

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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AUG 26 2015

STATE OF ILLINOIS
Pollution Control Board

STATE OIL COMPANY,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 16- 41
(LUST Appeal – Ninety Day
Extension)

NOTICE



ORIGINAL

John Therriault
Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Jeff Meyerhoff
Mostardi Platt
888 Industrial Drive
Elmhurst, Illinois 60126

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

James G. Richardson
Deputy General Counsel

Dated: August 21, 2015
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OIL COMPANY,)
Petitioner,)
)
v.) PCB No. 16- 41
) (LUST Appeal – Ninety Day Extension)
ILLINOIS ENVIRONMENTAL)
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, James G. Richardson, Deputy General 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 November 25, 2015, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

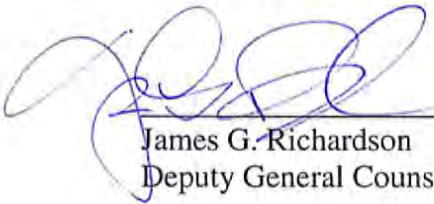
1. On July 21, 2015, the Illinois EPA issued a final decision to the Petitioner.
2. On August 17, 2015, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, the Petitioner received the final decision on or about July 23, 2015.

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



James G. Richardson
Deputy General Counsel

Dated: August 21, 2015

1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)

THIS FILING IS SUBMITTED ON RECYCLED PAPER



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829
PAT QUINN, GOVERNOR LISA BONNETT, DIRECTOR

217/524-3300

CERTIFIED MAIL

7013 2630 0001 4708 2602

JUL 21 2015

State Oil Company
Attention: Bill Anest
31366 North Highway 45
Libertyville, Illinois 60048

Re: LPC #1114545001 - McHenry County
Island Lake / The Shore Station
520 Newport Court
Leaking UST Incident No. #931486
Leaking UST Technical File

Dear Mr. Anest:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated March 20, 2015, was received by the Illinois EPA on March 23, 2015. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

The plan is rejected for the reasons listed in Attachment A and the associated budget is rejected for the reason(s) listed in Attachment B (Sections 57.7(b) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b), 734.510(a) and 734.510(b)).

Pursuant to Sections 57.7(b) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, a plan and/or budget must be submitted within 120 days of the date of this letter 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.

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If you have any questions or need further assistance, please contact the Illinois EPA project manager, Eric Kuhlman, at 217-785-5715.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. 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:EK:P\

Attachment: A, B, Appeal Rights

c: Mostardi Platt
BOL File

Attachment A

Re: LPC #1114545001 - McHenry County
Island Lake / The Shore Station
520 Newport Court
Leaking UST Incident No. #931486
Leaking UST Technical File

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

1. An owner or operator may choose to use an alternative technology for corrective action in response to a release. Corrective action plans proposing the use of alternative technologies must be submitted to the Illinois EPA in accordance with 35 Ill. Adm. Code 734.335. In addition to the requirements for corrective action plans contained in 35 Ill. Adm. Code 734.335, the owner or operator who seeks approval of an alternative technology must submit documentation along with the corrective action plan demonstrating that:
 - a. The proposed alternative technology has a substantial likelihood of successfully achieving compliance with all applicable regulations and remediation objectives necessary to comply with the Act and regulations and to protect human health and safety and the environment;
 - b. The proposed alternative technology will not adversely affect human health and safety or the environment;
 - c. The owner or operator will obtain all Illinois EPA permits necessary to legally authorize use of the alternative technology;
 - d. The owner or operator will implement a program to monitor whether the requirements of subsection (a) above have been met; and
 - e. Within one year from the date of Illinois EPA approval, the owner or operator will provide to the Illinois EPA monitoring program results establishing whether the proposed alternative technology will successfully achieve compliance with the requirements of subsection (a) above and any other applicable regulations. The Illinois EPA may require interim reports as necessary to track the progress of the alternative technology. The Illinois EPA will specify in the approval when those interim reports must be submitted to the Illinois EPA.

(Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.340)

The proposed alternative technology does not have a substantial likelihood of successfully achieving compliance with all applicable regulations and remediation

objectives necessary to comply with the Act and regulations and to protect human health and safety and the environment; since no corrective action activities have been proposed to remediate the residual contaminated soil on the subject property.

Note: The owner will need to address the soil contamination that migrated beneath Newport Court and onto the neighboring property across the street; as well as the groundwater contamination located west of MW-9.

- 2 In approving any plan submitted pursuant to Section 57.7(a) or (b) of the Act, the Illinois EPA shall determine, by a procedure promulgated by the Illinois Pollution Control Board (Board) under Section 57.14 of the Act, that the costs associated with the plan are reasonable, will be incurred in the performance of site investigation or corrective action, and will not be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

For purposes of payment from the Fund, corrective action activities required to meet the minimum requirements of Title XVI of the Act shall include, but not be limited to, the following use of the Board's Tiered Approach to Corrective Action Objectives rules adopted under Title XVII of the Act:

- a. For the site where the release occurred, the use of Tier 2 remediation objectives that are no more stringent than Tier 1 remediation objectives.
- b. The use of industrial/commercial property remediation objectives, unless the owner or operator demonstrates that the property being remediated is residential property or being developed into residential property.
- c. The use of groundwater ordinances as institutional controls in accordance with Board rules.
- d. The use of on-site groundwater use restrictions as institutional controls in accordance with Board rules.

(Section 57.7(c)(3)(A) of the Act)

Note that, if necessary, the Illinois EPA will use a combination of the corrective actions mentioned above to meet the minimum requirements of Title XVI of the Act.

Note: Based upon the Illinois EPA's site-specific Tier 3 evaluation and results of the current review, a petroleum vapor intrusion investigation will be required via the indoor inhalation exposure route in accordance with Part 742.

Attachment B

Re: LPC #1114545001 - McHenry County
Island Lake / The Shore Station
520 Newport Court
Leaking UST Incident No. #931486
Leaking UST Technical File

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

1. Pursuant to Sections 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b), the associated budget is rejected for the following reason:

The Illinois EPA has not approved the plan with which the budget is associated. Until such time as the plan is approved, a determination regarding the associated budget— i.e., a determination as to whether costs associated with materials, activities, and services are reasonable; whether costs are consistent with the associated technical plan; whether costs will be incurred in the performance of corrective action activities; whether costs will not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and whether costs exceed the maximum payment amounts set forth in Subpart H of 35 Ill. Adm. Code 734—cannot be made (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b)).

EK:PV

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) 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

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STATE OF ILLINOIS
Pollution Control Board

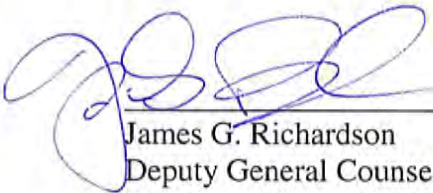
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on August 21, 2015 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by first class mail of the United States Postal Service upon the persons as follows:

John Therriault
Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Jeff Meyerhoff
Mostardi Platt
888 Industrial Drive
Elmhurst, Illinois 60126

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
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