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### APR 15 2004

# BEFORE THE POLLUTION CONTROL BOARD OF THE STATE OF ILLINOIS

STATE OF ILLINOIS Pollution Control Board

PETE'S MARATHON,	)	
Petitioner,	)	.0.1
v.	)	PCB No. 04- $184$
ILLINOIS ENVIRONMENTAL	)	(LUST – Ninety Day Extension)
PROTECTION AGENCY,	)	
Respondent.	)	

#### **NOTICE**

Dorothy M. Gunn, Clerk Illinois Pollution Control Board James R. Thompson Center 100 West Randolph Street Suite 11-500 Chicago, IL 60601 Marlena Mackie 3035 Santa Barbara Drive Brookfield, WI 53005

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: April 13, 2004



Pollution Control Board

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

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)	PCB No. 04- 184
)	(LUST – Ninety Day Extension)
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# REQUEST FOR NINETY DAY EXTENSION

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 III. 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 July 12, 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:

- On February 17, 2004, the Illinois EPA issued a final decision to the Petitioner 1. regarding a request for reimbursement from the Underground Storage Tank Fund. (Exhibit A)
- 2. On March 12, 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 represented that the final decision was received on March 9, 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

P.O. Box 19276

Springfield, Illinois 62794-9276

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### 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 70023/500000/25/de25/

FEB 1 7 2004

Pete's Marathon Attn: Marlena Mackie 3035 Santa Barbara Drive Brookfield, WI 53005

Re:

LPC #1214220017 -- Marion County

Centralia/Pete's Marathon

539 South Poplar

LUST Incident #892101 LUST FISCAL FILE

Dear Ms. Mackie:

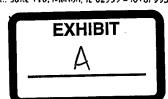
The Agency has completed the review of the request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for the above-referenced facility. The invoices reviewed covered the period from June 1, 2003 to August 31, 2003. The amount requested was \$9,329.19.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated November 8, 1993. 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 October 6, 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 \$8,530.66 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

ROCKEOND - 4302 North Main Street, Rockford, IL 61303 - (815) 987-7760 • Des Plaines - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000 ELCIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PCONIA - 5415 N. University St., Peoria, II, 61614 - (309) 693-5463 BUNEAU OF LAND - PCONIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463 • COLIMPARION - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800 SPRINCHERD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - 1217 1786-6892 • COLIMSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120 MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200



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 Kevin Mably of my staff at 217/782-6762.

Sincerely,

Douglas E. Oakley, Manager

LUST Claims Unit

Planning & Reporting Section

Bureau of Land

DEO:KM:bjh\043253.doc

Attachment

cc: Philip Environmental Services Corporation

bcc: Division File LCU File

Kevin Mably

# Attachment A Accounting Deductions

Re:

LPC #1214220017 -- Marion County

Centralia/Pete's Marathon

539 South Poplar

LUST Incident No. 892101

LUST FISCAL FILE

### Item # Description of Deductions

1. \$10.00, deduction for an adjustment in costs due to a lack of supporting documentation (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

Philip Environmental - Invoice #62413339

Need copy of cell phone bill

2. \$642.32, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

Philip Environmental - Invoice #62413449

\$252.00 Per diem

#62413339

\$362.88 Paid in prior claim-Teklab

#62413339

\$27.44 Wastewater - Gateway

Petroleum

3. \$146.21, 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).

Philip Environmental - Invoice #62413449

LUST Reimbursement

\$798.53 Total Accounting Deductions

DEO:KM:bjh\043253.doc

March 12, 2004 3035 Santa Barbara Drive

Brookfield, WI. 53005

Scott Phillips, Attorney (FAX: 217/782-9807) Illinois Environmental Protection Agency Division of Legal Counsel 1021 North Grand Avenue East Springfield, Illinois 62794-9276 (217/782-5544)

Environmental Protection
Anency
3 //5 TO: T. REING FO! S. Phincipa Par. Vonence

Re: Request for 90-Day Extension of IEPA Final Determination received, March 9, 2004 t LPC #1214220017-Marion County Centralia/Pete's Marathon 539 South Poplar LUST Incident #892101

Dear Mr. Phillips:

This letter is a request for a 90-day extension of the Final Determination rendered in the communication from IEPA received March 9, 2004. During the extension period my intent is to submit the necessary documentation to receive additional reimbursements.

The information describing the portions of the submittals that were denied are detailed in "Attachment A" that is enclosed with this letter.

The billing period was June 1, 2003 –August 31, 2003. The work consisted of per diem for workers, Teklab costs and other miscellaneous costs.

The IEPA correspondence that denied this requests is attached to this letter. I am trusting that you can assist me in obtaining the extension. This is the same procedure that I used in the past and you were able to assist me.

I have faxed a copy of this letter to Mr. James Malcom, III, IEPA Manager for this LUST

Please advise me if I need to do anything else to help you assist me in obtaining the 90-day extension. I can be reached at the address and the telephone number given on this letter.

Thank you for you assistance in this very complicated, lengthy, and stressful process of soil remediation.

Mirlina Malke .Marlena Mackie

(262) 784-2676

c: James Malcom (FAX: 217/534-4193)

**EXHIBIT** 

#### **CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on April 13, 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 Marlena Mackie 3035 Santa Barbara Drive Brookfield, WI 53005

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent

John'y. Kim

**Assistant Counsel** 

Special Assistant Attorney General

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