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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

MORGAN SOUTHERN COMPANY,	)	
Petitioner,	)	
v.	)	PCB No. 06- 17
ILLINOIS ENVIRONMENTAL	)	(LUST Appeal – 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

Om Narla
Professional Service Industries, Inc.
4421 Harrison Street
Hillside, IL 60162

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 9, 2005

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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 8, 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 June 30, 2005, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)

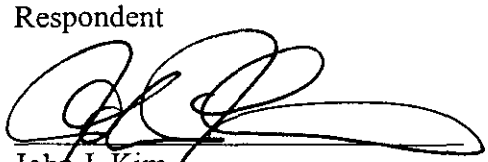
2. On July 29, 2005, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The Petitioner did not indicate when the final decision was received, but tracking the Certified Mail number shows the letter was delivered on July 6, 2005. (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



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Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
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Dated: August 9, 2005

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 #
7004 2510 0001 8653 0002

JUN 30 2005

Double Corporation of Illinois
Attn: David Morgan
1500 Cedar Grove Road
Conley, GA 30288

Re: LPC #0310395025 -- Cook County
Calumet City/Morgan Southern Company
1579 Valencia Court
LUST Incident No. 20030203
LUST FISCAL FILE

Dear Mr. Morgan:

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, 2005 and was received by the Agency on May 26, 2005. The application for payment covers the period from February 14, 2003 to April 22, 2005. The amount requested is $109,059.10.

The deductible amount to be assessed on this claim is $10,000.00. The amount being applied to the deductible from this claim is $8,316.49, leaving a balance of $1,683.51 still to be met. In addition to the deductible, 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 June 7, 2005, 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 cannot be prepared for submission to the Comptroller's office 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.

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

EXHIBIT
A

B. There was no receipt provided for Site Registration requested under Field Purchases. Handling charges can be considered only on costs with accompanying receipts/invoices. The related Handling Charges are being deducted ($9.35).
C. There was no invoice submitted from U.S. Biosystems for the amount of this deduction ($400.00).

3. None of the costs incurred from April 8, 2003 to January 7, 2005 are eligible for reimbursement. To be considered for reimbursement, early action activities must be performed within 45 days after initial notification to the Illinois Emergency Management Agency of a release. The costs in question were not incurred within the time allowed for such reimbursement. (35 Ill. Adm. Code 732.202(g))

A. There are psi Personnel Costs past 52 days from IEMA ($6,876.00).
B. There are RW Collins Personnel Costs incurred past 52 days ($5,692.50).
C. Equipment usage after 52 days is denied ($12,477.50).
D. Proctor Analysis, requested under Stock Items is past 52 days ($150.00).
E. The IDOT permit, requested under Field Purchases, is past 52 days ($31.00).
F. There are subcontractor costs past 52 days ($49,070.90).

4. $15,548.17, deduction for costs for corrective action or indemnification that were incurred prior to the owner or operator providing notification of the release to the Illinois Emergency Management Agency (IEMA, formerly IESDA) (Section 57.8(k) of the Act and 35 Ill. Adm. Code 732.606(n)).

A. There are psi Personnel hours prior to IEMA ($1,662.50).
B. There are RW Collins Personnel hours incurred prior to IEMA ($1,782.50).
C. There is Equipment usage that is prior to IEMA. In addition, the costs incurred on February 13, 2003 would be associated with the tank pull ($8,285.00).
D. There are Subcontractor costs prior to IEMA. In addition, the Lincoln Paving Company invoice, the Material Services Corporation invoice with a ship date of February 13, 2003, and the RS Used Oil Services invoice with a job date of February 13, 2003 include costs associated with a planned tank pull, the Administrative Order and/or the two ineligible oil tanks ($3,818.17).

5. $3,426.00, deduction for costs for the removal, disposal, or abandonment of an underground storage tank that was removed or abandoned, or permitted for removal or abandonment, by the Office of the State Fire Marshal before the owner or operator provided notice to the Illinois Emergency Management Agency of a release of petroleum (Section 57.8(j) of the Act and 35 Ill. Adm. Code 732.606(k)).

Deduction for costs incurred for the removal, disposal, or abandonment of the underground storage tank(s) which were not removed in accordance with Office of the State Fire Marshal regulations. (Section 57.5(b) of the Act and 35 Ill. Adm. Code 732.606(i))

Deduction for costs for the removal of underground storage tanks for which the owner or operator was deemed ineligible to access the Fund. (Section 57.9(a) of the Act and 35 Ill. Adm. Code 732.608(a)(1))

Deduction for costs for corrective action or indemnification that were incurred prior to the owner or operator providing notification of the release to the Illinois Emergency Management Agency (IEMA, formerly IESDA) (Section 57.8(k) of the Act and 35 Ill. Adm. Code 732.606(n)).

A. RW Collins Personnel Costs incurred on February 13, 2003 (the day of the tank pull) are denied. This site had a planned tank pull, an Administrative Order issued from OSFM, and there were two oil tanks pulled that are not eligible. In addition, these costs are prior to IEMA ($3,200.00).
B. The permits from the City of Calumet City and from IDOT that are associated with the tank pull are denied ($226.00).

6. $68.98, deduction for costs for corrective action activities for underground storage tanks for which the owner or operator was deemed ineligible to access the Fund (Section 57.8(m)(1) of the Act and 35 Ill. Adm. Code 732.608).

The following deductions are denying 5.21% of the costs indicated for being associated with the two ineligible oil tanks. The total tank volume was 21, 100 gallons. The total tank volume of the ineligible tanks is 1,100 gallons. 1,100 / 21,100 = 5.21% of the total tank volume associated with the ineligible tanks.

A. This deduction is from the RW Collins personnel hours incurred on February 14, 2003 ($31.26).
B. This deduction is from the Equipment Costs incurred on February 14, 2003. ($23.45).
C. This deduction is from the Material Service Corporation invoice dated February 17, 2003 with a ship date of February 14, 2003 ($14.27).

7. $1,140.00, deduction for costs incurred for additional remediation after receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received. (35 Ill. Adm. Code 732.606(kk))

None of the costs incurred from January 25, 2005 to April 15, 2005 are eligible for reimbursement. To be considered for reimbursement, early action activities must be performed within 45 days after initial notification to the Illinois Emergency Management Agency of a release. The costs in question were not incurred within the time allowed for such reimbursement. (35 Ill. Adm. Code 732.202(g))

A. There are psi Personnel Costs past NFR and past 52 days from IEMA.

8. $40.00, deduction for costs incurred for additional remediation after receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received. (35 Ill. Adm. Code 732.606(kk))

   A. The truck usage, billed under Stock Items, is past NFR.

9. $4,576.09, adjustment in the handling charges due to the deduction(s) of incligible costs (Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607).

   A. The Handling Charges associated with the deductions from Field Purchases are denied ($30.80).
   B. The Handling Charges associated with the deductions from Subcontractors are denied ($4,545.29).

10. $.02, deduction for costs due to a mathematical error. (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(ff))

    This deduction is from the total of the line items on the Summary Sheet for All Charges. The line items total $109,059.12, but only $109,059.10 is requested.

11. $.10, 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))

    This deduction is from the total amount requested on the Summary Sheet for All Charges. The amount certified on the Payment Certification form is $109,059.00.

NM:me\051872

Attachment A
Technical Deductions

Re: LPC #0310395025 -- Cook County
Calumet City/Morgan Southern, Inc.
1579 Valencia Court
LUST Incident No. 20030203
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
	$78.00, deduction for costs submitted after the issuance of a No Further Remediation (NFR) Letter. Pursuant to 35 Ill. Adm. Code 732.305(d) or 732.405(d), any plan or budget shall be submitted to the Illinois EPA for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of 35 Ill. Adm. Code 732 prior to the issuance of an NFR Letter.

MRT:mrt\

psi Information To Build On
Engineering • Consulting • Testing

July 29, 2005

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

Re: Incident No. 20030205
Morgan Southern Company
1579 Valencia Court
Calumet City, Illinois
PSI Project Number: 046-3G005
LUST Incident Numbers: 20030205
LPC# 0310395025

Dear Mr. Kim:

Professional Service Industries, Inc. (PSI) is requesting an extension, not to exceed 90 days, to appeal the agencies decision regarding rejection of most of the reimbursement costs incurred for Morgan Southern Site, LUST Incident No.20030205 in a letter dated June 30, 2005.

PSI has attached the Illinois EPA's letter dated June 30, 2005 stating "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 period".

If you have any questions please feel free to contact me at (708) 236-0720 x245 or e-mail me at om.narla@psiusa.com.

Respectfully submitted,
Professional Service Industries, Inc.

Om Narla
Project Manager

OM:om
Cc: David Morgan, Matthew Wollert,
Guy Freese, Howell Branum

Attachment

EXHIBIT
B

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on August 9, 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

Om Narla
Professional Service Industries, Inc.
4421 Harrison Street
Hillside, IL 60162

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent

John J. Kim
Assistant Counsel
Special Assistant Attorney General
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