

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

DEC 28 2005

STATE OF ILLINOIS
Pollution Control Board

MAHR'S SALES & SERVICE,)
Petitioner,)
v.) PCB No. 06- 118
ILLINOIS ENVIRONMENTAL) (LUST Appeal – Ninety Day Extension)
PROTECTION AGENCY,)
Respondent.)

NOTICE

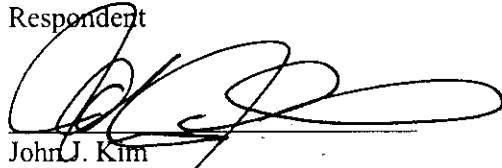
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Rachel Morgan, Project Manager
United Science Industries
P.O. Box 360
6295 East Illinois Highway 15
Woodlawn, IL 62898-0360

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: December 23, 2005

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE
DEC 28 2005
STATE OF ILLINOIS
Pollution Control Board

MAHR'S SALES & SERVICE,)
Petitioner,)
v.) PCB No. 06- 118
ILLINOIS ENVIRONMENTAL) (LUST Appeal – 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 March 27, 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. The 125th day is March 26, 2006, a Sunday, and the next business day is March 27, 2006. In support thereof, the Illinois EPA respectfully states as follows:

1. On November 18, 2005, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On December 7, 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 that the final decision was received on November 21, 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
217/782-9143 (TDD)
Dated: December 23, 2005

This filing submitted on recycled paper.



1800114

R.M.

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 4480

NOV 18 2005

Mahr's Service & Sales
Attention: Mr. Bruce Mahr
8810 East IL Hwy 9
Ellisville, Illinois 61431

MH/ML

Re: LPC # 0570405002 - Fulton County
Ellisville / Mahr's Sales & Service
8810 East IL Hwy
LUST Incident No. 20001742
LUST Technical File

Dear Mr. Mahr:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated July 20, 2005, was received by the Illinois EPA on July 22, 2005. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

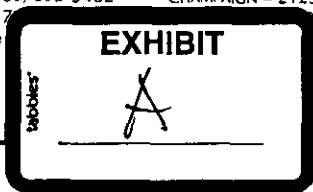
Pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is modified. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732:

1. The following two areas should be excavated to a depth of ten feet below ground surface:
 - a. The area identified as Area 2; and
 - c. The eastern half of the right-of-way area to the south of the property line and between Areas 1 and 2.

The remainder of the proposed excavation should be excavated to the proposed depth of fifteen feet below ground surface.

2. Since the base of excavation will be below the groundwater table throughout the excavation, no more than five confirmatory soil samples should be collected from the base of the excavation.

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 - 5415 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 - 1000 S. Main Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main Street, Marion, IL 62453 - (618) 993-7200



Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, the budget for the High Priority Corrective Action Plan 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.

Please note that, if the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f)). Additionally, pursuant to Section 57.8(a)(5) of the Act and 35 Ill. Adm. Code 732.405(e), if reimbursement will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted.

NOTE: Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be reimbursable.

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.

Page 3

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

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Lowder", with a long horizontal line extending to the right.

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

MTL:mh\001742f7.doc

Attachment: Attachment A
Appeal Rights

cc: Ms. Rachel Morgan – United Science Industries (Woodlawn, Illinois)
Division File

Attachment A

Re: LPC # 0570405002 – Fulton County
Ellisville / Mahr's Sales & Service
8810 East II 9 Hwy
LUST Incident No. 20001742
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

The budget was previously approved for:

\$3,620.60	Investigation Costs
\$8,740.00	Analysis Costs
\$16,790.00	Personnel Costs
\$595.00	Equipment Costs
\$653.60	Field Purchases and Other Costs
\$30.60	Handling Charges

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

\$2,353.20	Investigation Costs
\$16,504.00	Analysis Costs
\$40,320.00	Personnel Costs
\$3,500.00	Equipment Costs
\$244,248.55	Field Purchases and Other Costs
\$44.40	Handling Charges

Therefore, the total cumulative budget is approved for:

\$5,973.80 ✓	Investigation Costs
\$25,244.00 ✓	Analysis Costs
\$57,110.00 ✓	Personnel Costs
\$4,095.00 ✓	Equipment Costs
\$244,902.15 ✓	Field Purchases and Other Costs
\$75.00 ✓	Handling Charges

SECTION 2

1. \$3,510.00 for an adjustment in Analytical Costs. The Illinois EPA has determined that these costs are 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.

This reduction is due to a reduction of the number of confirmation soil samples necessary following excavation. Twenty confirmatory soil samples remain, if more are necessary then these should be included in a future budget.

2. \$34,610.00 for an adjustment in Field Purchases and Other Costs. The Illinois EPA has determined that these costs are 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.

Per Diem and Motel Stay for the ten men x 16 nights is a cost that should be a part of the excavation, transportation, and disposal costs.

In addition, the volume of soil to be excavated, transported, and disposed of has been reduced by 450 yards to reflect the portion of the excavation for which excavation should not extend below ten feet.

3. \$602.60 for an adjustment in handling charges. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(g) of the Act and 35 Ill. Adm. Code 732.607):

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
\$0 - \$5,000	12%
\$5,001 - \$15,000	\$600 plus 10% of amount over \$5,000
\$15,001 - \$50,000	\$1,600 plus 8% of amount over \$15,000
\$50,001 - \$100,000	\$4,400 plus 5% of amount over \$50,000
\$100,001 - \$1,000,000	\$6,900 plus 2% of amount over \$100,000

As previously indicated, motel stays are not eligible for handling charges. Thus the field purchases on page J-2 have been reduced by \$60.00, \$4,800.00, and \$240.00 (three motel stay line items).

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



United Science Industries, Inc.
P.O. Box 360
6295 East IL Highway 11
Woodlawn, IL 62898
toll free 800.372.8740
phone 618.735.2411
fax 618.735.2907

www.unitedscience.com

December 7, 2005

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, IL 62792-9276
Attn: John Kim

RECEIVED
Division of Legal Counsel

DEC 08 2005

Environmental Protection
Agency

Re: **LPC# 0570405002 – Fulton Co.
Ellisville/Mahr's Sales & Service
8810 East IL HWY 9
LUST Incident No20001742**

Mr. Kim:

United Science Industries, Inc. (USI), on behalf of our client Mahr's Sales & Service, is requesting a 90-day extension to the 35-day appeal period in regard to the IEPA correspondence included. USI received this correspondence from the IEPA on November 21, 2005, that was dated November 18, 2005, in regards to a final decision for the incident referenced above. A copy of the decision letter is attached.

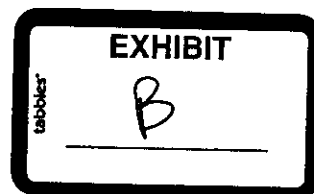
I appreciate your time and consideration in this matter. If you have any questions or comments regarding this matter please contact me at (618) 735-2411 ext. 172.

Sincerely yours,

UNITED SCIENCE INDUSTRIES, INC.

Rachel Morgan
Project Manager

Enclosures




CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on December 23, 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

Rachel Morgan, Project Manager
United Science Industries
P.O. Box 360
6295 East Illinois Highway 15
Woodlawn, IL 62898-0360

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)