

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUL 06 2007

STATE OF ILLINOIS
Pollution Control Board

DUNN'S UNIVERSITY BP,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 08-5
(LUST Appeal - Ninety Day
Extension)

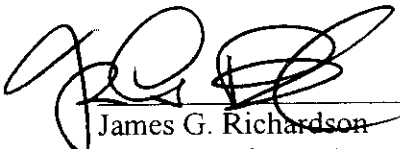
NOTICE

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

Robert J. Pulfrey
United Science Industries, Inc.
P.O. Box 360
Woodlawn, Illinois 62898

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
Special Assistant Attorney General

Dated: July 3, 2007
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

DUNN'S UNIVERSITY BP,)
Petitioner,)
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ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 08-05
(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, James G. Richardson, 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 October 10, 2007, 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 May 31, 2007, the Illinois EPA issued a final decision to the Petitioner.
2. On July 2, 2007, 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.

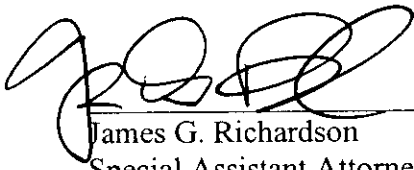
Upon information and belief the Petitioner did receive the final decision on June 7, 2007.

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
Special Assistant Attorney General

Dated: July 3, 2007

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

105073 - LP



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

MAY 31 2007

RECEIVED

CERTIFIED MAIL

7004 2510 0001 8620 2947

JUN 04 2007

BY: _____

Dunn's University BP
Attention: Jim Dunn
2218 Seneca Drive
Charleston, IL 61920

Re: LPC #0290105024 -- Coles County
Charleston / Dunn's University BP
419 West Lincoln Avenue
Leaking UST Incident No. 20000804 and 20060080
Leaking UST Technical File

Dear Mr. Dunn:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated December 30, 2006, was received by the Illinois EPA on February 2, 2007. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a), the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act. 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 is modified pursuant to Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A have been approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of payment from the Fund may be limited by Sections 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

NOTE: The plan proposes activities that are technically acceptable. However, for the purpose of payment from the Underground Storage Tank Fund, some of the activities are in excess of those necessary to meet the minimum requirements of the Act and regulations. Owners and operators are advised that they may not be entitled to full payment for this reason. The Illinois EPA will review your complete request for partial or final payment from the Fund after it is submitted to the Illinois EPA. In addition, please note that 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 paid.

The activities in excess of those necessary to meet the minimum requirements of the Act and regulations are referenced in Attachment A. While it is technically acceptable that these activities be performed, payment from the Fund is not approved.

Pursuant to Sections 57.7(b)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires that a Corrective Action Completion Report that achieves compliance with applicable remediation objectives be submitted within 30 days after completion of the plan 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.

Please note that, if within four years after the approval of this plan, compliance with the applicable remediation objectives has not been achieved and a Corrective Action Completion Report has not been submitted, the Illinois EPA requires the submission of a status report pursuant to Section 57.7(b)(6) of the Act.

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 Carol Hawbaker at 217/782-5713.

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC: CLH

Attachment: A

c: United Science Industries, Inc.
BOL File

Attachment A

Re: LPC # 0290105024 -- Coles County
Charleston / Dunn's University BP
419 West Lincoln Avenue
Leaking UST Incident No. 20000804 and 20060080
Leaking UST Technical File

SECTION 1

The budget was previously approved for:

\$0.00	Drilling and Monitoring Well Costs
\$9,750.00	Analytical Costs
\$553,091.00	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$67,457.14	Paving, Demolition, and Well Abandonment Costs
\$57,323.75	Consulting Fees Costs

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

\$1,367.00	Drilling and Monitoring Well Costs
\$2,885.31	Analytical Costs
\$1,284.90	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$4,877.36	Consulting Personnel Costs
\$345.40	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.8(f) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

Therefore, the total cumulative budget is approved for:

\$1,367.00	Drilling and Monitoring Well Costs
\$12,635.31	Analytical Costs
\$554,375.90	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$67,457.14	Paving, Demolition, and Well Abandonment Costs
\$62,201.11	Consulting Personnel Costs
\$345.40	Consultant's Materials Costs

SECTION 2

The Budget has been modified based on the results of the additional off-site investigation as presented in the Amended Corrective Action Plan dated March 5, 2007, and received by the Illinois EPA on March 8, 2007.

1. \$2,220.00 for costs for Drilling and Monitoring Well costs, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and 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 pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o). Additionally, based on the work performed and reported in the above-referenced Amended Corrective Action Plan, the Budget contains items that are inconsistent with the associated technical plan, as it was conducted. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

The Illinois EPA approves the following costs for this section:

4 borings advanced via Direct Push technology to 10 feet (OBH1, OBH2, OBH3 and OBH4) are eligible for reimbursement.

1 monitoring well installed via Direct Push technology to 20 ft. is eligible for reimbursement.

The following borings are not eligible for reimbursement because they were not necessary to fully define the extent of contamination: OBH5 and OB6. The full extent of contamination on the Gateway Liquors property was defined by the borings approved for reimbursement.

The following borings are not eligible for reimbursement because they were advanced via hand auger to 1.5 feet below the basement floor: OBH7 and OBH8. This is inconsistent with the technical plan.

The monitoring well was installed with Direct Push technology, not hollow stem auger technology as proposed. The costs have been modified accordingly.

2. \$2,027.01 for costs for Analytical costs, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and 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 pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o). Additionally, based on the work performed and reported in the above-referenced Amended Corrective Action Plan, the Budget contains items that are inconsistent with the

associated technical plan, as it was conducted. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

The Illinois EPA approves the following costs for this section:

10 soil samples analyzed for BTEX and PNA contaminants are eligible for reimbursement.

1 water sample analyzed for BTEX and PNA contaminants is eligible for reimbursement

10 EnCore samplers are eligible for reimbursement

2 sampling shipping events are eligible for reimbursement

The following samples are not eligible for reimbursement because they were not necessary to fully define the extent of contamination: samples analyzed from soil borings OBH5 and OBH6.

The remaining proposed samples were not collected.

3. \$513.96 for costs for disposal of cuttings, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and 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 pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

The Illinois EPA approves the following costs for this section:

5 drums for disposal of cuttings are eligible for reimbursement.

The remaining 2 drums are not eligible for reimbursement because they are associated with cuttings from ineligible soil borings: OBH5 and OBH6.

4. \$6,650.00 for costs for wastewater disposal, which lacks supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may 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.

Please provide the Illinois EPA with all supporting documentation associated with this activity to determine if the costs are eligible for reimbursement.

5. \$16,287.83 for costs for Consulting Personnel costs, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and 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 pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

The Illinois EPA approves the following costs for this section:

32 hours for Sr. Project Manager for all tasks involving the preparation of the Amended Corrective Action plan and associated budget.

4 hours for Sr. Professional Engineer for reviewing the Amended Corrective Action plan and associated budget.

12 hours for Sr. Technician for conducting the soil investigation in the field.

2 hours for Sr. Project Manager for reviewing the results of the soil investigation

1 hour for Sr. Administrative Assistant for data entry.

The additional tasks and titles listed for all activities associated with the Corrective Action remedial design and planning and Amended Corrective Action plan and budget preparation appear to be duplicative in nature and do not generally require the excessive number of personnel or excessive hours proposed in the budget. Therefore, the Illinois EPA has determined that the above-referenced approved hours and personnel title are adequate to complete the task.

The Illinois approves 1 consulting personnel in the field for 1 day (12 hours). All field work was conducted 1 day, February 7, 2007, except for the installation of monitoring well materials on February 12, 2007, which should have been installed immediately when the boring for the well was advanced on February 7, 2007. The additional tasks and titles listed for all activities associated with the Fieldwork appear to be duplicative in nature and do not generally require the excessive number of personnel or excessive hours proposed in the budget. Therefore, the Illinois EPA has determined that the above-referenced approved hours and personnel titles are adequate to complete the task.

All costs associated with reimbursement activities have been deducted from the budget because reimbursement costs associated with 3 billing packages were approved in the budget approval letter dated July 16, 2006. The tasks approved should not result in the completion of additional reimbursement packages beyond what was already approved.

6. \$513.84 for costs for Consultant's Material costs, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and 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 pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

The following costs are not eligible for reimbursement:

No photos were presented with the results of the additional soil investigation, therefore costs associated with the camera are deducted.

Utilizing a GSP system for soil investigation activities exceeds the minimum requirements to comply with the regulations.

2 days of vehicle use because 1 person completed the soil investigation in 1 day.

1 day of PID use because soil investigation activities were completed in 1 day.

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

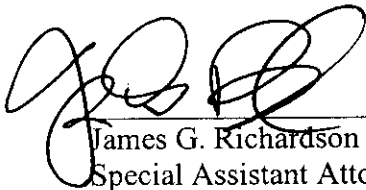
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on July 3, 2007 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:

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

Robert J. Pulfrey
United Science Industries, Inc.
P.O. Box 360
Woodlawn, Illinois 62898

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Special Assistant Attorney General
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