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CLERK'S OFFICE

JUN 22 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

SG Supply Company, )  
)  
Petitioner, )  
)  
v. )  
)  
Illinois Environmental Protection Agency, )  
)  
Respondent. )

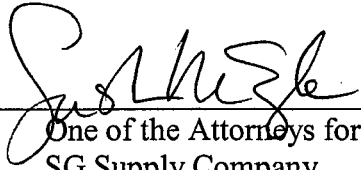
Appeal No. PCB 04-221

LUST Appeal  
LUST Incident No. 20011086

**NOTICE OF FILING**

To: Illinois Environmental Protection Agency Ms. Dorothy Gunn, Clerk  
Division of Legal Counsel Illinois Pollution Control Board  
1021 N. Grand Avenue East James R. Thompson Center  
P.O. Box 19276 100 W. Randolph - Suite 11-500  
Springfield, IL 62794-9276 Chicago, IL 60601

PLEASE TAKE NOTICE that on Tuesday, June 22, 2004, the undersigned filed with the Office of the Clerk of the Pollution Control Board the Petitioner's **Request for Extension of Time to Appeal LUST Decision**, copies of which are attached hereto and herewith served upon you.

By:   
One of the Attorneys for  
SG Supply Company

Steven J. Murawski, Esq.  
Sasha M. Engle, Esq.  
GARDNER CARTON & DOUGLAS LLP  
191 North Wacker Drive  
Suite 3700  
Chicago, IL 60606  
(312) 569-1000

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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Appeal No. PCB04-221

LUST Appeal  
LUST Incident No. 20011086

**REQUEST FOR EXTENSION OF TIME TO APPEAL LUST DECISION**

Petitioner SG Supply Company ("SG Supply"), by and through its counsel, Gardner Carton & Douglas, LLP, respectfully requests an extension of time to file an appeal of a final decision issued by the Illinois Environmental Protection Agency ("Illinois EPA") to SG Supply related to LUST Incident Number 20011086. This request is made pursuant to Sections 40 and 57.7(c)(4)(D) of the Illinois Environmental Protection Act and 35 Illinois Administrative Code 105.406, which allow an applicant to request an additional period of time, not to exceed 90 days, beyond the 35-day period for petitioning the Illinois Pollution Control Board ("Board") for a hearing. The Illinois EPA's final decision was issued on May 18, 2004, and the 35-day appeal period will expire on June 22, 2004. (The May 18, 2004 decision is attached as Exhibit A.)

By letter dated June 15, 2004, SG Supply requested Illinois EPA's agreement for an extension of time to appeal the Agency's LUST decision. (The June 15, 2004 letter is attached as Exhibit B.) SG has not received a response from the Agency and, accordingly, has no information on the Agency's position regarding SG Supply's request for an extension of time.

SG Supply is requesting this extension to allow additional time for discussion between the Illinois EPA and SG Supply of certain proposed LUST Fund Reimbursement costs that the

Agency denied. Specifically, in its final decision, the Illinois EPA denied “\$23,820.00 for proposed concrete replacement” and “\$68,680.00 for sewer line repair, water line repair, gas line repair, fence replacement, removal and installation of storage racks, and shoring of sewer line.” While the Illinois EPA asserted that the costs did not meet the eligibility requirements for accessing the Fund because the costs allegedly are not associated with “corrective action” as defined by the rules, SG Supply and its contractors are evaluating whether the Agency’s position is contradicted by the regulations and prior awards from the Fund.

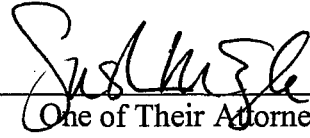
SG Supply requests this extension so that it has ample time to reevaluate the corrective action necessary to appropriately remediate the facility and to evaluate what specific actions should be reimbursed according to the rules. Furthermore, SG Supply believes that this short extension of time will allow it to contact the Illinois EPA to potentially resolve any misunderstanding by the Agency about SG Supply’s proposed High Priority Correction Action Plan; these discussions may eliminate the need for a hearing in this matter. Finally, if the parties cannot come to an agreement on allowable costs, the extra time will allow the parties to identify and limit the issues to be addressed at any hearing that may be necessary to address the Illinois EPA’ final decision.

WHEREFORE, SG Supply Company respectfully requests that the Illinois Pollution Control Board grant a 90-day extension of time, to September 20, 2004, for SG Supply to appeal the Illinois Environmental Protection Agency’s LUST decision related to LUST Incident Number 20011086.

Respectfully submitted,

SG SUPPLY COMPANY

By:

  
One of Their Attorneys

Steven J. Murawski, Esq.  
Sasha M. Engle, Esq.  
GARDNER CARTON & DOUGLAS LLP  
191 North Wacker Drive  
Suite 3700  
Chicago, IL 60606  
(312) 569-1000

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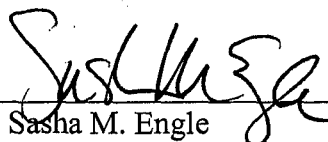
**CERTIFICATE OF SERVICE**

The undersigned states that she caused a copy of the **Request for Extension of Time to Appeal LUST Decision** to be delivered via messenger delivery this 22<sup>nd</sup> day of June, 2004 to the following:

Ms. Dorothy Gunn  
Clerk - Illinois Pollution Control Board  
100 W. Randolph Street, Rm 11-100  
Chicago, IL 60601

and delivered via certified United States Mail, return receipt requested, on this 22<sup>nd</sup> day of June, 2004 to the following:

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

  
Sasha M. Engle

Steven J. Murawski, Esq.  
Sasha M. Engle, Esq.  
GARDNER CARTON & DOUGLAS LLP  
191 North Wacker Drive  
Suite 3700  
Chicago, IL 60606  
(312) 569-1000



**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

RENEE CIPRIANO, DIRECTOR

217/782-6762

**CERTIFIED MAIL**

MAY 18 2004

7002 3150 0000 1257 8537

SG Supply  
Dwight Deleeuw  
12900 South Throop Street  
Calumet Park, IL 60827

Re: LPC #0310420006 -- Cook County  
Calumet Park/SG Supply  
12900 South Throop Street  
LUST Incident No. 20011086  
LUST Technical File

Dear Mr. Deleeuw:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated March 3, 2004, was received by the Illinois EPA on March 15, 2004. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732. 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 for the High Priority Corrective Action Plan is modified pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of reimbursement may be limited by Sections 57.8(e), 57.8(g) and 57.8(d) of the Act, as well as 35 Ill. Adm. Code 732.604, 732.606(s), and 732.611.

Please note that, if the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f)). Additionally, pursuant to Section 57.8(a)(5) of the Act and 35 Ill. Adm. Code 732.405(e), if reimbursement will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted.



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NOTE: 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 reimbursable.

All future correspondence must be submitted 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.

If you have any questions or need further assistance, please contact Scott Rothering at 217-785-1858.

Sincerely,



Clifford L. Wheeler  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

CLW:SRR\20011086

Attachment: A

c: Leyden Environmental, Inc.  
Division File

Attachment A

Re: LPC # 0310420006 – Cook County  
Calumet Park/SG Supply  
12900 South Throop Street  
LUST Incident No. 20011086  
LUST Technical File

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

**SECTION 1**

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

\$0	Investigation Costs
\$7,800.00	Analysis Costs
\$31,940.00	Personnel Costs
\$2,000.00	Equipment Costs
\$197,326.00	Field Purchases and Other Costs
\$11,097.00	Handling Charges

**SECTION 2**

1. \$23,820.00 for Concrete Replacement. These costs are for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act) and 35 Ill. Adm. Code 732 (Section 732.505(e)). Costs for 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 (35 Ill. Adm. Code 732.606(o)). In addition, these costs are not corrective action costs. "Corrective action" means an activity associated with compliance with the provisions of Sections 57.6 and 57.7 of the Act (Section 57.2 of the Act and 35 Ill. Adm. Code 732.103). One of the eligibility requirements for accessing the Fund is that costs are associated with "corrective action." (Section 57.9(a)(7) of the Act)

Piers, curbs are not reimbursable. Only one surface can type can be replaced per area, asphalt replacement is requested for the same area as the concrete surface replacement.



2. \$68,680.00 for Sewer line repair, water line repair, gas line repair, fence replacement, removal and reinstallation of storage racks, and shoring of sewer line. These costs are for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act) and 35 Ill. Adm. Code 732 (Section 732.505(c)). Costs for 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 (35 Ill. Adm. Code 732.606(o)). In addition, these costs are not corrective action costs. "Corrective action" means an activity associated with compliance with the provisions of Sections 57.6 and 57.7 of the Act (Section 57.2 of the Act and 35 Ill. Adm. Code 732.103). One of the eligibility requirements for accessing the Fund is that costs are associated with "corrective action." (Section 57.9(a)(7) of the Act)

## 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

**GCD**  
Gardner Carton & Douglas

191 N. Wacker Drive, Suite 3700  
Chicago, Illinois 60606-1698

Washington, D.C.

STEVEN J. MURAWSKI  
(312) 569-1445  
Fax: (312) 569-3445  
smurawski@gcd.com

Tel 312 569 1000 | Fax 312 569 3000  
www.gcd.com

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World Law Group  
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June 15, 2004

**By Facsimile (217) 782-9807**  
**and Overnight Mail**

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 N. Grand Avenue East  
P.O. Box 19276  
Mail Code 21  
Springfield, Illinois 62794-9276

**Re: SG Supply, 12900 South Throop Street, Lust Incident No. 20011086**  
**Request for Extension of Time to File Appeal of May 18, 2004 Decision**

Dear Legal Counsel:

SG Supply, through its legal counsel Gardner Carton & Douglas LLP, respectfully requests that the Illinois Environmental Protection Agency ("Illinois EPA") grant an extension of time to file an appeal of a final decision issued by the Illinois EPA to SG Supply on May 18, 2004 related to the above-referenced Lust Incident Number. This request is made pursuant to Sections 40 and 57.7(c)(4)(D) of the Illinois Environmental Protection Act, which allows an extension of the time that an applicant can petition the Illinois Pollution Control Board ("Board") for a hearing from 35 days to 90 days. The Illinois EPA's final decision was issued on May 18, 2004, and the 35-day appeal period will expire on June 22, 2004.

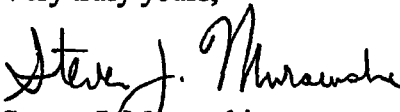
SG Supply is requesting that the Illinois EPA agree to extend the period to allow additional time for discussion between the Illinois EPA and SG Supply of certain proposed Lust Fund Reimbursement costs that the Agency denied. Specifically, in its final decision, the Illinois EPA denied "\$23,820.00 for proposed concrete replacement" and "\$68,680.00 for sewer line repair, water line repair, gas line repair, fence replacement, removal and installation of storage racks, and shoring of sewer line." While the Illinois EPA asserted that the costs did not meet the eligibility requirements for accessing the Fund because the costs allegedly are not associated with "corrective action" as defined by the rules, SG Supply and its contractors are evaluating whether the Agency's position is contradicted by the regulations and prior awards from the Fund.

Illinois Environmental Protection Agency  
June 15, 2004  
Page 2

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Thank you for your consideration, and please let me know if you need additional information.

Very truly yours,

  
Steven J. Murawski

cc: Dorothy Gunn, Clerk, IPCB  
Dennis Carlin  
Dwight Deleeuw

CH02/22319716.1