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CLERK'S OFFICE

SEP 03 2004

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

ILLINOIS AYERS OIL COMPANY )  
(Ayerco #7), )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

48  
PCB No. 05-  
(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

Fred C. Prillaman  
Mohan, Alewelt, Prillaman & Adami  
Suite 325  
1 North Old Capitol Plaza  
Springfield, IL 62701-1323

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, 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: September 1, 2004

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Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD  
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ILLINOIS AYERS OIL COMPANY )  
(Ayerco #7), )  
Petitioner, )  
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PROTECTION AGENCY, )  
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PCB No. 05- 48  
(LUST Appeal – Ninety Day Extension)

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 January 5, 2005, 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 July 28, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On August 31, 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 the final decision was received, though the Illinois EPA notes the final decision could not be delivered until July 29, 2004 at the earliest. (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  
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217/782-9143 (TDD)  
Dated: September 1, 2004

This filing submitted on recycled paper.



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

JUL 28 2004

Illinois Ayers Oil Company  
Attention: Carl Adams, Jr.  
P.O. Box 772  
Quincy, Illinois 62301

Re:   LPC #0170155047 -- Cass County  
      Beardstown/Illinois Ayers Oil Company (Ayerco #7)  
      310 State Street  
      LUST Incident No. 20002020  
      LUST FISCAL FILE

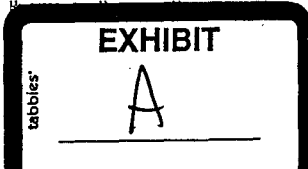
Dear Mr. Adams:

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 May 24, 2004 and was received by the Agency on June 1, 2004. The application for payment covers the period from October 4, 2001 to May 20, 2004. The amount requested is \$31,474.98.

The deductible amount for this claim is \$10,000.00. The total amount of the claim received on June 20, 2001 for \$2,328.40 was applied to the deductible. The balance of \$7,671.60 was taken from the claim received on February 11, 2002 for \$21,602.74, thus fulfilling the deductible amount. 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 July 16, 2004, 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 for \$18,446.64 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 application 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.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
ELGIN - 595 South State, Elgin, IL 60121 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463  
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINGSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200



Page 2

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 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:

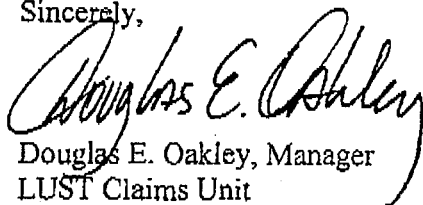
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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 Nancy Moore of my staff at 217/782-6762.**

Sincerely,



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

DEO:NM:bjh\041585.doc

Attachment

cc: CSD Environmental Services, Inc.

Attachment A  
Accounting Deductions

Re: LPC #0170155047 -- Cass County  
Beardstown/Illinois Ayers Oil Company (Ayerco #7)  
310 State Street  
LUST Incident No. 20002020  
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.     | <p>\$12,127.34, deduction for costs associated with High Priority site activities. The billings submitted exceed the approved budget amounts. The Illinois EPA is unable to approve billings that exceed the approved budget amounts. (Section 57.8(a)(1) of the Act and 35 Ill. Adm. Code 732.601(f))</p> <ul style="list-style-type: none"><li>a. The amount requested for Investigation Costs (\$8,103.72) exceeds the amount approved for this line item in the High Priority budget with an approval date of March 28, 2003 (\$3,647.88). The difference of \$4,455.84 is being deducted.</li><li>b. The amount requested for Personnel Costs (\$21,735.50) exceeds the amount approved for this line item in the High Priority budget (\$14,064.00). The difference of \$7,671.50 is being deducted.</li></ul> |
| 2.     | <p>\$901.00, 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))</p> <ul style="list-style-type: none"><li>a. CSD Environmental Services has a direct or indirect financial interest in Heartland Drilling &amp; Remediation. Since both companies are owned by the same entity, it is the Agency's position that handling charges are not warranted.</li></ul>  |

DEO:NM:bjh\041585.doc

MOHAN, ALEWELT, PRILLAMAN & ADAMI

LAWYERS

SUITE 325

1 NORTH OLD CAPITOL PLAZA

SPRINGFIELD, ILLINOIS 62701-1323

www.mohanlaw.com

FRED C. PRILLAMAN  
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\*ALSO ADMITTED IN MISSOURI

JAMES T. MOHAN  
EDWARD J. ALEWELT  
OF COUNSEL

TEL (217) 528-2517  
FAX (217) 528-2553

E-MAIL [mapa@family-net.net](mailto:mapa@family-net.net)

August 31, 2004

- VIA FACSIMILE AND MAIL -

**RECEIVED**  
Division of Legal Counsel

SEP - 1 2004

Environmental Protection  
Agency

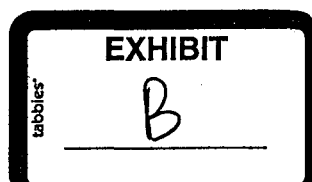
John J. Kim  
Assistant Counsel  
Special Assistant Attorney General  
Division of Legal Counsel  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, IL 62794-9276

Re: LPC #0170155047  
Beardstown/Illinois Ayers Company (Ayerco #7)  
310 State Street  
LUST Incident No. 20002020

Dear John:

We are the attorneys for Illinois Ayers Oil Company. Pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act, 415 ILCS 5/40(a)(1), and 35 Ill. Adm. Code Sec. 105.208, our client requests that the Pollution Control Board grant a 90-day extension of time to appeal the Agency's July 28, 2004, decision in this matter. A true and correct copy of the said decision letter is attached hereto as Exhibit A.

The Applicant requests such extension for a period of 90 days, for the reason that the Applicant, by and through its attorneys, intends to meet with appropriate Agency personnel in the near future with the hope and expectation of working out a fair and reasonable settlement of the issues, thereby obviating the need for a formal appeal and hearing. Such efforts are more likely to succeed if they are unencumbered with the litigation



responsibilities and deadlines which would apply if an immediate appeal were taken.

The Applicant hereby requests the Agency to file its concurrence with the Board so that the statutory extension may be granted.

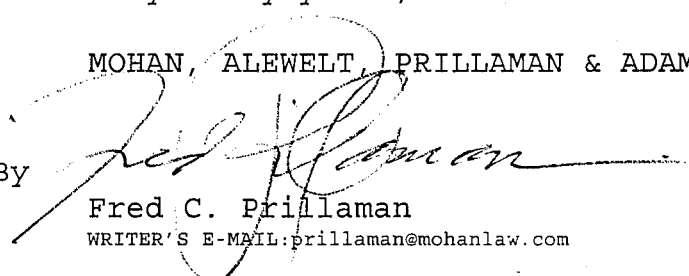
Your prompt attention to this request would be greatly appreciated.

Thank you.

Very truly yours,

MOHAN, ALEWELT, PRILLAMAN & ADAMI

By



Fred C. Prillaman

WRITER'S E-MAIL:prillaman@mohanlaw.com

FCP/ptd

cc: Illinois Pollution Control Board

P:\MAPA\CDAVIS\Illinois Ayers Oil\Kim 08 31 04.wpd sew 8/31/04

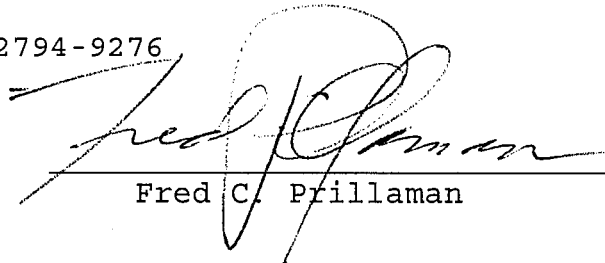


Proof of Service

The undersigned certifies that a copy of the foregoing Letter of Request for Extension was served upon the following parties by enclosing the same in envelopes addressed to said parties with postage fully prepaid, and by depositing said envelope in a U.S. Post Office mail box in Springfield, Illinois on the 31<sup>st</sup> day of August, 2004:

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

John J. Kim  
Special Assistant Attorney General  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276



Fred C. Prillaman

MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 North Old Capitol Plaza  
Suite 325  
Springfield, IL 62701  
(217) 528-2517

P:\MAPA\CDAVIS\Illinois Ayers Oil\Kim 08 31 04.wpd sew 8/31/04

## CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on September 1, 2004, I served true and correct copies of a REQUEST FOR NINETY EXTENSION, 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

Fred C. Prillaman  
Mohan, Alewelt, Prillaman & Adami  
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Respondent



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