

ORIGINAL

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

AUG 27 2003

STATE OF ILLINOIS
Pollution Control Board

ANDY'S DRIVE-IN,

Petitioner,

v.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

PCB No. 04- 21

(LUST Appeal – Ninety Day Extension)

NOTICE


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

Kelly Tensmeyer, Project Manager
United Science Industries
P.O. Box 360
6295 East Illinois Highway 15
Woodlawn, IL 62898-0360

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 20, 2003

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STATE OF ILLINOIS
Pollution Control Board

ANDY'S DRIVE-IN,)
Petitioner,)
v.) PCB No. 04- 21
ILLINOIS ENVIRONMENTAL) (LUST Appeal – Ninety Day 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, 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 18, 2003, or any other date not more than a total of one hundred twenty-five (125) days from July 16, 2003, the date of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On July 16, 2003, the Illinois EPA issued a final decision to the Petitioner.
(Exhibit A)
2. On July 29, 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. (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 20, 2003

This filing submitted on recycled paper.



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 1224 0229

JUL 16 2003

Andy's Drive-In
Attn: John Thomas
383 Park Lane
Herrin, IL. 62948

Re: LPC #0030055014 -- Alexander County
Cairo/Andy's Drive-In
2308 Sycamore St.
LUST Incident No. 911729 and 992425
LUST Technical File

Dear Mr. Thomas:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated June 17, 2003, was received by the Illinois EPA on June 18, 2003. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The Corrective Action Plan is rejected for the reason(s) listed below (Sections 57.7(b)(2) and 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b)):

The Corrective Action Plan is rejected for the following reason(s):

1. Prior to implementation of a corrective action plan, the operator should provide a report that completely defines the extent of contamination. The extent of contamination should include the analytical results from the proposed off-site monitoring wells, MW-17 and MW-18. The report should include a site map depicting the extent of contamination. and
2. The operator should provide an explanation for the discrepancy between proposing replacement wells, RW-5, RW-6, RW-7, and RW-9 for existing wells, MW-5, MW-6, MW-7, and MW-9 as discussed on page 16 of the plan and replacement wells, MW-19, MW-20, and MW-21 for MW-5, MW-6, MW-7, and MW-9 as discussed on page 11 of the plan. It appears from the literature that replacement wells and new wells are being proposed for MW-5, MW-6, MW-7, and MW-9.

The Corrective Action Plan Budget is rejected for the following reason(s):

1. The Illinois EPA has not approved the plan with which the budget is associated. Therefore, the Illinois EPA cannot determine whether these costs are for activities in excess of those required to meet the minimum requirements of Title XVI of the Act (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.505(c)). In addition, it cannot be determined whether these costs are reasonable as submitted (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.505(c) and 732.606(hh)).

Pursuant to Sections 57.7(b) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 732.100 and 732.105, a plan and/or budget must be submitted within ninety (90) days of the date of this letter to:

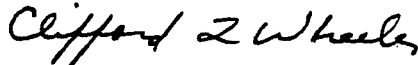
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

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 Scott McGill at (217)/524-5137.

Sincerely,



Clifford L. Wheeler
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

c: United Science Industries
Division 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)(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



P.O. Box 360
6295 East Illinois Highway 15
Woodlawn, Illinois 62898-0360

Phone: (618) 735-2411
Fax: (618) 735-2907
E-Mail: unitedscience@unitedscience.com

July 29, 2003

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62792-9276

Re: **LPC# 0030055014—Alexandar Co.
Cairo/Andy's Drive-In
2308 Sycamore Street
LUST Incident No. 911729 and 992425
ATTN: Susan Schroeder**

RECEIVED
Division of Legal Counsel
JUL 31 2003
Environmental Protection
Agency

Mrs. Schroeder:

United Science Industries, Inc. (USI), on behalf of our client, John Thomas, is requesting a 90-day extension to the 35-day appeal period in regards to the IEPA correspondence included.

I appreciate your time and consideration in this matter. If you have any questions or comments regarding this matter please contact me at (618) 735-2411 ext. 124.

Sincerely yours,

UNITED SCIENCE INDUSTRIES, INC.

Kelly Tensmeyer

Kelly Tensmeyer
Project Manager

Enclosures


CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on August 20, 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

Kelly Tensmeyer, Project Manager
United Science Industries
P.O. Box 360
6295 East Illinois Highway 15
Woodlawn, IL 62898-0360

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



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Assistant Counsel
Special Assistant Attorney General
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