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BEFORE THE POLLUTION CONTROL BOARD OF THE STATE OF ILLINOIS

CLERK'S OFFICE
JUN 9 2003

PETE'S MARATHON, Petitioner,)	STATE OF ILLINOIS Pollution Control Board
v.)	PCB No. 03- 2-3
ILLINOIS ENVIRONMENTAL) .	(LUST – Ninety Day Extension)
PROTECTION AGENCY,)	
Respondent.)	

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

RECEIVED CLERK'S OFFICE

BEFORE THE POLLUTION CONTROL BOARD OF THE STATE OF ILLINOIS

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PETE'S MARATHON,)	STATE OF ILLINOIS Pollution Control Boan	
Petitioner,	•)		
v.)	PCB No. 03-	
ILLINOIS ENVIRONMENTAL)	(LUST – 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, 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

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

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Dated: June 5, 2003



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL 700125/0000212813058

APR 2 5 2003

Pete's Marathon Attention: Marlena Mackie 3035 Santa Barbara Drive Brookfield, Wisconsin 53005

Re.

LPC #1214220017 -- Marion County

Centralia/Pete's Marathon

539 South Poplar

LUST Incident #892101 LUST FISCAL FILE

Dear Ms. Mackie:

The Agency has completed the review of the request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for the above-referenced facility. The invoices reviewed covered the period from November 2, 2002 to November 30, 2002. The amount requested was \$1,708.76.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated November 8, 1993. Listed in Attachment A are the costs which are not being reimbursed from this request and the reasons these costs are not being reimbursed.

On February 3, 2003, the Agency received your complete request for payment for this claim. As a result of the Agency's review of this application for payment, a voucher cannot be prepared for submission to the Comptroller's office for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date complete subsequent application for payment requests are received by the Agency.

This constitutes the Agency's final action with regard to the above invoices. An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 22.18b(g) and Section 40 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

ROCKFORD - 4302 North Main Street, Rockford JI 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000 ELGIN - 595 South State, Elgin BUREAU OF LAND - PEORIA - 7620 N. University St. SPRINGFIELD - 4500 S. Sixth Street Rd., Spri

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 Serice 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

DEO:SB:jk\032527.doc

Post-it ^e Fax Note	7671	Date	# of pages
TO SCOTT Phy	lips	From M	MACKIE
Co./Dept.		Co.	
Phone 2/7/7	82-554	Thone # 26	2) 1784-2676
Fax 13/1/ 782	-7807	Fax # 1/05	1784-8040
— (**-**********************************			

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.

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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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent

John J. Kim

Assistant Counsel

Special Assistant Attorney General

Division of Legal Counsel

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