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BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

JAN - 9 2004

STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

ILLINOIS STATE TOLL HIGHWAY )  
AUTHORITY (Des Plaines South), )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

PCB No. 04- 119  
(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

Kenneth W. Funk  
Deutsch, Levy & Engel  
225 West Washington Street  
Suite 1700  
Chicago, IL 60606

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: January 7, 2004

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STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

**BEFORE THE POLLUTION CONTROL BOARD  
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ILLINOIS STATE TOLL HIGHWAY )  
AUTHORITY (Des Plaines South), )  
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v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

PCB No. 04- 119  
(LUST Appeal - Ninety Day Extension)

**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 April 7, 2004, or any other date not more than a total of one hundred twenty-five (125) days from the date of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On December 4, 2003, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On December 15, 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: January 7, 2004

Printed By: Tera Byte, Ltd.;

# 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

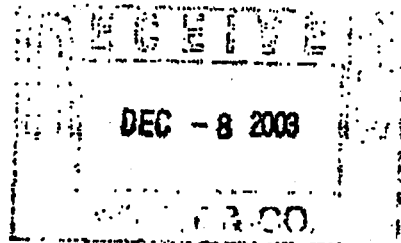
ROD R. BLAGOJEVICH, GOVERNOR      RENEE CIPRIANO, DIRECTOR

217782-6762

**CERTIFIED MAIL**  
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**DEC 04 2003**

Illinois State Toll Highway Authority  
Attn: John Wagner  
2700 Ogden Avenue  
Downers Grove, IL 60515



Re: LPC #0310635373 -- Cook County  
Des Plaines/Des Plaines Oasis (Des Plaines South)  
Northwest Tollway (I-90), East Bound, Mile Post 4.5  
LUST Incident No. 941812 & 20021210  
LUST Technical File

Dear Mr. Wagner:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Completion Report (report) for the above-referenced incident. The report was dated August 4, 2003 and was received by the Illinois EPA on August 7, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to 57.7(c)(4)(D) of the Act and 35 Ill. Adm. Code 732.409(c) and 732.503(b), the report is rejected for the following reasons:

- 1) A site map must be submitted showing the current site layout and the areas to be addressed by the engineered barrier and the construction worker safety plan.
- 2) A copy of Table 11 for Appendix B (soil samples from the dispenser area) must be submitted.
- 3) The concentration of naphthalene in sample TR9 exceeds the construction worker inhalation remediation objective. The development of Tier 2 remediation objectives or the use of a construction worker safety plan may be appropriate.

Pursuant to 35 Ill. Adm. Code 732.401, a Corrective Action Completion Report must be submitted by March 1, 2004 to:

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 - 585 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463  
 BUREAU OF LAND - PEORIA - 7820 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
 SPRINGFIELD - 4900 S. Sixth Street Rd., Springfield, IL 62706 - (217) 785-6892 • COLLINSVILLE - 2009 Mail Street, Collinsville, IL 62234 - (618) 346-5120

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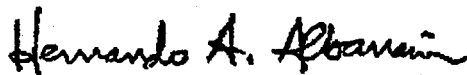
Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block 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 the Illinois EPA project manager, Steve Jones, at 217/524-1253.

Sincerely,



Hernando A. Albarracin  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

HAA:SKSTHA Des Plaines South Oasis 941812 & 20021210 CACR.doc

Attachments: Appeal Rights

c: Wight & Co.  
Division File

EARL A. DEUTSCH  
PAUL M. LEVY  
TERRY L. ENGEL  
FRANK R. COHEN  
JERRY I. RUDMAN  
MICHAEL J. DEVINE  
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KAREN KAVANAGH MACK  
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COUNSEL  
MARSHALL D. KROLICK  
ARTHUR J. SABIN

December 15, 2003

**VIA FACSIMILE 217-782-9807  
AND REGULAR MAIL**

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
Attention: John Kim, Esq.

**Re: LPC #0310635373 - Cook County;  
Des Plaines/Des Plaines Oasis (Des Plaines South)  
Northwest Tollway (I-90), East Bound, Mile Post 4.5  
LUST Incident Nos. 941812 and 20021210**

Dear Mr. Kim:

The undersigned, as a Special Assistant Attorney General, represents the Illinois State Toll Highway Authority in connection with the referenced LUST Incidents. I have received a copy of the Agency's letter, dated December 4, 2003, rejecting the Authority's High Priority Corrective Action Completion Report previously submitted to the Agency. A copy of that letter is enclosed.

Please be advised that the Authority does not agree with the Agency's position as set forth in its letter of December, 2003; however, in hopes of resolving the open issues with the Agency, and avoiding the necessity of an appeal to the Illinois Pollution Control Board, our client hereby requests an extension, pursuant to Sections 40 and 57.8 of the Illinois Environmental Protection Act, to extend the period within which it may appeal the Agency's decision for an additional ninety (90) days.

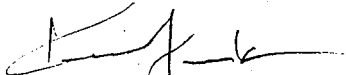
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It is our understanding that upon receipt of this letter you will proceed to prepare the necessary motion for filing with Illinois Pollution Control Board to effectuate the extension. If your understanding is other than as indicated herein or if I can provide any further information, please let us know immediately.

Your assistance and cooperation is appreciated.

Very truly yours,



Kenneth W. Funk

KWF/ccf  
Enclosures  
cc: Victor Azar, Esq.  
Ms. Mary Kruk


## CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on January 7, 2004, 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

Kenneth W. Funk  
Deutsch, Levy & Engel  
225 West Washington Street  
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