

**RECEIVED**  
CLERK'S OFFICE

MAR 05 2004

STATE OF ILLINOIS  
Pollution Control Board

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

HORTENSE SINGER, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

PCB No. 04- 149  
(LUST Appeal – Ninety Day Extension)

**NOTICE**

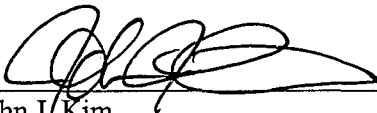
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Sahri D. Zeger, Esq.  
Law Offices of Charles C. Snyder, P.C.  
2803 Butterfield Road  
Suite 380  
Oak Brook, IL 60523

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: March 3, 2004

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STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE POLLUTION CONTROL BOARD  
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HORTENSE SINGER, )  
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 Petitioner, )  
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 v. ) PCB No. 04- 149  
 ) (LUST Appeal – Ninety Day Extension)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

**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 June 1, 2004, or any other date not more than a total of one hundred twenty-five (125) days from January 28, 2004, the earliest date of service of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

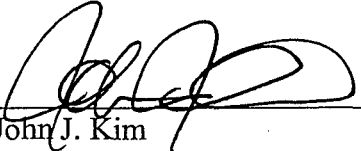
1. On January 27, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On February 26, 2004, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. In a conversation with the Illinois EPA, the Petitioner confirmed the letter was received no earlier than on January 28, 2004. (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  
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Springfield, Illinois 62794-9276  
217/782-5544  
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Dated: March 3, 2004



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

JAN 27 2004

CERTIFIED MAIL #

70023150000612283431

Hortense Singer  
Attn: Charlie Snyder  
2803 Butterfield Road, Suite 380  
Oak Brook, Illinois 60523

Re:   LPC #0430833004 -- DuPage County  
      Warrenville/Hortense Singer  
      3 South 338 Rt. 59  
      LUST Incident No. 942631  
      LUST FISCAL FILE

Dear Mr. Snyder:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced LUST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), and 35 Ill. Adm. Code 732, Subpart F. This information is dated December 18, 2003 and was received by the Agency on December 23, 2003. The application for payment covers the period from November 23, 1994 to June 23, 1995. The amount requested is \$65,816.84.

The deductible amount to be assessed on this claim is \$100,000.00 which will be assessed on future claim. In addition to the deductible, there are costs from this claim that are not being paid. Listed in Attachment A are the costs that are not being paid and the reasons these costs are not being paid.

On December 23, 2003, the Agency received your complete application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher cannot be prepared for submission to the Comptroller's office for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date complete subsequent application for payment requests are received by the Agency. This constitutes the Agency's final action with regard to the above application(s) for payment.

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) 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

A

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from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the applicant 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:

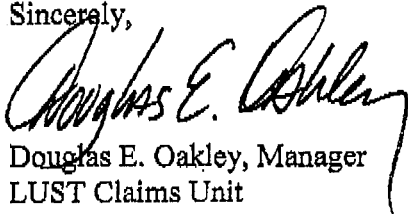
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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 or require further assistance, please contact Bill Richards of my staff at 217/782-6762.**

Sincerely,



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

DEO:WWR:bjh\043453.doc

Attachment

cc: K-Plus Environmental Services

Attachment A  
Accounting Deductions

Re: LPC #0430833004 -- DuPage County  
Warrenville/Hortense Singer  
3 South 338 Rt. 59  
LUST Incident No. 942631  
LUST Fiscal File

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

Item # Description of Deductions

1. \$65,816.84, none of the costs incurred from January 13, 1995 to June 23, 1995, are eligible for reimbursement. These costs are for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act; were conducted after the 20- and 45-day reporting requirements of 35 Ill. Adm. Code 732.202(c), 732.202(e), 731.162(b) and 731.163(b); and were not approved in a budget. (Sections 57.5(a) and 57.8(a)(1) of the Act; 35 Ill. Adm. Code 732.505(c), 732.601(f), and 732.606(o))

All costs submitted in this claim incurred after (1/12/95) 52 days of notifying IEMA, therefore are deemed ineligible.

**The following costs are included in the above deduction, but are also being denied for other reasons.**

2. \$42,662.40, deduction for costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs were not 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)).

Need Camera & Film receipts for \$125.00, asked for on the Equipment Form.  
Need a more detailed breakdown of costs for the Canopy Demolition for \$1,600.00 on the Equipment form.  
Need Photograph Development receipts for \$68.70, asked for on the Field Purchases form.  
Need EVOC Analytical Laboratories Invoice for \$291.20, asked for on the Subcontractors form.  
Need Drum Disposal Invoice for \$2,120.00, asked for on the Subcontractors form.  
Need R. Carlson & Sons Invoice for \$5,488.00, asked for on the Subcontractors form.  
Need Northbranch Environmental Invoice for \$2,529.50, asked for on the Subcontractors form.

Page 2

Need Van Hoesen Industries Invoice for \$18,800.00, asked for on the Subcontractors form.

Need RW Collins Invoice for \$11,300.00, asked for on the Subcontractors form.

Need K-Plus Invoice for \$340.0, asked for on the Personnel Summary Sheet.

3. \$1,860.60, deduction for costs which are unreasonable as submitted. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh))

Vehicle mileage exceeds reasonability by \$50.16.

Vehicle mileage exceeds reasonability by \$6.44.

Sample jars exceeds reasonability by \$4.00.

OSFM Registration & Penalty fees for \$1,800.00 for ineligible costs.

4. \$3,680.54, adjustment in the handling charges due to the deduction(s) of ineligible costs (Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607).

Reduction of Handling Charges are due to the above items lacking documentation and the deduction of costs for being unreasonable.

DEO:WWR:bjh\043453.doc

LAW OFFICES

**CHARLES C. SNYDER, P.C.**

Sahri D. Zeger  
Email: [szeger@ccspclaw.com](mailto:szeger@ccspclaw.com)

2803 Butterfield Road - Suite 380  
Oak Brook, Illinois 60523  
Telephone: 630-368-0050  
Fax: 630-368-0054

February 26, 2004

**Via Facsimile**  
**217-782-9807**

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

**Re: LPC# 0430833004 – DuPage County**  
**Warrenville/Hortense Singer**  
**3 South 338 Rte. 59**  
**LUST Incident No. 942631**

Dear Mr. Kim:

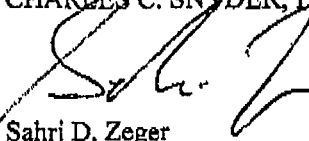
Our office represents Mrs. Hortense Singer with respect to the above captioned matter. On January 27, 2004, the IEPA issued a determination letter rejecting an application for reimbursement in the amount of \$65,816.84. I have attached a copy of that letter for your file.

I am hereby requesting, on behalf of our client, a 90-day extension for filing an appeal with the Illinois Pollution Control Board.

If you have any question or require further information, please contact me or Mr. Charles Snyder. As I mentioned in our telephone conversation, I will be contacting you shortly to arrange an initial settlement conference.

Sincerely,

CHARLES C. SNYDER, P.C.



Sahri D. Zeger

Enclosures: IEPA Letter dated January 27, 2004 (4 pages)



## CERTIFICATE OF SERVICE


I, the undersigned attorney at law, hereby certify that on March 3, 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

Sahri D. Zeger, Esq.  
Law Offices of Charles C. Snyder, P.C.  
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