

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

**RECEIVED**  
CLERK'S OFFICE

SEP 12 2005

STATE OF ILLINOIS  
Pollution Control Board

DOWNTOWN SHELL, )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

PCB No. 06- 38  
(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 60606-2833

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: September 8, 2005

SEP 12 2005

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

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DOWNTOWN SHELL,	)	
Petitioner,	)	
v.	)	PCB No. 06- 38
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 December 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 August 5, 2005, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On August 12, 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 documentation provided by the Petitioner represented that the final decision was received on August 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



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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217/782-5544  
217/782-9143 (TDD)  
Dated: September 8, 2005

This filing submitted on recycled paper.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

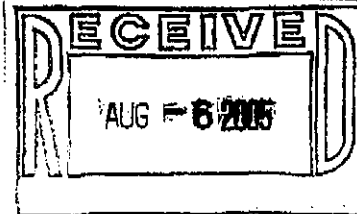
1021 NORTH GRAND AVENUE EAST, P.O. Box 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

AUG 05 2005



CERTIFIED MAIL

7004 2510 0001 8647 4399

Downtown Shell  
Attention: Mr. Don McCray  
Route 3, Box 58  
Greenville, Illinois 62246

Re: LPC # 0050055056 - Bond County  
Greenville / Downtown Shell  
317 West College Avenue  
LUST Incident 982949  
LUST Technical File

Dear Mr. McCray:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. This information, dated April 7, 2005, was received by the Illinois EPA on April 7, 2005. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c)(4)(D) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is rejected for the following reasons:

1. Item Number 2 of Illinois EPA's denial letter comments in the December 12, 2003 letter have not been adequately addressed.

Specifically;

- a. Item 2.a asked for the contents of the bioremediation slurry. While Illinois EPA acknowledges that a list of materials that "may be included" has been provided, a list of what is actually in the biological slurry and at what quantities has not. The actual contents of this slurry must be provided.
- b. Item 2.b asked for the impact that the bioremediation slurry will have on groundwater quality. It is stated "There is no long term risk to groundwater

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 60123 - (847) 608-3131 • PEORIA - 5475 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) 782-3397 • COLLINSVILLE - 1001 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main Street, Marion, IL 62959 - (217) 993-7200

EXHIBIT

A

Page 2

quality standards in the subsurface." The groundwater quality standards being met should be provided.

- c. Item 2.c asked for the level of oxygen in the bioremediation slurry. This has not been provided and, considering that the contents of the bioremediation slurry has not been provided, the amount of oxygen present is necessary to ensure that the proper amount of bioremediation slurry is introduced to the subsurface.
- d. Item 2.d asked for the basic design parameters for the bioremediation slurry (concentration of contaminants to be treated, amount of oxygen required, and how the oxygen will be delivered to the area to be treated). While very basic design parameters are included in the report, the above referenced items have not been addressed. This information, along with the information listed in Condition 1.a and 1.c above, is necessary to determine the proper amount of bioremediation slurry.

Based upon the results at the four Incidents referenced on page 15 of the subject submittal, it appears as though the bioremediation slurry does reduce the concentrations of indicator contaminants at the subject facilities. However, what is not known is how much of the bioremediation slurry is actually needed at each facility including the subject facility and whether this bioremediation slurry is more cost effective than alternative bioremediation methods. As such, information should be provided as to how it was determined that the 1,088 cubic yards of "Bacteria, Nutrients, Catalyst" was the correct amount for the subject facility.

- 2. It is stated that the plan does not include a cost comparison since there is not a conventional technology for groundwater remediation. It appears as though the removal of the geological unit containing the groundwater, combined with the soil remediation effort that has already been completed, would remediate the groundwater.

Pursuant to Sections 57.7(a)(1) and 57.7(c)(4)(D) of the Act and 35 Ill. Adm. Code 732.405(e) and 732.503(b), the associated budget is rejected for the following reason: A full financial review shall consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations. Items to be reviewed shall include, but not be limited to, costs associated with any materials, activities, or services that are included in the budget plan. The overall goal of the financial review shall be to assure that costs associated with materials, activities, and services shall be reasonable, shall be consistent with the associated technical plan, shall be incurred in the performance of corrective action activities, and shall not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.505(c)). Without an approvable plan, the proposed budget cannot be fully reviewed.

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While a full review of the budget has not been conducted, it is noted that the budget includes 3,320 square feet of 4" concrete replacement. The areal extent of the concrete to be replaced should be provided, as well as documentation that 4" of concrete currently exists over this area. Please note that only the replacement of concrete over those areas which have been excavated will be considered reasonable. In addition, it is noted that a line item of "Injection Point (Trench)", quantity of four, at a rate of \$500 per item. What this line item includes should be provided.

Pursuant to 35 Ill. Adm. Code 732.401, the Illinois EPA requires submittal of a revised plan, and budget if applicable, within 120 days of the date of this letter to:

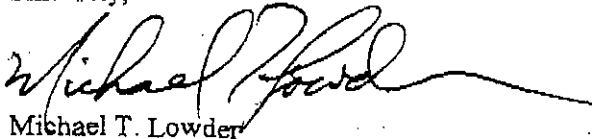
Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

If you have any questions or need further information, please contact Michael A. Heaton at 217/524-3312.

Sincerely,



Michael T. Lowder  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

MTL:mh\982949f9.doc

cc: Ms. Carol L. Rowe, PG - CW3M Company (Springfield, Illinois)  
Division File

### Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4)(D) 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 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, IL 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  
Post Office Box 19276  
Springfield, IL 62794-9276  
217/782-5544

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

**RECEIVED**  
Division of Legal Counsel  
AUG 15 2005  
Environmental Protection  
Agency

August 12, 2005

**VIA FACSIMILE & FEDERAL EXPRESS**

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

Re: LPC #0050055056 - Bond  
Greenville / Downtown Shell  
317 West College Avenue  
LUST Incident No. 982949  
Request for 90-Day Time Extension

Dear John:

On August 5, 2005, the Illinois Environmental Protection Agency issued a letter with respect to the above-referenced LUST Incident regarding IEPA's rejection of the High Priority Corrective Action Plan (Plan) for the above-referenced site. The Plan proposes the use of bioremediation by CW<sup>3</sup>M's patent pending system. The use of bioremediation is one of the topics we touched on briefly when we met with you, Doug Clay and others on April 21, 2005. At that meeting, we concluded our discussion of bioremediation by agreeing to discuss this topic further.

CW<sup>3</sup>M would like to meet with you and Doug Clay at your earliest convenience to try to resolve the bioremediation issues raised in the enclosed letter. A copy of the August 5, 2005 letter is attached.

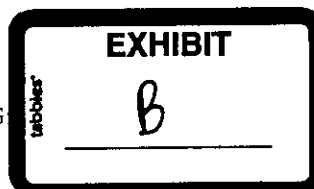
Greenville/Downtown Shell believes that, based upon our prior discussions with the Illinois Environmental Protection Agency and for other reasons, that we will be able to resolve the issues raised in the Agency's letter. However, we believe that we will not be able

Chicago

Elkhart

Fort Wayne

G



South Bend

Washington, D.C.

Mr. John Kim  
August 12, 2005  
Page 2

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 the issues raised in the enclosed letter.

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**

A handwritten signature in cursive script that reads "Carolyn S. Hesse".

Carolyn S. Hesse

CSH/jmr  
Enclosure

cc: William Sinnott  
Carol L. Rowe

288400v1

**BARNES & THORNBURG LLP**

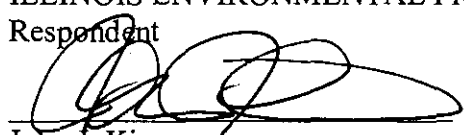
## CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on September 8, 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

Carolyn S. Hesse  
Barnes & Thornburg  
Suite 4400  
One North Wacker Drive  
Chicago, IL 60606-2833

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
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