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STATE OF ILLINOIS
Pollution Control Board

ENVIRONMENTAL PROTECTION INDUSTRIES

VIA CERTIFIED MAIL

February 3, 2006

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

PCB06-135

**RE: Petition for Hearing
IEPA LUST Section
Corrective Action Plan Budget Decision Letter Dated December 29, 2005**

On behalf of the property owner, per Sections 40 and 57.7 (c)(1)(B) and (c)(4)(D) of the Act, Newman and Boyer has prepared a Petition for Hearing for the above referenced IEPA LUST Budget determination letter and the Approved Amounts identified in the letter (enclosed).

The fee for the Petition is also enclosed.

If you have any questions, please do not hesitate to contact us.

Sincerely,
Environmental Protection Industries

Robert L. Mankowski
Vice President

Enclosure Petition for Hearing
Fee - \$75.00

ENVIRONMENTAL PROTECTION,)
 INDUSTRIES, INC.)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

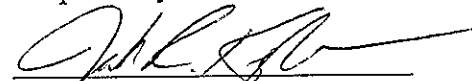
LPC #0430455024
 (UST Fund Appeal)

PLB06-135

**NOTICE OF APPEAL AND
 PETITION FOR HEARING**

NOW COMES, petitioner, ENVIRONMENTAL PROTECTION INDUSTRIES, INC., by and through their attorneys, NEWMAN, BOYER & STATHAM, Ltd., and on behalf of Mr. Nediakally, the property owner, and hereby notifies the respondent of its intention to appeal the agency determination dated December 29, 2005 (Attached as exhibit A), contesting the modifications to the proposed corrective action budget.

Respectfully submitted,

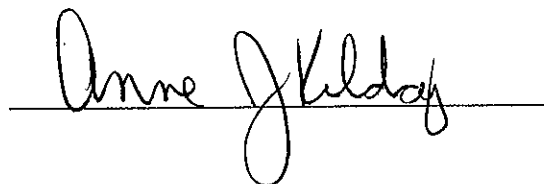

 John R. Keigher

Newman, Boyer & Statham, Ltd.
 900 Maple Rd.
 Third Floor
 Homewood, Illinois 60430
 708-957-5500

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached Notice of Appeal and Petition for Hearing, by certified first class mail, on February 3, 2006, upon the following persons:

Dorothy Gunn, Clerk
 Illinois Pollution Control Board
 State of Illinois Center
 100 W. Randolph, Suite 11-500
 Chicago, IL 60601





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

DEC 29 2005

CERTIFIED MAIL

7004 2510 0001 8653 7827

Gas Depot Oil Company
Attention: George Nedyakally
8700 N. Waukegan Rd., Suite 103
Morton Grove, Illinois 60053

RECEIVED BY ALI DATE 12/30

Re: LPC #0430455024 -- Du Page County
Glen Ellyn / Barge Way Oil Co.
701 Roosevelt Rd.
LUST Incident No. 932568, 992852 & 20000305
LUST Technical File

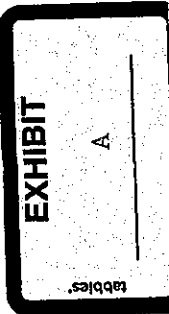
Dear Mr. Nedyakally:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Amended High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated November 16, 2005, was received by the Illinois EPA on November 18, 2005. Please note that the November 2005 plan replaced the Amended High Priority Corrective Action Plan and Budget dated September 16, 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 consisting of excavating accessible on and off-site soils to meet Tier 1 objectives based on a Class II groundwater designation is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732. 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:

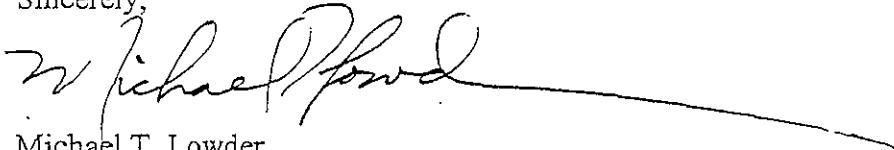
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

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.

If you have any questions or need further assistance, please contact Melinda Friedel, P.E. at 217/782-6762.

Sincerely,



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

Attachment: Attachment A
Appeal Rights

c: Anthony Negri / Environmental Protection Industries
Division File

Attachment A

Re: LPC #0430455024 -- Du Page County
Glen Ellyn / Barge Way Oil Co.
701 Roosevelt Rd.
LUST Incident No. 932568, 992852 & 20000305
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:

\$8,861.50	Investigation Costs
\$19,150.00	Analysis Costs
\$47,654.00	Personnel Costs
\$3,086.00	Equipment Costs
\$318,273.00	Field Purchases and Other Costs
\$11,745.73	Handling Charges

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

\$3,072.00	Investigation Costs
\$4,525.00	Analysis Costs
\$2,300.00	Personnel Costs
\$236.00	Equipment Costs
\$241,745.42	Field Purchases and Other Costs
\$9,886.85	Handling Charges

Therefore, the total cumulative budget is approved for:

\$11,933.50	Investigation Costs
\$23,675.00	Analysis Costs
\$49,954.00	Personnel Costs
\$3,322.00	Equipment Costs
\$560,018.42	Field Purchases and Other Costs
\$21,632.58	Handling Charges

SECTION 2

1. In accordance with Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b), any action by the Illinois EPA to disapprove or modify a plan or budget submitted pursuant to Title XVI of the Act shall be provided to the owner or operator in writing within 120 days of receipt.

The Illinois EPA previously notified the owner or operator of its final action. Further, in accordance with Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f), the Illinois EPA's action to reject or require modification of the plan or budget, or the rejection of any plan or budget by operation of law, was subject to appeal to the Illinois Pollution Control Board within 35 days after the Illinois EPA's final action.

\$167,125.98 adjustment in field purchases is being made including \$114,312.00 associated with the previously approved budget for excavation activities that was approved as being reasonable for completion of the proposed work along with \$52,813.98 associated with the additional excavation activities being approved at this time.

The Illinois 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 material, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Furthermore, documentation has not been provided demonstrating that \$94.75 per cubic yard for soil excavation, transportation, disposal and backfill is reasonable.

2. \$3,342.52 for an adjustment in handling charges based on the previous deductions.

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