

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

SPEEDWAY, LLC )  
 )  
 ) Petitioner, )  
 ) v. ) PCB No. 11-  
 ) ILLINOIS ENVIRONMENTAL ) (LUST Appeal – Ninety Day Extension)  
 ) PROTECTION AGENCY, )  
 ) Respondent. )

**NOTICE**

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

Jose L. Gonzalez, Jr.  
Senior Attorney  
Law Organization  
500 Speedway Drive  
Enon, Ohio 45323

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

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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: July 20, 2011

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

SPEEDWAY, LLC	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB No. 11-
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 November 5, 2011, 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 July 20, 2011, 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.
2. This appeal is from an Illinois EPA permit decision dated June 29, 2011.
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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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: July 20, 2011

**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on July 20, 2010, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, via the Board's COOL system and via email, 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

Jose L. Gonzalez, Jr.  
Senior Attorney  
Law Organization  
500 Speedway Drive  
Enon, Ohio 45323

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)

JUL-20-2011 09:20

DLC LEGAL

P.02/07

07-20-11 11:13am From-SPEEDWAY LAW ORGANIZATION

9378636727

T-214 P.02/07 F-106



José Luis González, Jr.  
Senior Attorney  
Law Organization

**Speedway LLC**

500 Speedway Dr.  
Enon, OH 45323  
Telephone 937-863-6278  
Fax 937-863-6727  
E-mail: JoseLuisGonz@speedway.com

July 20, 2011

Facsimile (217-782-9807) and Certified Mail

Re: LPC #0974345055 – Lake County  
Deerfield / SuperAmerica #4248  
1010 North Milwaukee Avenue  
Incident Claim No.: 20041292 –59877

Request for 90-day extension of appeal deadline

William Ingersoll, Esq.  
Manager of Enforcement Programs  
Office of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276


Dear Mr. Ingersoll:

Pursuant to our telephone call on July 18, Speedway LLC ("Speedway") hereby respectfully requests a 90-day extension of the 35-day period for Speedway to appeal the denial of an application for payment of \$1,043.00 from the Underground Storage Tank Fund ("Fund") for the above-referenced incident. In its denial letter dated June 29, 2011 (copy attached), the Illinois Environmental Protection Agency ("Agency") indicated the Agency's final decision was based on the fact that Speedway did not submit an IRS Form W-9 deemed eligible to access the Fund. Speedway received the letter on July 1, 2011.

As you are aware, Speedway and the Agency are working cooperatively at the present time to resolve outstanding issues arising from the federal IRS Form W-9 currently used and submitted by Speedway, the owner/operator. The requested extension would hopefully permit an administrative solution to this problem. These issues also affect a number of other Speedway reimbursement applications pending before the Agency. You advised Speedway in the call on Monday that the Agency is willing to file a joint motion with the Illinois Pollution Control Board in order to facilitate the 90-day extension in this matter.

Your attention to and assistance with this matter is greatly appreciated.

Sincerely,

  
José Luis Gonzalez, Jr.  
Senior Attorney

JUL-20-2011 09:20

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P.04/07

07-20-11 11:14am From-SPEEDWAY LAW ORGANIZATION

9378636727

T-214 P.04/07 F-106

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**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2029  
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

RECEIVED  
ENVIRONMENTAL

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217/782-6762

CERTIFIED MAIL #

**SPEEDWAY LLC**

**JUN 29 2011**

7009 2820 0001 7488 7261

Speedway LLC  
Attn: J. Mitchell Oliver  
500 Speedway Drive  
Enon, OH 45323

Re: LPC #0974345055 -- Lake County  
Deerfield / SuperAmerica #4248  
1010 North Milwaukee Avenue  
Incident-Claim No.: 20041292 -- 59877  
Queue Date: March 1, 2011  
Leaking UST Fiscal File

Dear Mr. Oliver:

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 (35 Ill. Adm. Code) 734.Subpart F.

This information is dated February 16, 2011 and was received by the Illinois EPA on March 1, 2011. The application for payment covers the period from November 28, 2010 to December 31, 2010. The amount requested is \$1,043.00.

On March 1, 2011, the Illinois EPA received your complete application for payment for this claim. As a result of the Illinois EPA'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 subsequent application for payment requests are received by the Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

The deductible amount for this claim is \$10,000.00, which was previously withheld from your payment(s). 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.

Rockford • 4302 N. Main St., Rockford, IL 61103 • (815) 982-7260  
Elgin • 595 S. State, Elgin, IL 60121 • (847) 608-3131  
Bureau of Land - Peoria • 7620 N. University St., Peoria, IL 61614 • (309) 693-5462  
Collinsville • 2009 Main Street, Collinsville, IL 62234 • (618) 346-4140

Des Plaines • 9511 W. Harrison St., Des Plaines, IL 60016 • (847) 294-4000  
Peoria • 5415 N. University St., Peoria, IL 61614 • (309) 693-5463  
Champaign • 2125 S. First St., Champaign, IL 61820 • (217) 278-5800  
Marion • 2309 W. Main St., Suite 110, Marion, IL 62959 • (618) 993-7260

JUL-20-2011 09:20

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P.05-07

07-20-11 11:14am From-SPEEDWAY LAW ORGANIZATION

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T-214 P.05/07 F-106

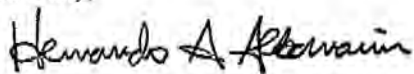
Page 2

There are costs from this claim that are not being paid. Listed in Attachment A are the costs that are not being paid and the reasons these costs are not being paid.


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 Catherine S. Elston of my staff at 217-785-9351.

Sincerely,



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

HAA:CSE 

ATTACHMENT

c: Practical Environmental Consultants, Inc  
Leaking UST Claims Unit  
Cathy Elston

JUL-20-2011 09:21

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P.06/07

07-20-11 11:14am From-SPEEDWAY LAW ORGANIZATION

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T-214 P.06/07 F-106

#### 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



JUL-20-2011 09:21 DLC LEGAL P.07/07  
07-20-11 11:14am From-SPEEDWAY LAW ORGANIZATION 9378636727 T-214 P.07/07 F-106

Attachment A  
Accounting Deductions

Re: LPC #0974345055 -- Lake County  
Deerfield / SuperAmerica #4248  
1010 North Milwaukee Avenue  
Incident-Claim No.: 20041292 -- 59877  
Queue Date: March 1, 2011  
Leaking UST FISCAL FILE

Citations in this attachment 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).

Item # Description of Deductions

1. \$1,043.00, deduction for costs which lack 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.

Pursuant to Section 22.18b and Section 57.8 of the Act if an owner or operator is eligible to access the Underground Storage Tank Fund pursuant to an Office of the State Fire Marshal eligibility/deductible final determination letter issued in accordance with Section 57.9 of the Act, an application may be submitted to the Illinois EPA. An eligibility and deductibility determination for incident number 20041292 was issued to Speedway SuperAmerica LLC not MPC Investments LLC for which payment has been requested.

An owner or operator seeking payment from the Fund must submit to the Agency an application for payment on forms prescribed by the Agency pursuant to 35 Ill. Adm. Code 734.605(a). The application for payment did not contain all the information required to be submitted on Illinois EPA forms specifically a W-9 from the owner or operator deemed eligible to access the Fund by the Office of the State Fire Marshal.

In addition, MPC Investments LLC does not meet the definition of Owner or Operator in Section 57.2 or 22.18(e)(1)(B) of the Act therefore, all costs incurred regarding this incident are not eligible for reimbursement from the Fund to MPC Investments LLC.

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