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OCT 03 2005

STATE OF ILLINOIS
Pollution Control Board

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

EAVES AUTO REPAIR,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 06- 41
(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

Paul L. Fish
HDC Engineering
201 West Springfield Avenue
Suite 300
P.O. Box 140
Champaign, IL 61824-0140

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 G. 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 29, 2005

OCT 03 2005

STATE OF ILLINOIS
Pollution Control Board

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

EAVES AUTO REPAIR,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 06- 47
(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 2, 2006, 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 29, 2005, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On September 16, 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's request included information that represented the final decision was received on August 30, 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

A handwritten signature in black ink, appearing to read "John J. Kim", is written over a horizontal line.

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
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Dated: September 29, 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

CERTIFIED MAIL

AUG 29 2005

7004 2510 0001 8649 6353

Eaves Auto Repair
Joseph Eaves
538 South Railroad Ave.
Paxton, Illinois 60957

Re: LPC #0530255021 -- Ford County
Paxton/Eaves Auto Repair
538 South Railroad Ave.
LUST Incident No. 941235
LUST Technical File

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AUG 30 2005
HDC ENGINEERING

Dear Mr. Eaves:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan Budget (budget) submitted for the above-referenced incident. This budget, dated May 9, 2005, was received by the Illinois EPA on May 16, 2005. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The budget is rejected for the reason(s) listed in Attachment A (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c) and 732.503(b)).

All future correspondence must be submitted 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.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 398-6000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-6000
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 782-3397
MARION - 2309 W. Main Street, Marion, IL 62959 - (217) 993-7200

EXHIBIT

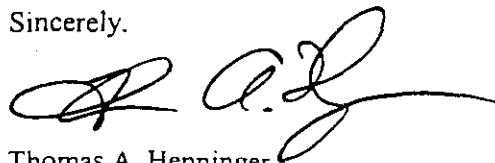
A

W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
University St., Peoria, IL 61614 - (309) 693-5463
125 South First Street, Champaign, IL 61820 - (217) 278-5800
1009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
(618) 993-7200

Page 2

If you have any questions or need further assistance, please contact John Barrett at (217) 782-4869.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. A. Henninger', with a long horizontal flourish extending to the right.

Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

TAH:JDB

Attachment: Attachment A

c: HDC Engineering
Division File

Attachment A

Re: LPC #0530255021 -- Ford County
Paxton/Eaves Auto Repair
538 South Railroad Ave.
LUST Incident No. 941235
LUST Technical File

Citations in this attachment are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

1. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). The budget includes costs that are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.

The Agency believes that the previously approved budget contains sufficient allowance to include the work in this amendment.

2. Costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations are ineligible for payment from the Fund (35 Ill. Adm. Code 732.606(y)). This cost is not a corrective action cost. "Corrective action" means an activity associated with compliance with the provisions of Sections 57.6 and 57.7 of the Act (Section 57.2 of the Act and 35 Ill. Adm. Code 732.103). One of the eligibility requirements for accessing the Fund is that costs are associated with "corrective action" (Section 57.9(a)(7) of the Act and 35 Ill. Adm. Code 732.505(c)). The budget includes such costs.

The survey and development of a legal description is not a corrective action.

JDB

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



201 W. Springfield Ave., Suite 300
P.O. Box 140
Champaign, Illinois 61824-0140
BUS. (217) 352-6976
FAX (217) 356-0570

2017 Charleston Ave.
Mattoon, Illinois 61938
BUS. (217) 234-2203
FAX (217) 234-2299
www.hdc-eng.com

September 16, 2005

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

**RE: IEPA Budget Amendment Determination
LPC #0530255021 – Ford County
Paxton/Eaves Auto Repair
538 South Railroad Avenue
LUST Incident # 941235**

Dear Sir/Madam:

On behalf of Mr. Joseph Eaves, HDC Engineering is requesting an extension to file an appeal regarding the recent IEPA LUST budget amendment denial for the above referenced site. The IEPA LUST Section issued its final decision regarding the budget amendment on August 29, 2005. A 90-day extension for filing an appeal is requested and a copy of pertinent correspondence is enclosed for your review.

HDC appreciates your time and consideration of this matter. If you have any questions or comments you would like addressed, I can be contacted at (217) 352-6976.

Respectfully,

Paul L. Fish
Environmental Professional

cc: File

Enclosure

RECEIVED
Division of Legal Counsel

SEP 19 2005

Environmental Protection
Agency



CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on September 29, 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

Paul L. Fish
HDC Engineering
201 West Springfield Avenue
Suite 300
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



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