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AUG 05 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

TED HARRISON OIL COMPANY,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 05- 18
(LUST - 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

Carolyn S. Hesse
Barnes & Thornburg
Suite 4400
One North Wacker Drive
Chicago, IL 60606-2809

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: August 4, 2004

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

TED HARRISON OIL COMPANY,)	
Petitioner,)	
v.)	PCB No. 05- 18
ILLINOIS ENVIRONMENTAL)	(LUST – Ninety Day Extension)
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 November 2, 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:

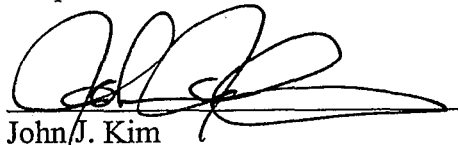
1. On June 28, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On July 15, 2004, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The Petitioner’s request included documents that indicated the final decision was received on June 30, 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
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P.O. Box 19276
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217/782-5544
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Dated: August 4, 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

JUN 28 2004

7002 3150 0000 1257 7080

Ted Harrison Oil, Inc.
Attention: Ted Harrison
P.O. Box 3185
Quincy, Illinois 62305

Re: LPC #0170255012 -- Cass County
Virginia/ Ted Harrison Oil
Springfield & Main
LUST Incident No. 20001896
LUST Technical File

2004
OK

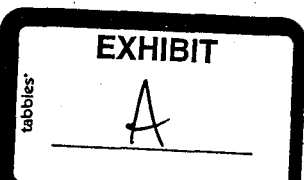
Dear Mr. Harrison:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan (plan) budget submitted for the above-referenced incident. This plan, dated June 2, 2004, was received by the Illinois EPA on June 2, 2004. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 IAC).

The budget is rejected for the reason(s) listed below (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c) and 732.503(b)):

1. In accordance with Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b), any action by the Illinois EPA to disapprove or modify a plan or budget submitted pursuant to Title XVI of the Act shall be provided to the owner or operator in writing within 120 days of receipt.

The Illinois EPA previously notified the owner or operator of its final action. Further, in accordance with Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f), the Illinois EPA's action to reject or require modification of the plan or budget, or the rejection of any plan or budget by operation of law, was subject to appeal to the Illinois Pollution Control Board within 35 days after the Illinois EPA's final action.



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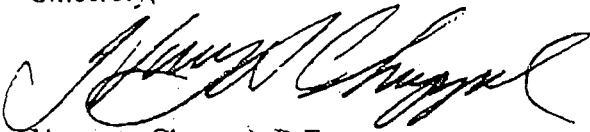
All future correspondence must be submitted to:

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.

If you have any questions or need further assistance, please contact James R. Malcom, III at 217/524-9140.

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC: jrm

cc: USI
Division File

BARNES & THORNBURG

Carolyn S. Hesse
(312) 214-8301
Email: chesse@btlaw.com

Suite 4400
One North Wacker Drive
Chicago, Illinois 60606-2809 U.S.A.
(312) 357-1313
Fax (312) 759-5646

www.btlaw.com

July 15, 2004

VIA FACSIMILE & FEDERAL EXPRESS

Mr. John Kim
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

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Division of Legal Counsel

JUL 16 2004

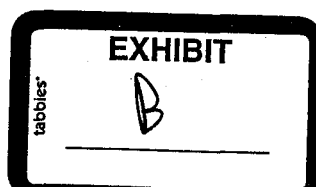
Environmental Protection
Agency

Re: LPC #170255012 - Cass County
Virginia / Ted Harrison Oil
Springfield & Main
LUST Incident No. 20001896
LUST Technical File

Dear John:

On June 28, 2004, the Agency issued a letter with respect to the above-referenced LUST Incident. A new, amended High Priority Corrective Action Plan and Budget were submitted to the Illinois Environmental Protection Agency dated June 2, 2004, which were received by the Agency on June 2, 2004. Ted Harrison Oil is located in Virginia, Cass County, Illinois. The amended Plan and Budget were submitted pursuant to 35 IAC Section 732.405(e) which states as follows:

If, following approval of any groundwater monitoring plan, corrective action plan or associated budget plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended groundwater monitoring plan, corrective action plan or associated budget plan for review by the Agency. The Agency shall review and approve, reject or require modifications of the amended plan in accordance with the procedures contained in Subpart E of this Part.



Mr. John Kim
July 15, 2004
Page 2

It appears that the Agency did not review these documents in accordance with the procedures contained in Subpart E. A copy of the letter from the Agency is attached.

Ted Harrison Oil believes that, based upon discussions with the Illinois Environmental Protection Agency and for other reasons, that we will be able to resolve the issues raised in the Agency's letter. However, we believe that we will not be able to resolve these issues by the deadline for filing an appeal of these issues to the Illinois Pollution Control Board. Thus, this is a request for a 90-day extension pursuant to the Illinois Environmental Protection Act Section 40(a)(1) and 35 IAC 105.406 to allow us to continue these discussions and to try to resolve this issue.

If, for any reason, the Agency will not seek the 90-day extension, please notify me immediately so that I may file an appeal to the Board. If you have any questions or comments, please do not hesitate to contact me.

Sincerely yours,

BARNES & THORNBURG LLP



Carolyn S. Hesse

CSH/jmr
Enclosure
cc: William Sinnott
Carol L. Rowe
227736v1

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on August 4, 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

Carolyn S. Hesse
Barnes & Thornburg
Suite 4400
One North Wacker Drive
Chicago, IL 60606-2809

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Respondent,



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