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

FEB 13 2004

**STATE OF ILLINOIS
Pollution Control Board**

ILLINOIS STATE TOLL HIGHWAY)
AUTHORITY (Lincoln South HPCAP/B),)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 04- 141
(UST 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: February 10, 2004

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**BEFORE THE POLLUTION CONTROL BOARD
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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 May 11, 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 January 6, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On January 27, 2004, 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 that the final decision was received. However, the copy of the final decision provided by the Petitioner contains a “Received Jan. 7 2004” stamp. (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: February 10, 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

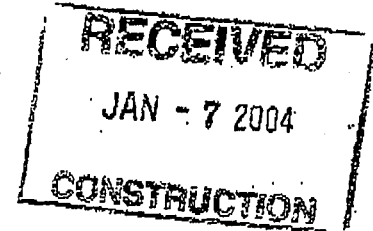
CERTIFIED MAIL

7002 3150 0000 1227 5290

JAN 06 2004

Illinois State Toll Highway Authority
Attention: Steve Gillen
2700 Ogden Avenue
Downers Grove, Illinois 60515

Re: LPC #0312975141 - Cook County
South Holland / Lincoln Oasis
I-294, East Bound
LUST Incident No. 941818
LUST Technical File



Dear Mr. Gillen:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated September 5, 2003, was received by the Illinois EPA on September 10, 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 following modifications 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:

1. Additional information needs to be provided concerning free product recovery if product continues to be encountered at this site.
2. The owner/operator needs to clarify whether or not all of the incidents reported at the subject site are to be addressed at the same time.
3. Please note that it is not acceptable to model the extent of contamination to surface water quality standards. Tier 2 calculations should be based on Class I groundwater objectives. All modeled off-site exceedences based on a Class I groundwater designation must be addressed.
4. Tier 2 migration to groundwater objectives should not be calculated based on soil inhalation and ingestion objectives.

A

Page 2

5. All existing monitoring wells should be sampled six months after excavation activities are completed to determine contaminant levels and verify that Tier 2 objectives will be met.
6. The Owner/Operator Property Summary form included with this submittal was for a different site.

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 A, the amounts listed in Section 1 of Attachment A 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 a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have 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

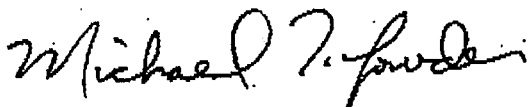
Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

Page 3

If you have any questions or need further assistance, please contact Melinda Friedel, P.E. at 217/782-6762.

Sincerely,



Michael T. Lowder
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

Attachment: Attachment A
Appeal Rights

cc: Mary Kruk / Wight & Company
Division File

EARL A. DEUTSCH
PAUL M. LEVY
TERRY L. ENGEL
FRANK R. COHEN
JERRY I. RUDMAN
MICHAEL J. DEVINE
STUART BERKS
KENNETH W. FUNK
PHILLIP J. ZISOOK
DENNIS E. FRISBY
STEVEN B. ISAACSON
ALVIN J. HELFGOT
JOEL A. STEIN
BRIAN D. SAUCIER
JAMES E. O'HALLORAN
AARON B. ZARKOWSKY
KAREN KAVANAGH MACK
GREGG A. GAROFALO
JEFFREY B. HORWITZ
MOYENDA MUTHARIKA KNAPP
DAVID J. BEN-DOV
CATHERINE GLENN JOELSON

LAW OFFICES

DEUTSCH, LEVY & ENGEL

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COUNSEL
MARSHALL D. KROLICK
ARTHUR J. SABIN

January 27, 2004

Via Facsimile: (217)782-9807

And Regular U. S. 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 #0312975141 - Cook County;
South Holland/ Lincoln Oasis South
I-294 East Bound
Lust Incident No. 941818**

Dear Mr. Kim:

The undersigned, as a Special Assistant Attorney General, represents the Illinois State Toll Highway Authority in connection with the referenced LUST Incident. I have received a copy of the Agency's letter, dated January 6, 2004, modifying the Authority's High Priority Corrective Action Plan and Budget 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 January 6, 2004; 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.

RECEIVED
Division of Legal Counsel
JAN 30 2004
Environmental Protection Agency

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B

Illinois Environmental Protection Agency

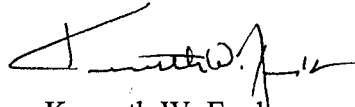
January 27, 2004

Page Two

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

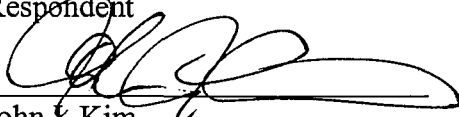
I, the undersigned attorney at law, hereby certify that on February 10, 2004, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class 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
Suite 1700
Chicago, IL 60606

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent



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