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BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

SEP 26 2003

STATE OF ILLINOIS
Pollution Control Board

KRESSER MOTOR SERVICE, INC.,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 04- 39
(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

Robert M. Riffle
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street
Suite 1400
Peoria, IL 61602-6000

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: September 23, 2003

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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 December 22, 2003, or any other date not more than a total of one hundred twenty-five (125) days from August 19, 2003, the date of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On August 19, 2003, the Illinois EPA issued a final decision to the Petitioner.
(Exhibit A)

2. On September 19, 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.
(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

A handwritten signature in black ink, appearing to read 'John J. Kim', is written over a horizontal line.

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: September 23, 2003



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL

AUG 19 2003

7001 2510 0002 5277 8287

Kresser Motor Service, Inc.
Attention: Jim Kresser
4110 Progress Boulevard
(c/o Jim Andreoni - Perona Law Offices)
Peru, IL 61534

Re: LPC #0990805085 -- LaSalle County
Ottawa/Kresser Motor Service, Inc.
3072 North IL Route 71
LUST Incident No. 20021722
LUST Technical File

Dear Owner/Operator:

The Illinois Environmental Protection Agency (Illinois EPA) has received the 45-Day Report for the above-referenced release. The report was dated July 28, 2003 and was received by the Illinois EPA on August 11, 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 45-Day Report is rejected for the following reason (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b)):

Pursuant to 35 Ill. Adm. Code 732.202(d), owners or operators shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in 35 Ill. Adm. Code 732.202(a) and 732.202(b). Within 20 days after confirmation of a release of petroleum from an underground storage tank (UST) system in accordance with regulations promulgated by the Office of the State Fire Marshal, the owner or operator shall remove as much of the petroleum from the UST system as is necessary to prevent further release into the environment (35 Ill. Adm. Code 732.202(b)).

The 45-Day Report fails to demonstrate that enough petroleum was removed from the UST system as is necessary to prevent further release into the environment.

Please note that the 45-Day Report may be deficient for reasons other than the one noted above. The Illinois EPA will conduct a full technical review of the 45-Day Report and any other report submitted pursuant to 35 Ill. Adm. Code 732.Subpart B, in conjunction with any other plan or report selected for review (35 Ill. Adm. Code 732.504(a)(7)).

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760
ELGIN - 595 South State, Elgin, IL 60120 - (815) 398-1100
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62734 - (217) 278-5800

Plaines, IL 60016 - (847) 294-4000
514 - (309) 693-5463
Champaign, IL 61820 - (217) 278-5800
ville, IL 62234 - (618) 346-5120

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This action does not constitute any decision or determination regarding the timeliness of the submittal of the 45-Day Report. This decision does not waive or otherwise preclude any enforcement action the Illinois EPA may initiate in response to any apparent violation of timely submittal requirements.

The Illinois EPA has determined that, pursuant to Sections 57.7(a) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 732.100 and 732.105, a site investigation plan and budget must be submitted within sixty days of the date of this letter. Please note the Illinois EPA does not require the submission of a budget if the owner or operator does not intend to seek reimbursement from the Underground Storage Tank Fund (Fund).

In addition, an owner or operator may choose to remediate soil and groundwater in accordance with the remediation objectives at 35 Ill. Adm. Code 742 without conducting a site investigation. If the owner or operator chooses not to investigate the site in accordance with the procedures established in Section 57.7(a) of the Act, the owner or operator may not be entitled to full payment if a request for reimbursement from the Fund is submitted.

Submit all future correspondence to:

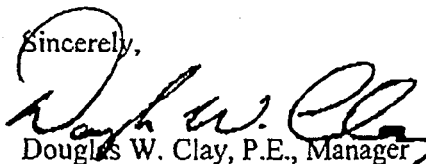
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

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.

Should you have any questions, please contact the project manager on-call in the Leaking Underground Storage Tank Section at the above number.

Sincerely,



Douglas W. Clay, P.E., Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

DWC:DKS:jk\031357.doc

Attachment: Appeal Rights

c: Midwest Environmental Consulting & Remediation Services
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

ELIAS, MEGINNES, RIFFLE & SEGHETTI, P.C.

ATTORNEYS AT LAW

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B. KIP SHELBY
DAVID N. SCHELLENBERG
JANAKI NAIR
CYNTHIA L. ELIAS, OF COUNSEL

File No.: 31091-001

September 19, 2003

VIA FACSIMILE & REGULAR MAIL

Mr. John Kim
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

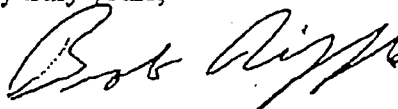
Re: LPC# 0990805085 - LaSalle County
Ottawa/Kresser Motor Service, Inc.
3072 North IL Route 71
LUST Incident No. 20021722
LUST Technical File

Dear John:

In follow-up to our phone conversation, please be advised that the undersigned counsel has been retained to represent Kresser Motor Service, Inc. in connection with the above-referenced matter. We hereby request a 90 day extension of the appeal deadline relating to the August 19, 2003 letter (a copy of which is enclosed herewith) which rejected a certain 45 day report submitted by Midwest Environmental Consulting & Remediation Services, Inc. Please feel free to call me with any questions regarding this request.

Thank you in advance for your attention to this matter.

Very truly yours,



Robert M. Riffle

RMR:tlj

cc: James Andreoni, Esq.
603-1055


CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on September 23, 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

Robert M. Riffle
Elias, Meginnes, Riffle & Seghetti, P.C.
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Peoria, IL 61602-6000

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Respondent



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