

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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JAN 13 2005

STATE OF ILLINOIS
Pollution Control Board

RED ROOSTER CORPORATION)
(f/k/a CLARK RETAIL ENTERPRISES,)
INC.) (CLARK OIL #2086))
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 05- 125
(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

Craig S. Gocker
Environmental Management &
Technologies, Inc.
2012 College Avenue
Suite 208
Normal, IL 61761

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: January 11, 2005

JAN 13 2005

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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RED ROOSTER CORPORATION)
(f/k/a CLARK RETAIL ENTERPRISES,)
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PROTECTION AGENCY,)
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PCB No. 05-125
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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 April 14, 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:

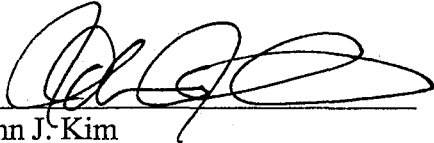
1. On December 6, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On January 10, 2005, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The documents provided by the Petitioner indicate that the final decision was received on December 10, 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
217/782-5544
217/782-9143 (TDD)
Dated: January 11, 2005

This filing submitted on recycled paper.



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

DEC 06 2004

Clark Retail Enterprises, Inc.
Attn: Jeanne Sobeck
3003 Butterfield Road, Suite 300
Oak Brook, Illinois 60523

DEC 10 2004
received
DEC 10 2004

Re: LPC #1430655103 -- Peoria County
 Peoria/Clark Oil #2086
 4805 North War Memorial Drive
 LUST Incident #910437
 LUST FISCAL FILE

Dear Ms. Sobeck:

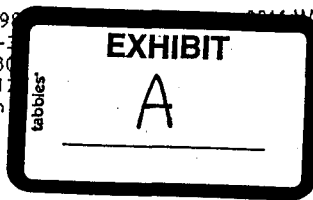
The Agency has completed the review of the request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for the above-referenced facility. The invoices reviewed covered the period from November 1, 2000 to July 31, 2003. The amount requested was \$216,430.10.

The deductible amount to be assessed on this claim is \$10,000.00, which is being deducted from this payment. In addition to the deductible, there are costs from this request that are not being reimbursed. 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 June 29, 2004, 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 \$158,209.70 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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 998-3300
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3300
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 782-3397
MARIION - 2309 W. Main Street, Marion, IL 62959 - (217) 993-7200
HARRISON ST., Des Plaines, IL 60016 - (847) 294-4000
SOUTH FIRST STREET, Champaign, IL 61820 - (217) 278-5800
MALL STREET, Collinsville, IL 62234 - (618) 346-5120



Page 2

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 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:

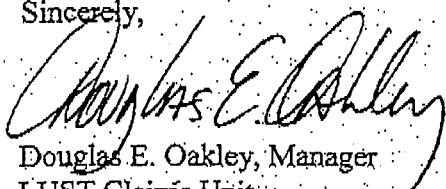
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

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 Diana Gobelman of my staff or Jason Donnelly of the LUST Section technical staff at 217/782-6762.

Sincerely,



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

DEO:DLG:bjh\04316.doc

Attachment

cc: Environmental Management & Technologies

Attachment A
Technical Deductions.

Re: LPC #1430655103 – Peoria County
Peoria/Clark Retail Enterprises, Inc.
4805 North War Memorial Dr.
LUST Incident No. 910437 & 20020052
LUST FISCAL FILE

Item # Description of Deductions

1. \$28,485.00, deduction for sewer lining costs (Invoice #11989) that lack supporting technical documentation as the owner or operator failed to demonstrate that the costs are for corrective action performed in accordance with the plans approved by the Agency (Section 22.18b(d)(4)(F) of the Environmental Protection Act).

The Illinois EPA is requesting additional information to demonstrate lining of the sewers was necessary as part of corrective action.

2. \$700.00, deduction for floor repair costs (Invoice #638-434) that lack supporting technical documentation as the owner or operator failed to demonstrate that the costs are for corrective action performed in accordance with the plans approved by the Agency (Section 22.18b(d)(4)(F) of the Environmental Protection Act).

3. \$18,974.50, deduction for costs that lack supporting technical documentation as the owner or operator failed to demonstrate that the costs are for corrective action performed in accordance with the plans approved by the Agency (Section 22.18b(d)(4)(F) of the Environmental Protection Act).

The Illinois EPA is requesting a breakdown of costs for removing the old sewer versus installing a new sewer.

HAC:JD\020052&910437

Attachment ^b
~~Technical~~ Deductions

ALLOCATION

Re: LPC #1430655103 -- Peoria County
Peoria/Clark Oil #2086
4805 North War Memorial Drive
LUST Incident No. 910437
LUST FISCAL FILE

Item # Description of Deductions

1. \$55.65, deduction for an adjustment in costs due to a lack of supporting documentation (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

 EMT Invoice #1839 -- Mathis-Kelley

2. \$5.25, deduction for costs which are not for Corrective Action activities (Section 22.18(e)(1)(C) and 22.18b(a)(3) of the Environmental Protection Act).

 EMT Invoice #22 -- FOIA request

DEO:DLG:bjh04316.doc

ENVIRONMENTAL MANAGEMENT & TECHNOLOGIES, INC.

January 10, 2005

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

SUBJECT: *LPC #1430655103 - Peoria County
Peoria/Clark Retail Enterprises, Inc. 2086
4805 North War Memorial
LUST Incident No. 910437*

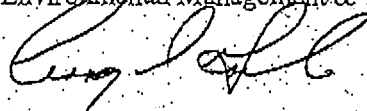
Dear Mr. Kim:

This letter is in regards to the Illinois Environmental Protection Agency's (Agency) final action letter dated December 6, 2004 in regards to a deduction of eligible costs associated with the submittal of a Reimbursement Package (Old Program) dated June 25, 2004. As a result of the Agency's review of the Reimbursement Package for the above referenced site, certain costs were deemed ineligible based on technical justifications.

Environmental Management & Technologies, Inc. (EMT), on behalf of Red Rooster Corporation (f/k/a Clark Retail Enterprises, Inc.), is requesting a 90-day extension to the 35-day appeal period (deadline of January 15, 2005, receipt date of December 10, 2004), thus extending the deadline for filing an appeal to April 15, 2005. The additional time will be used to correspond with IEPA to justify the ineligible costs. The time will also be spent on determining the reason for a second IEPA-Fiscal decision letter dated December 30, 2004 for the exact same Reimbursement Package. Copies of both determination letters are attached as requested. This extension request is being sent via facsimile. Please verify receipt of this letter via e-mail addressed to cgocker@emtusa.com. If you have any questions, please do not hesitate to contact me at 309/454-1717.

Sincerely,

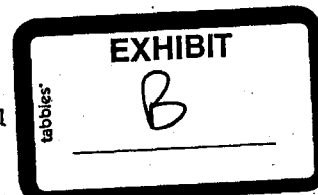
Environmental Management & Technologies, Inc.



Craig S. Gocker, President

CSG/nl
EMT Job No. 1145

Cc: J. Raub, Red Rooster
Attachment



CERTIFICATE OF SERVICE


I, the undersigned attorney at law, hereby certify that on January 11, 2005, 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

Craig S. Gocker
Environmental Management &
Technologies, Inc.
2012 College Avenue
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Normal, IL 61761

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent



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