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CLERK'S OFFICE

JAN 13 2005

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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

PCB No. 05- 126
(LUST Appeal - Ninety Day Extension)

NOTICE

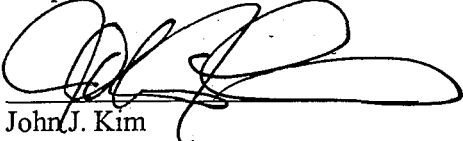
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

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

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**BEFORE THE POLLUTION CONTROL BOARD
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(f/k/a CLARK RETAIL ENTERPRISES,)
INC.) (CLARK OIL #2086))
Petitioner,)
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ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

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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 May 9, 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 30, 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 January 4, 2005. (Exhibit B)



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 30 2004

JAN 04 2005

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

JAN 04 2005

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

Dear Ms. Sobek:

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 \$120,693.26 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) 398-6200
ELGIN - 595 South State, Elgin, IL 60123 - (847) 601-6000
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 278-5800
MARION - 2309 W. Main Street, Marion, IL 62959 - (618) 993-7200

EXHIBIT
A

W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
University St., Peoria, IL 61614 - (309) 693-5463
25 South First Street, Champaign, IL 61820 - (217) 278-5800
09 Mall Street, Collinsville, IL 62234 - (618) 346-5120
618) 993-7200

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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

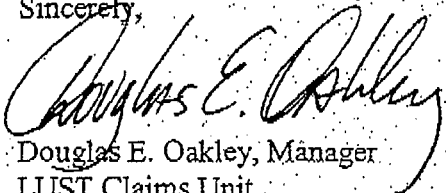
For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
217/782-5544

This letter rescinds the Agency letter of 12/6/04.

If you have any questions, please contact Bill Richards 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:WWR:bjh\04316.doc

Attachment

cc: Environmental Management & Technologies

Attachment A
Accounting Deductions

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
3. \$37,516.44, deduction for corrective action costs which exceed the annual aggregate of allowable costs incurred limit for this site (Section 22.18b(b) of the Environmental Protection Act).

 Costs for the year 2001 exceed the annual aggregate allowable limit.

DEO:WWR:bjh\04316.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*

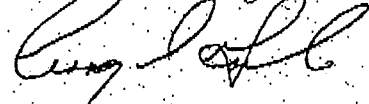
Dear Mr. Kim:

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,

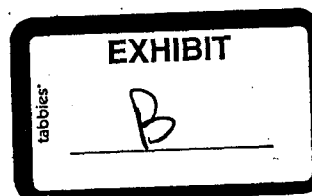
Environmental Management & Technologies, Inc.



Craig S. Gocker, President

CSG/ml
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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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent



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