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MAR 18 2004

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

STATE OF ILLINOIS
Pollution Control Board

EAVES AUTO REPAIR,)
)
Petitioner,)
)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 04-163
(LUST Appeal – Ninety Day Extension)

NOTICE

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

Paul L. Fish
HDC Engineering
201 West Springfield Avenue
Suite 300
P.O. Box 140
Champaign, IL 61824-0140

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: March 16, 2004

MAR 18 2004

BEFORE THE POLLUTION CONTROL BOARD STATE OF ILLINOIS
OF THE STATE OF ILLINOIS Pollution Control Board

EAVES AUTO REPAIR,)	
Petitioner,)	
v.)	
ILLINOIS ENVIRONMENTAL)	PCB No. 04-163
PROTECTION AGENCY,)	(LUST Appeal – Ninety Day Extension)
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 June 15, 2004, 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 February 9, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)

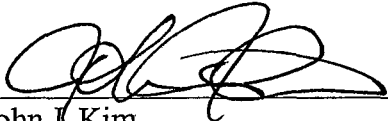
2. On February 19, 2004, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The Petitioner confirmed that the final decision was received no earlier than February 11, 2004. (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
217/782-5544
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Dated: March 16, 2004



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

7002 3150 0000 1255 1080

FEB 09 2004

Leaves Auto Repair
Joseph Leaves
538 South Railroad Ave.
Paxton, Illinois 60957

Re: LPC #0530255021 -- Ford County
 Paxton/Leaves Auto Repair
 538 South Railroad Ave.
 LUST Incident No. 941235
 LUST Technical File

Dear Mr. Leaves:

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 October 7, 2003, was received by the Illinois EPA on October 22, 2003. 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 modified. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732:

An excessive number of soil borings and monitoring wells were installed.

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(D)). Additionally, pursuant to Section 57.8(a)(5) of the Act and 35 Ill. Adm. Code 732.405(c), if reimbursement will be sought for any additional costs that may be incurred as a result of the

A

Page 2

Illinois EPA's modifications, an amended budget must be submitted.

NOTE: The plan proposes activities that are technically acceptable. However, for the purpose of reimbursement, these 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 or reimbursement for this reason. The Illinois EPA will review your complete request for partial or final payment from the Underground Storage Tank 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 reimbursable.

All future correspondence must be submitted to:

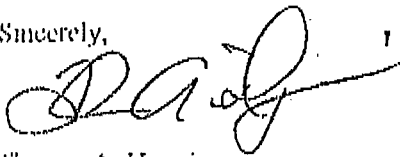
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

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 John Barrett at (217) 782-4869.

Sincerely,



Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

TAH:JDB

Attachment: Attachment A
Appeal Rights

c: HDC Engineering
Division File

Attachment A

Re: LPC #0530255021 -- Ford County
 Paxton/Leaves Auto Repair
 538 South Railroad Ave.
 LUST Incident No. 941235
 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:

\$9,514.00	Investigation Costs
\$2,651.00	Analysis Costs
\$19,220.00	Personnel Costs
\$680.00	Equipment Costs
\$3,211.00	Field Purchases and Other Costs
\$2,045.00	Handling Charges

SECTION 2

1. \$3,255.00 for an adjustment in Investigation Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
2. \$2,523.00 for an adjustment in Analysis Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
3. \$46,127.00 for an adjustment in Personnel Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.

4. \$320.00 for an adjustment in Equipment Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
5. \$2,224.00 for an adjustment in Field Purchase and Other Costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
6. \$240.00 for an adjustment in handling charges. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(g) of the Act and 35 Ill. Adm. Code 732.607):

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
\$0 - \$5,000	12%
\$5,001 - \$15,000	\$600 plus 10% of amount over \$5,000
\$15,001 - \$50,000	\$1,600 plus 8% of amount over \$15,000
\$50,001 - \$100,000	\$4,400 plus 5% of amount over \$50,000
\$100,001 - \$1,000,000	\$6,900 plus 2% of amount over \$100,000

This is not a deduction. This is an addition to correct a math error in the proposed budget.

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



February 19, 2003

201 W. Springfield Ave., Suite 300
P.O. Box 140
Champaign, Illinois 61824-0140
BUS. (217) 352-6976
FAX (217) 356-0570

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

RE: LPC #0530255021 – Ford County
Paxton / Eaves Auto Repair
538 South Railroad Ave.
LUST Incident No. 941235

Sir/Madame:

On behalf of Eaves Auto Repair, HDC Engineering is requesting a 90-day extension to the 35-day period that is provided to file a petition for a hearing with the Illinois Pollution Control Board (IPCB). The petition for a hearing with the IPCB may be filed in reference to the Illinois Environmental Protection Agency's (IEPA) decision regarding reimbursement for the above referenced LUST incident. A copy of the IEPA's decision, dated February 9, 2004, is enclosed. If you have any questions, or need additional information, I can be reached at (217) 352-6976.

Respectfully,
HDC Engineering

Paul L. Fish
Environmental Professional

cc: File

RECEIVED
Division of Legal Counsel
FEB 20 2004
Environmental Protection
Agency

B

HDC Engineering
201 W Springfield Avenue
Suite 300
Champaign, IL 61824



Fax

To: John Kim	From: Paul Fish
Fax: 217-782-9807	Pages: 6, including cover
Phone:	Date: 02/24/2004
Re: IEPA Determination Letter	CC:

*** Comments:**

John

Attached is a copy of the IEPA's determination letter for the Corrective Action Plan HDC submitted in October 2003. The IEPA's determination letter is dated February 9, 2004 and was received by HDC no earlier than February 11, 2004.

If you have any questions or require further information, please call me at 217-352-6976

Respectfully,

Paul L. Fish

Environmental Professional

CERTIFICATE OF SERVICE


I, the undersigned attorney at law, hereby certify that on March 16, 2004, 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

Paul L. Fish
HDC Engineering
201 West Springfield Avenue
Suite 300
P.O. Box 140
Champaign, IL 61824-0140

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent


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P.O. Box 19276
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