odor. No free product was found in this well as confirmed with the probe and bailer. The Corrective Action Plan is predicated on the remediation of free product. With no free product to remediate, the Corrective Action Plan is denied.

The Illinois EPA has determined that the following activities must be completed:

1. Pursuant to 35 Ill. Adm. 734.210(h)(1)(D) if backfill is returned to the excavation, one representative sample of the backfill must be collected for each 100 cubic yards of backfill returned to the excavation. Three Hundred cubic yards of contaminated backfill were returned to the excavation during early action activities without collecting soil samples. The three soil sample analysis results from the excavation backfill must be submitted along with the next Corrective Action Plan.
2. The Stage 1 Site Investigation borings ST-1 through ST-6 must be redone. The soil analysis for the Stage 1 soil borings was accepted qualitatively but not quantitatively. Because the soil samples were delivered to the laboratory at ambient temperature, the results of the soil sample analyses were considered a best-case scenario and were acceptable for use in site investigation but not for corrective action. This additional investigation is required for corrective action. Please note that the soil borings should be advanced to twenty feet below the ground surface unless groundwater is encountered. If groundwater is encountered during drilling, soil sampling is not to continue below the level of the groundwater. The final soil sample from the boring must be collected from the deepest level of unsaturated soil above the groundwater table or twenty feet, whichever is encountered first.
3. The next Corrective Action Plan must present all soil and groundwater contamination exceeding Tier 1 soil remediation objectives or groundwater remediation objectives, site-specific Tier 2 soil remediation objectives, modeling calculations for any current or future groundwater contamination from the release, and all methods of addressing any soil contamination exceeding Tier 2 SROs and any groundwater contamination.

The plan budget is rejected for the following reason(s):

In accordance with 35 Ill. Adm. Code 734.510(b), a financial review shall consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations. Items to be reviewed shall include, but are not be limited to, costs associated with any materials, activities, or services that are included in the budget. The overall goal of the financial review shall be to assure that costs associated with materials, activities, and services must be reasonable, shall be consistent with the associated technical plan, shall be incurred in the performance of corrective action activities, must not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payments set forth in

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Subpart H of this Part. Without an approvable plan, the proposed budget cannot be fully reviewed.

Pursuant to Sections 57.7(b) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, a plan and/or budget must be submitted within 60 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.

If you have any questions or need further assistance, please contact Brad Dilbaitis at (217) 785-8378 or Bradley.Dilbaitis@illinois.gov.

Sincerely,



Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

TAH:BD\CAPdenBUdden.docx

Attachment: Appeal Rights

c: Inland-Frycek, Inc.
BOL File

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

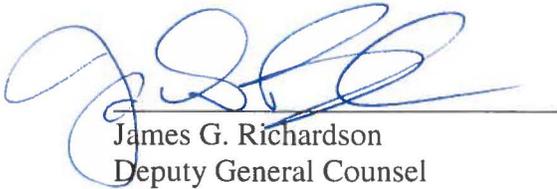
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on the afternoon of December 18, 2015 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

William D. Ingersoll
Attorney at Law
Brown, Hay & Stephens, LLP
P.O. Box 2459
Springfield, Illinois 62705

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
Division of Legal Counsel
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