

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAHER LUMBER COMPANY,)	
Petitioners,)	
)	
v.)	PCB 23-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

NOTICE

Don Brown, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
don.brown@illinois.gov

Maher Lumber Company
Attn: Merv Blakesley
6080 Kidman Lane
Spring Hill, TN 37174
m.blakesley@maherlumberco.com

Weaver Consultants Group
Attn: Colin Pannier
Project Manager
35 E. Wacker Drive Suite 1250
Chicago, IL 60601
cpannier@wcgrp.com

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



Melanie A. Jarvis
Deputy Chief Counsel – Land Enforcement
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
melanie.jarvis@illinois.gov

Dated: June 12, 2023

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAHER LUMBER COMPANY,)	
Petitioners,)	
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)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
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, Melanie A. Jarvis, Deputy Chief 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 September 24, 2023, 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 or about May 6, 2023, the Illinois EPA issued a final decision to the Petitioner.
2. On June 8, 2023, 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, Petitioner received the final decision on or about May 22, 2023.

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



Melanie A Jarvis
Deputy Chief Counsel – Land Enforcement
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
866/273-5488 (TDD)
melanie.jarvis@illinois.gov
Dated: June 12, 2023

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on June 12, 2023, I served true and correct copies of a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** by the method(s) and to the persons identified below:

Electronic Service

Don Brown, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
don.brown@illinois.gov

Maher Lumber Company
Attn: Merv Blakesley
6080 Kidman Lane
Spring Hill, TN 37174
m.blakesley@maherlumberco.com

Weaver Consultants Group
Attn: Colin Pannier
Project Manager
35 E. Wacker Drive Suite 1250
Chicago, IL 60601
cpannier@wcgrp.com

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



Melanie A. Jarvis
Deputy Chief Counsel – Land Enforcement
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
866/273-5488 (TDD)
melanie.jarvis@illinois.gov

From: [Pannier, Colin](#)
To: [Jarvis, Melanie](#)
Cc: [Perdue, Andy](#)
Subject: [External] Appeal Extension
Date: Thursday, June 8, 2023 4:37:40 PM
Attachments: [image777210.png](#)
[image115826.png](#)
[image410029.png](#)
[2023.05.06 Early Action Billing Response.pdf](#)

Hi Melanie,

Thank you for taking the time to speak with me today. I have attached a letter dated May 6, 2023 in which the IEPA denied a claim submitted for payment through the LUST Fund. Based on the date of the letter, the window to appeal the decision ends on June 10, 2023. Per our discussion, we would like to file for the 90-day extension so that we can assess whether the decision can be appealed.

Please let me know if you have any questions or need any further information. Thank you for your assistance, it is very much appreciated.

Best,
Colin Pannier

Colin Pannier
Project Manager

 **Weaver Consultants Group**

35 E. Wacker Drive | Suite 1250

Chicago, IL 60601

O: 312-922-1030 | D: 312-888-4129 | F: 312-922-0201 | M: 815-354-8379

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(217) 524-3300

CERTIFIED MAIL #

7022 0410 0002 8260 9162

MAY 06 2023

Maher Lumber Company
Attn: Merv Blakesley
6080 Kidman Lane
Spring Hill, TN 37174

Re: 0431205094 -- DuPage County
Wood Dale / Maher Lumber Company
301 West Irving Park Road
Incident-Claim No.: 931899 -- 73555
Queue Date: January 6, 2023
Leaking UST Fiscal File

Dear Mr. Blakesley:

The Illinois Environmental Protection Agency (Illinois EPA) has completed the review of your application for payment from the Underground Storage Tank (UST) Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.Subpart F.

This information is dated January 4, 2023 and was received by the Illinois EPA on January 6, 2023. The application for payment covers the period from January 1, 2020 to December 31, 2020. The amount requested is \$18,371.92.

On January 6, 2023, the Illinois EPA received your application for payment for this claim. As a result of the Illinois EPA's review of this application for payment, a voucher cannot be prepared for submission to the Comptroller's office for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date subsequent application for payment requests are received by the Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

There are costs from this claim that are not being paid. Listed in Attachment A are the costs that are not being paid and the reasons these costs are not being paid.

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 require further assistance, please contact Nicole Howland of my staff at (217) 524-0435.

Sincerely,

A handwritten signature in black ink that reads "Brian P. Bauer". The signature is written in a cursive style with a large initial "B".

Brian P. Bauer
Leaking UST Claims
Leaking Underground Storage Tank Section
Bureau of Land

Attachment: A

c: Weaver Consultants Group
Leaking UST Claims Unit

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 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:

Clerk of the Board
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
PO Box 19276
Springfield, IL 62794-9276
(217) 782-5544

Attachment A
Accounting Deductions

Re: 0431205094 -- DuPage County
Wood Dale / Maher Lumber Company
301 West Irving Park Road
Incident-Claim No.: 931899 -- 73555
Queue Date: January 6, 2023
Leaking UST Fiscal File

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$18,371.92, deduction for corrective action costs submitted more than one year after the date the Illinois EPA issued a No Further Remediation Letter. Pursuant to 35 Ill. Adm. Code 734.605(j) all applications for payment of corrective action costs must be submitted no later than one year after the date the Illinois EPA issues a No Further Remediation Letter pursuant to Subpart G of 35 Ill. Adm. Code 734. For releases for which the Illinois EPA issued a No Further Remediation Letter prior to March 1, 2006, all applications for payment must be submitted no later than March 1, 2007.

The application for payment in its entirety is denied because it contains costs which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 734.630(cc). Without additional supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act. The documentation listed below in items 1 through 6 is necessary to support this claim submitted to the Illinois EPA.

In addition, pursuant to Section 734.605(b) Applications for Payment a complete application for payment must consist of the following elements:

- 1) A certification from a Licensed Professional Engineer or a Licensed Professional Geologist acknowledged by the owner or operator that the work performed has been in accordance with a technical plan approved by the Agency or, for early action activities, in accordance with Subpart B of this Part;

- 2) A statement of the amounts approved in the corresponding budget and the amounts actually sought for payment along with a certified statement by the owner or operator that the amounts so sought have been expended in conformance with the elements of a budget approved by the Agency;
- 3) A copy of the OSFM or Agency eligibility and deductibility determination;
- 4) Proof that approval of the payment requested will not exceed the limitations set forth in the Act and Section 734.620 of this Part;
- 5) A federal taxpayer identification number and legal status disclosure certification;
- 6) Private insurance coverage form(s);
- 7) A minority/women's business form;
- 8) Designation of the address to which payment and notice of final action on the application for payment are to be sent;
- 9) An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed