

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

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CLERK'S OFFICE

OCT 23 2008

STATE OF ILLINOIS  
Pollution Control Board

HUFFMAN'S SERVICE, )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

09-28

PCB No. 08-  
(LUST Appeal - Ninety Day Extension)

NOTICE

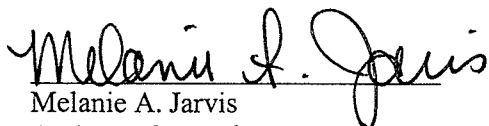
John Therriault, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Carolyn S. Hesse  
Barnes & Thornburg, LLP  
One North Wacker Drive  
Suite 4400  
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



Melanie A. Jarvis  
Assistant Counsel  
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: October 21, 2008

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

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STATE OF ILLINOIS  
Pollution Control Board

HUFFMAN'S SERVICE,	)	
Petitioner,	)	
v.	)	PCB No. 08- <sup>09-28</sup>
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, Melanie A. Jarvis, Assistant Counsel 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 18, 2008, 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:

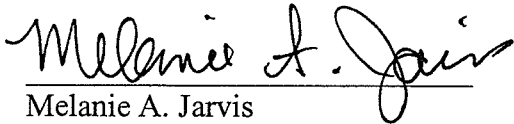
1. On September 12, 2008 the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
  
2. On October 20, 2008, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. (Exhibit B) Tracking information from the Certified Mail number on the final decision indicates the final decision was received on September 18, 2008. (Exhibit C)

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



Melanie A. Jarvis  
Assistant Counsel  
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: October 21, 2008

This filing submitted on recycled paper.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-2829  
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

SEP 12 2008

CERTIFIED MAIL #

7007 2560 0003 2086 1988

Huffman's Service  
c/o CWM Co., Inc.  
Attn: John Huffman  
P.O. Box 571  
Carlinville, Illinois 62626

Re: LPC #0030105005 -- Alexander County  
Tamms/Huffman's Service  
Front & Russell Streets  
Leaking UST Incident No. 20071118  
Claim No. 53501  
Leaking UST Fiscal File

RECEIVED  
SEP 19 2008  
BY: *[Signature]*

Dear Mr. Huffman:

The Illinois Environmental Protection Agency (Illinois EPA) has completed the review of your application for payment from the Underground Storage Tank (UST) Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code 734.Subpart F. This application for payment is dated December 20, 2007 and was received by the Illinois EPA on December 31, 2007. It covers the period from August 1, 2007 to November 30, 2007. The amount requested is \$ 84,259.69.

As a result of the Illinois EPA's review of the application for payment, a voucher for \$ 1,060.80 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Illinois EPA received the application for payment. Subsequent applications for payment that have been or are submitted will be processed based upon the date of receipt by the Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application for payment.

The deductible amount of \$ 10,000.00 was withheld from your payment. Pursuant to Section 57.8(a)(4) of the Act, any deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted from any payment invoice paid to an eligible owner or operator.

Exhibit A

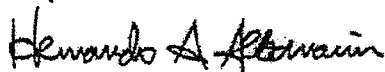
Following are costs that are not approved for payment and the reasons the costs are not approved:

1. \$ 73,198.89 for costs\* that lack supporting documentation and justification. Pursuant to 35 Ill. Adm. Code 734.605(b)(9), application for payments must include an accounting of all costs, including but not limited to, **invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed.** In addition, reasonableness of costs cannot be determined without documentation. Pursuant to 734.630(ee), costs incurred during early action that are unreasonable are ineligible.
  - \*\$ 1,270.48 Direct Push Drilling.
  - \*\$ 49,700.00 Remediation and Disposal.
  - \*\$ 12,228.41 UST Removal.
  - \*\$ 10,000.00 Building Demolition.
  
2. \$ 49,700.00 of the costs in #1 above were submitted per bidding. In order for the bids to be reviewed pursuant to 35 Ill. Adm. Code 734.855, a breakdown of what is included in the bid and what specific costs exceed the Subpart H rates must be provided. Justification must be provided to document why the bids were necessary and why the Subpart H rates could not be met for this project.

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 require further assistance, please contact Valerie Davis of my staff at 217-785-7492.

Sincerely,



Hernando A. Albarracin, Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

HAA:VAD

Attachment: Appeal Rights

c: Leaking UST Claims Unit

### 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 57.8(i) 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

# BARNES & THORNBURG LLP

Carolyn S. Hesse  
(312) 467-8333  
cshesse@btlaw.com

Suite 4400  
One North Wacker Drive  
Chicago, IL 60606-2833 U.S.A.  
(312) 357-1313  
Fax (312) 759-5646  
www.btlaw.com

October 20, 2008

## VIA FACSIMILE & FEDERAL EXPRESS & E-MAIL

Mr. William Ingersoll  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Re: LPC #0030105005 - Alexander County  
Tamms / Huffman's Service  
Front & Russell Street  
Leaking UST Incident No. 20071118  
Claim No. 53501  
Leaking UST Fiscal File

Dear Bill:

On September 12, 2008, the Agency issued a letter with respect to the above referenced LUST Incident. The letter was delivered on September 18, 2008. A copy of the letter and USPS Track and Confirm receipt are attached.

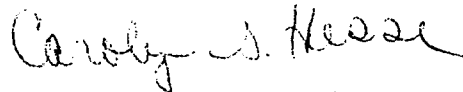
CW<sup>3</sup>M believes that, based upon communications with you and others at the Illinois Environmental Protection Agency and for other reasons, that we will be able to resolve the issues raised in the IEPA letter. However, we believe that we will not be able to resolve these issues by the deadline 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 the needed time to continue these discussions and to try to resolve the issues.

Mr. William Ingersoll  
October 20, 2008  
Page 2

Earlier today we discussed this request for a time extension and agreed to such a time extension. If for any reason the Agency will not seek the 90 day extension, please notify me no later than the close of business on October 21, 2008, so that I may file the appropriate appeal to the Board. If you have any questions or comments, please do not hesitate to contact me.

Sincerely yours,

**BARNES & THORNBURG**



Carolyn S. Hesse

CSH/jmr  
Enclosures

cc: William Sinnott  
Carol L. Rowe  
Jeff Weinhoff

503990v1





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## Track & Confirm

### Search Results

Label/Receipt Number: 7007 2560 0003 2086 1988

Detailed Results:

- Delivered, September 18, 2008, 8:46 am, CARLINVILLE, IL 62626
- Arrival at Unit, September 13, 2008, 8:09 am, CARLINVILLE, IL 62626

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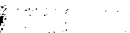
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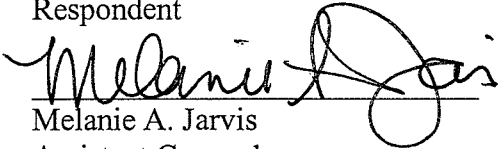
**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on October 21, 2008, 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 postage affixed thereto, upon the following named persons:

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

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
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