

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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JAN - 9 2004

DIDIER GREENHOUSES, INC.,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

STATE OF ILLINOIS
POLLUTION CONTROL BOARD

PCB No. 04- 120
(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

Anne M. Didier
Didier Greenhouses, Inc.
4601 West State Street
Rockford, IL 61102

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
OF THE STATE OF ILLINOIS**

DIDIER GREENHOUSES, INC.,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

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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 April 7, 2004, 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 December 4, 2003, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On December 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. The Petitioner represent that the final decision was received on December 4, 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
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Dated: January 7, 2004



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

70023150000012251302

DEC 04 2003

Didier Greenhouses
Attention: Anna Didier
4601 West State Street
Rockford, IL 61102

Re: IPC #2010305859 -- Winnebago County
Rockford/Didier Greenhouses
4601 West State Street
LUST Incident #923499
LUST FISCAL FILE

Dear Ms. Didier:

The Agency has completed the review of the request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for the above-referenced facility. The invoices reviewed covered the period from December 1, 1993 to February 2, 2003. The amount requested was \$60,350.18.

The deductible amount to be assessed on this claim is \$10,000.00, which is being deducted from this payment. In addition to the deductible, there are costs from this request that are not being reimbursed. Listed in Attachment A are the costs which are not being reimbursed from this request and the reasons these costs are not being reimbursed.

On July 7, 2003, the Agency received your complete request for payment for this claim. As a result of the Agency's review of this claim, a voucher for \$12,897.60 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Agency received your complete request for payment of this claim. Subsequent claims that have been/are submitted will be processed based upon the date complete subsequent billings requests are received by the Agency.

This constitutes the Agency's final action with regard to the above invoices. An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 22.18b(g) and Section 40 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

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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:

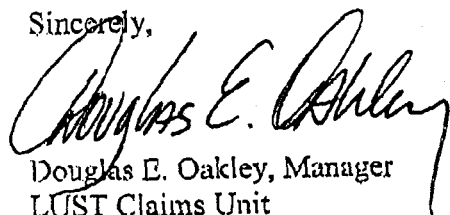
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
217/782-5544

If you have any questions, please contact Diana Gobelman of my staff or John Barrett of the LUST Section technical staff at 217/782-6762.

Sincerely,



Douglas E. Oakley, Manager
LUST Claims Unit
Planning & Reporting Section
Bureau of Land

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Attachment

cc: Superior Environmental Corp.

Attachment A
Accounting Deductions

Re: LPC #2010305859 -- Winnebago County
Rockford/Didier Greenhouses
4601 West State Street
LUST Incident #923499
LUST FISCAL FILE

Item # Description of Deductions

1. \$3,890.20, deduction for an adjustment in costs due to a lack of supporting documentation (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

Environmental Compliance Consulting invoices dated January 18, 1993, February 22, 1993, May 7, 1993, May 29, 1993 and NET Invoice #42401 -- no proof of payment provided - \$2,879.70

Personnel Summary Sheet dated December 1, 1993 -- January 10, 1994 -- total is more than personnel costs listed - \$307.50

Personnel Summary Sheet dated February 1, 1994 -- February 28, 1994 -- no invoice provided for charges - \$103.00

Environmental Compliance Consulting Invoice #DG-9.895 -- backup documentation for personnel charges for Tom McNamee is same as is billed on ECC Invoice DG-10.995 - \$500.00

Fishe Enterprises Invoice #01663 -- permit - \$100.00

2. \$629.00, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

Environmental Compliance Consulting invoice dated May 7, 1993 -- meeting - \$100.00

CBC Environmental Laboratories Invoice #205972 -- BTEX rate - \$15.00

Environmental Compliance Consulting Invoice #DG-10.995 -- hand pump rate - \$100.00

Fishe Enterprises Invoice #01663 -- mobilization, bentonite pellets, and bottom plug rates; bentonite chips - \$348.00

GeoServe Invoice #960617.01 -- bentonite - \$40.00

Superior Invoice #24372 -- sampling kits and vehicles rates - \$26.00

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3. \$200.00, deduction for costs which are not for Corrective Action activities (Section 22.18(e)(1)(C) and 22.18b(a)(3) of the Environmental Protection Act).

Environmental Compliance Consulting Invoice #SEC1.0103

4. \$1,120.00, deduction for costs associated with seeking reimbursement from the Underground Storage Tank Fund (Section 22.18(e)(1)(C) and 22.18b(a)(3) of the Environmental Protection Act).

Superior Invoice #24372 – Kayleen Anderson

5. \$4,142.44, deduction for math errors on Summary Sheet for All Charges in Billing Package.

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Attachment A
Technical Deductions

Re: LPC #2010305859 -- Winnebago County
Rockford/Didier Greenhouses
4601 W. State St.
LUST Incident No. 923499
LUST FISCAL FILE

Item # Description of Deductions

1. \$27,470.94, deduction for costs associated with ineligible Tanks (Section 22.18b(a)(5) of the Environmental Protection Act).

Invoice for BenRoss Equipment from 9/18/1992 to 7/22/1993 includes costs for removal of all tanks and installation of new tanks. Sufficient detail is not provided to allow pro-rating for tank removal charges.

2. \$550.00, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

The invoice for Wendler Engineering for surveying of monitoring wells is excessive.

JDB



DIDIER GREENHOUSES, INC.

815/963-5294

FAX 815/963-4994

4601 WEST STATE STREET
ROCKFORD, ILLINOIS 61102

Illinois Environmental Protection Agency
Attn: John Kim
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

December 19, 2003

Dear Mr. Kim,

This is a written request for an extension of our 35-day appeal period to a 90-day period. The date the final decision was received was December 4, 2003. A copy of this decision is being faxed along with this request. Please mail or fax a confirmation of this extension to our business.

Thank you for your help with this matter.

Sincerely,

A handwritten signature in cursive script that reads 'Anne M. Didier'. The signature is written in dark ink and is positioned above the printed name.

Anne M. Didier

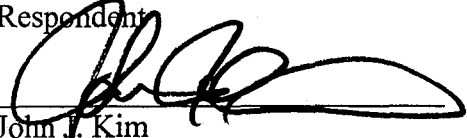
CERTIFICATE OF SERVICE

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

Anne M. Didier
Didier Greenhouses, Inc.
4601 West State Street
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