

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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NOV 14 2005

STATE OF ILLINOIS
Pollution Control Board

GATEWAY FS, INC.,)
)
) Petitioner,)
)
) v.)
) ILLINOIS ENVIRONMENTAL)
) PROTECTION AGENCY,)
)
) Respondent.)

PCB No. 06-76
(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

Kenneth D. Olson
PSC Environmental Services
210 West Sand Bank Road
Columbia, IL 62236

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: November 10, 2005

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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STATE OF ILLINOIS
Pollution Control Board

GATEWAY FS, INC.,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 06-76
(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 March 3, 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 October 27, 2005, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On November 4, 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 represented that the final decision was received on October 29, 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
Springfield, Illinois 62794-9276
217/782-5544
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Dated: November 10, 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

7004 2510 0001 8648 2516

OCT 27 2005

Gateway FS, Inc.
 Attention: Mr. Greg Birchler
 3631 Old State Route 3
 Red Bud, Illinois 62778

Re: LPC #1330055033 - Monroe County
 Columbia / Gateway FS, Inc.
 219 N. Rapp St.
 LUST Incident No. 20000566, 20001052, and 20001169
 LUST Technical File

Dear Mr. Birchler:

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 June 29, 2005, was received by the Illinois EPA on June 30, 2005. This budget had previously been denied per an Illinois EPA letter dated August 15, 2005, it is being re-reviewed based upon additional information provided in a letter dated September 13, 2005 and received by the Illinois EPA on September 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 modified pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of reimbursement may be limited by Sections 57.8(e), 57.8(g) and 57.8(d) of the Act, as well as 35 Ill. Adm. Code 732.604, 732.606(s), and 732.611.

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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 998-3300
 ELGIN - 395 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
 MARION - 2309 W. Main



HARRISON ST., DES PLAINES, IL 60016 - (847) 294-4000
 HARRISON ST., PEORIA, IL 61614 - (309) 693-5463
 SOUTH FIRST STREET, CHAMPAIGN, IL 61820 - (217) 278-5800
 MALL STREET, COLLINSVILLE, IL 62234 - (618) 346-5120
 (217) 993-7200

Page 2

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 assistance, 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\000566f6.doc

Attachment: Attachment A
Appeal Rights

cc: Mr. Kenneth D. Olson - PSC Environmental Services (Columbia, Illinois)
Division File

Attachment A

Re: LPC #1330055033 – Monroe County
Columbia / Gateway FS, Inc.
219 N. Rapp St.
LUST Incident No. 20000566
LUST Technical File

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

SECTION 1

As a result of the Illinois EPA's modification(s) in Section 2 of this Attachment A, the following amounts are approved for High Priority Corrective Action:

\$7,497.05	Investigation Costs
\$1,935.00	Analysis Costs
\$18,493.00	Personnel Costs
\$5,870.00	Equipment Costs
\$29,162.60	Field Purchases and Other Costs
\$2,985.58	Handling Charges

SECTION 2

1. \$36,497.25 for Personnel Costs. These costs are:
 - a. for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act) and 35 Ill. Adm. Code 732 (Section 732.505(c)). Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund (35 Ill. Adm. Code 732.606(o)). In addition, these costs are not corrective action costs. "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)
 - b. not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). 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)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.



November 4, 2005
Project 62401550

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

Dear Sir:

**Subject: LPC#1330055033 – Monroe County
Columbia / Gateway FS, Inc.
219 N. Rapp St.
LUST Incident No. 20000566/20001052/20001169**

On behalf of Gateway FS, Inc., PSC Environmental Services (PSC) is providing this request for obtaining an extension to appeal the decision for the subject site provided in the IEPA's letter dated October 27, 2005, and received on or around October 29, 2005.

PSC understands the IEPA will take the proper actions with the Illinois Pollution Control Board (IPCB) to obtain an extension of 125-days from October 29, 2005, in which, Gateway FS, Inc. will have the right to file an appeal.

A copy of the IEPA's decision in question is attached.

If you have questions regarding this request, please call me at (618) 281-1548.

Sincerely yours,

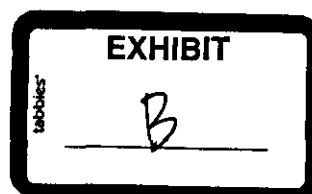
PSC ENVIRONMENTAL SERVICES

A handwritten signature in cursive script that reads 'Kenneth D. Olson'.

Kenneth D. Olson, E.I.T., IL RPG 196-000944
Project Manager

KDO/IEPA_Appeal

cc: Mr. Greg Birchler (Gateway FS, Inc. – 3631 Old State Route 3, Red Bud, IL 62278)
p618-282-3454 / f618-282-3428



CERTIFICATE OF SERVICE

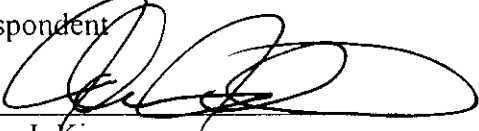
I, the undersigned attorney at law, hereby certify that on November 10, 2005, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop 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

Kenneth D. Olson
PSC Environmental Services
210 West Sand Bank Road
Columbia, IL 62236

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent


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