

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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SEP 02 2003

GARY SVACINA,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 04- 25

(LUST - Ninety Day Extension)

STATE OF ILLINOIS
Pollution Control Board

NOTICE


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

Alan E. Jones, Senior Project Manager
The Environmental Solutions Group, Inc.
506 East Summit Street
Suite B
Crown Point, IN 46307

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 29 2003

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

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ILLINOIS ENVIRONMENTAL
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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, 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 27, 2003, or any other date not more than a total of one hundred twenty-five (125) days from the date of service of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On July 23, 2003, the Illinois EPA issued a final decision to the Petitioner regarding the Petitioner's High Priority Corrective Action Plan and Budget. (Exhibit A)
2. On August 18, 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 represented that the final decision was received on July 25, 2003. (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 29, 2003

This filing submitted on recycled paper.

Rec'd 7/25/03
KJ



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

217782-6762

CERTIFIED MAIL

7002 3150 0000 1224 0960

JUL 23 2003

Gary Svacina
1373 Kenilwood Court
Riverwoods, Illinois 60015

Re: LPC #0311955039 -- Cook County
Morton Grove / Svacina, Gary
5944 Lincoln Ave
LUST Incident No. 871630
LUST Technical File

Dear Mr. Svacina:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. The Illinois EPA received this plan, dated February 19, 2003, on March 25, 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 Ill. Adm. Code 732.405(c), the plan is modified. The modifications listed in Attachment A 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. 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 B, the amounts listed in Section 1 of Attachment B 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

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

Page 2

a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that has not been approved prior to the issuance of an NFR Letter will not be reimbursable.

All future correspondence must be submitted to:

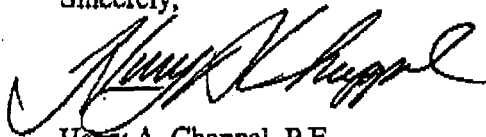
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

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 Brian Bauer at 217/782-3335.

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC:BPB\

Attachment: Attachments A and B

cc: The Environmental Solutions Group, Inc.
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

Attachment A

Re: LPC #0311955039 -- Cook County
Morton Grove / Svacina, Gary
5944 Lincoln Ave
LUST Incident No. 871630
LUST Technical File

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

1. Pursuant to 35 Ill. Adm. Code 732.404(d), in developing the corrective action plan, if the Licensed Professional Engineer or Licensed Professional Geologist selects soil or groundwater remediation, or both, to satisfy any of the criteria set forth in 35 Ill. Adm. Code 732.404(b), remediation objectives shall be determined in accordance with 35 Ill. Adm. Code 732.408. Groundwater monitoring wells shall satisfy the requirements of 35 Ill. Adm. Code 732.307(j)(3) and 732.307(j)(4).

The plan fails to meet the above requirements for the following reason(s):

1. The used oil-screening sample had detection limits above the remediation objective for the following: cadmium, lead, mercury, selenium, and silver. Therefore, these metals are indicator contaminants and need to be addressed. Additional investigation is necessary to define the extent of these metals. Metal analysis must be conducted for both TCLP and total metals.
2. PNAs are indicator contaminants for this site. The extent of PNA soil contamination needs to be defined. Please note that naphthalene exceeds the construction worker remediation objective.
3. The R-26 modeling does not appear accurate. The source width value (Sw) is under estimated. The source width must be the entire width of the plume from one clean well to another.
4. The gradient (i) value appears under estimated. Documentation as to how this value was calculated must be provided.
5. The plan proposes the use of the Village of Morton Grove groundwater ordinance to eliminate the groundwater pathway however; the notification to off-site property owners is not satisfactory.
 - a. The letter needs to reference the sites LPC number in addition to the incident number.
 - b. The plan fails to indicate who will be receiving the letter. All property owners actually affected or potentially affected (through modeling) need to be notified. These properties need to be identified.
6. The use of the ordinance does not address soil contamination above the migration to groundwater pathway on off-site properties. The excavation of soils off-site should include all contamination above the Class I Tier 1 migration to

- groundwater pathway in addition to the inhalation and ingestion pathways.
7. The Highway Authority Agreement (HAA) does not cover all applicable areas. The HAA needs to cover all area north to MW-13, south to B-2, east to SB-2A, and west to the extent of contamination. The HAA must also cover the whole width of the road, not just half the road.
 8. The extent of contamination off-site to the northwest needs to be defined.
 9. Soil contamination and groundwater contamination on the residence on the northwest corner must be addressed.
 10. Documentation that includes groundwater sampling in the same area must be provided to document that the free product no longer exists.
 11. All monitoring wells need to be re-sampled at the completion of the remediation. Additional modeling may be necessary, particularly where the free product presently exists.

BPB\

Attachment B

Re: LPC #0311955039 -- Cook County
Morton Grove / Svacina, Gary
5944 Lincoln Ave
LUST Incident No. 871630
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 B, the following amounts are approved:

\$6,432.30	Investigation Costs
\$16,240.00	Analysis Costs
\$17,125.00	Personnel Costs
\$1,670.00	Equipment Costs
\$67,109.10	Field Purchases and Other Costs
\$6319.63	Handling Charges

SECTION 2

1. \$245.00 for an adjustment in number of bags of sand used. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. 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 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
2. \$217.00 for an adjustment in number of bags of bentonite chips used. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. 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 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
3. \$60.00 for costs associated with the analysis for TPH. Costs associated with the analysis of laboratory samples for constituents other than applicable indicator contaminants or groundwater objectives are ineligible for payment from the Fund (35 Ill. Adm. Code 732.606(r)). These costs are for activities in excess of those necessary to meet the

minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).

4. \$30,541.00 for costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). A corrective action plan budget for a site classified as high priority must include, but not be limited to, an accounting of all costs associated with the development, implementation, and completion of the applicable activities (Section 57.7(c)(1)(B) of the Act and 35 Ill. Adm. Code 732.405(b)). Since there is no 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. (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)). In addition, the Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. 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 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.

The above deduction relates to the personnel charges, many of the line items appeared to be duplicative e.g. the same personnel doing the same task. In addition the total amount of hours proposed to conduct the tasks proposed appears to be unreasonable.

5. \$250.00 for costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). A corrective action plan budget for a site classified as high priority must include, but not be limited to, an accounting of all costs associated with the development, implementation, and completion of the applicable activities (Section 57.7(c)(1)(B) of the Act and 35 Ill. Adm. Code 732.405(b)). Since there is no 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. (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o))

The above deduction relates to taxes.

6. \$111.90 for an adjustment in gloves. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. 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 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
7. \$100.00 for Morton Grove License. Costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations are ineligible for payment from the Fund (35 Ill. Adm. Code 732.606(y)). This cost is not a corrective action cost. "Corrective action" means an activity associated with compliance with the provisions of Sections 57.6 and 57.7 of the Act (Section 57.2 of the Act and 35 Ill. Adm. Code 732.103). One of the eligibility requirements for accessing the Fund is that costs

are associated with "corrective action" (Section 57.9(a)(7) of the Act and 35 Ill. Adm. Code 732.505(c)).

8. \$14,173.80 for an adjustment in asphalt barrier. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. 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 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
9. \$6,260.00 for an adjustment in the excavation of 1035 cubic yard. These costs are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services shall be consistent with the associated technical plan (35 Ill. Adm. Code 732.505(c)).
10. \$64.00 for an adjustment in film and processing. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. 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 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
11. \$767.34 for an adjustment in handling charges. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(g) of the Act and 35 Ill. Adm. Code 732.607):

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
\$0 - \$5,000	12%
\$5,001 - \$15,000	\$600 plus 10% of amount over \$5,000
\$15,001 - \$50,000	\$1,600 plus 8% of amount over \$15,000
\$50,001 - \$100,000	\$4,400 plus 5% of amount over \$50,000
\$100,001 - \$1,000,000	\$6,900 plus 2% of amount over \$100,000

This adjustment is made based on the deductions made above.

«PMInitials»:BPB\

THE ENVIRONMENTAL SOLUTIONS GROUP, INC.

506 East Summit Street, Suite B
Crown Point, IN 46307
(800) 392-5474 • Fax (219) 661-3411
(219) 661-3400

August 18, 2003

Tracking #1ZX4994W0341659832

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

RECEIVED
Division of Legal Counsel
AUG 21 2003
Environmental Protection
Agency

RE: Request for 90-Day Extension
LPC #031195539 - Cook County
Morton Grove / Svacina, Gary
5944 Lincoln Avenue
LUST Incident No. 871630

To Whom It May Concern:

On behalf of Gary Svacina, The Environmental Solutions Group, Inc., is requesting a 90-day extension of appeal rights for the above referenced facility. The final decision of the attached Illinois Environmental Protection Agency letter dated July 23, 2003 was received on July 25, 2003. The owner wishes to extend the appeal period to October 23, 2003.

If you have any questions regarding this submittal, or require additional information, please feel free to call our office at (219) 661-3400.

Sincerely,
THE ENVIRONMENTAL SOLUTIONS GROUP, INC.


Alan E. Jones
Senior Project Manager

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CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on August 29 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

Alan E. Jones, Senior Project Manager
The Environmental Solutions Group, Inc.
506 East Summit Street
Suite B
Crown Point, IN 46307

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
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