

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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JUN 9 2003

PETE'S MARATHON,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 03- 225
(LUST - Ninety Day Extension)

STATE OF ILLINOIS
Pollution Control Board

NOTICE


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

Marlena Mackie
3035 Santa Barbara Drive
Brookfield, WI 53005

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: June 5, 2003

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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 September 3, 2003, 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 April 25, 2003, the Illinois EPA issued a final decision to the Petitioner regarding a request for reimbursement from the Underground Storage Tank Fund. (Exhibit A)
2. On May 13, 2003, 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 represented that the final decision was received on May 1, 2003. (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



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Special Assistant Attorney General
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Dated: June 5, 2003

This filing submitted on recycled paper.

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:

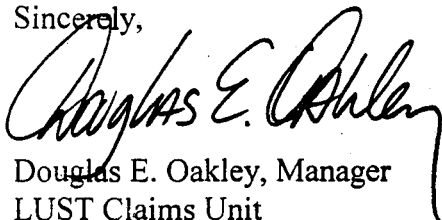
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
217/782-5544

If you have any questions, please contact Susan Brock of my staff or James Malcom of the technical staff at 217/782-6762.

Sincerely,



Douglas E. Oakley, Manager
LUST Claims Unit
Planning & Reporting Section
Bureau of Land

DEO:SB:jk\032527.doc

Attachment

cc: Philip Environmental Service Corporation

bcc: Division File
LCU File
Susan Brock
James Malcom – Technical

Attachment A
Technical Deductions

Re: LPC #1214220017 -- Marion County
Centralia/Pete's Marathon
539 South Poplar
LUST Incident #892101
LUST FISCAL FILE

Item # Description of Deductions

1. **\$1,708.76**, deduction for an adjustment in costs due to a lack of supporting documentation (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

Costs denied due to lack of supporting technical documentation.

Accounting Deductions

Included in the technical deduction are the following accounting deductions:

2. \$90.75, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

Philip Invoice #62410694, dated December 3, 2002

The following deductions have been made for costs out of the billing period:

- (a) Home Depot, dated October 30, 2002 (\$13.13 plus \$1.58 handling charge)
- (b) Mileage, October 31, 2002 (\$58.40 plus \$7.00 handling charge). Note: mileage is a stock item and handling charges are ineligible.

1st Choice Invoice #160809, dated November 3, 2002

- (a) Rush service is ineligible. The freight and insurance charge to receive the equipment was \$22.00 (December 2002 reimbursement package) (\$10.64)

\$90.75 Total Accounting Deductions

Post-It® Fax Note	7671	Date	# of pages ▶
To	SCOTT Phillips	From	M. MACFIE
Co./Dept.		Co.	
Phone	(217) 782-5544	Phone #	(262) 784-2676
Fax	(217) 782-9807	Fax #	(262) 784-8042

May 13, 2003
 3035 Santa Barbara Drive
 Brookfield, WI. 53005

Scott Phillips, Attorney (FAX: 217/782-9807)
 Illinois Environmental Protection Agency
 Division of Legal Counsel
 1021 North Grand Avenue East
 Springfield, Illinois 62794-9276
 (217/782-5544)

Re: Request for 90-Day Extension of IEPA Final Determination received May 1, 2003 and Request for Assistance in obtaining LUST Reimbursement
 LPC #1214220017-Marion County
 Centralia/Pete's Marathon
 539 South Poplar
 LUST Incident #892101

Dear Mr. Phillips:

This letter is a request for a 90-day extension of the Final Determination rendered in the communication from IEPA received May 1, 2003. During the extension period my intent is to submit the necessary documentation to receive the reimbursement of \$4885.02.

The following information describes the three submittals that were denied:

-Billing period 11/1/01-11/30/02. The work consisted of Site investigation activities, evaluation of data, groundwater level measurements, etc. The requested reimbursement is \$1708.77.

-Billing period is 11/31/02. The work consisted of removal of wastewater by a subcontractor. The requested reimbursement is \$487.69.

-Billing period 1/1/03-1/31-03. The work consisted of site investigation activities, review and evaluation of data, and preparation of reports. The requested reimbursement was \$2688.56.

The IEPA correspondence that denied this requests is not available to attach to this letter.

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I am trusting that you can assist me in obtaining the extension and in obtaining the reimbursement for the work completed. The same procedure is being followed as was used in the past.

I have a messages for James Malcom, IEPA-Project Manager, explaining this situation and I have copied him on this letter. I was not able to reach Mr. Malcom on the telephone.

Please advise me if I need to do anything else to help you assist me in obtaining the 90-day extension. I can be reached at the address and the telephone number given on this letter.

Thank you for you assistance in this very complicated, lengthy, and stressful process of soil remediation.

Sincerely,



Marlena Mackie
(262) 784-2676

c: James Malcom (FAX: 217/534-4193)


CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on June 5, 2003, 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

Marlena Mackie
3035 Santa Barbara Drive
Brookfield, WI 53005

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