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CLERK'S OFFICE

MAY 13 2004

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

STATE OF ILLINOIS
Pollution Control Board

HICKS BULK DISTRIBUTION,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 04- 199
(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

Holly Hurt, Project Manager
United Science Industries
P.O. Box 360
6295 East Illinois Highway 15
Woodlawn, IL 62898-0360

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: May 11, 2004

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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 August 10, 2004, or any other date not more than a total of one hundred twenty-five (125) days from April 7, 2004, the date of service of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On April 6, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On May 3, 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 represented that the final decision was received on April 7, 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
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217/782-5544
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Dated: May 11, 2004

This filing submitted on recycled paper.



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

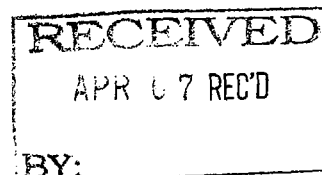
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CERTIFIED MAIL

APR 06 2004

7001 2510 0002 5280 7369

Hicks Bulk Distribution
Attention: Rodger Walker
500 West Herrin Street
Herrin, Illinois 62948



Re: LPC #0770155030 -- Jackson County
Carbondale/ Hicks Bulk Distribution
221 North Illinois
LUST Incident No. 911015
LUST Technical File

Dear Mr. Walker:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Site Classification Work Plan (plan) submitted for the above-referenced incident. This plan, dated December 23, 2003, was received by the Illinois EPA on December 26, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The Illinois EPA requires modification of the plan; therefore, the plan is conditionally approved with the Illinois EPA's modifications. The Illinois EPA has determined that the modifications below are necessary to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732 (Section 57.7(a)(1) of the Act and 35 Ill. Adm. Code 732.305(c) or 732.312(j)):

1. The Agency is not approving the proposed round 2 site investigation at this time. The budget proposed in the plan also reflects this request.
2. Based on information in the site file there was never a diesel tank on-site nor did the waste oil tank have a release, based on this the indicator contaminants for the site are BTEX only. The proposed budget also reflects this determination.
3. The site file fails to indicate whether the underground storage tanks have been excavated or remain on-site.
4. The Agency is requesting that round 1 proposed soil boring/well BH-12/MW-9 be relocated south of previous soil boring B-5 along the west property line. The Agency is requesting that proposed soil boring BH-2/MW-1 be relocated north of previous soil boring B-3 across Oak Street, and proposed soil boring BH-3/MW-2 be relocated south of previous soil boring B-6 south of the buildings.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760

ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131

BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463

SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 782-3397

MARION - 2309 W. Main St., Marion, IL 62959 - (217) 993-7200

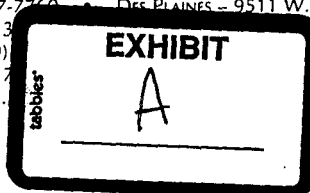
DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000

ST. PEORIA - 61614 - (309) 693-5463

SOUTH FIRST STREET, CHAMPAIGN, IL 61820 - (217) 278-5800

MALL STREET, COLLINSVILLE, IL 62234 - (618) 346-5120

993-7200



In addition, the budget is modified pursuant to Section 57.7(a)(1) of the Act and 35 Ill. Adm. Code 732.305(c) or 732.312(j). 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 is not required (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f)).

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.

Pursuant to 35 Ill. Adm. Code 732.301 a Site Classification Completion Report must be submitted within 120 days of the date of this letter 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.

Attachment A

Re: LPC #0770155030 -- Jackson County
Carbondale/ Hicks Bulk Distribution
221 North Illinois
LUST Incident No. 911015
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:

\$12,054.45	Investigation Costs
\$3,654.00	Analysis Costs
\$11,900.00	Personnel Costs
\$782.00	Equipment Costs
\$360.00	Field Purchases and Other Costs
\$457.68	Handling Charges

\$29,208.13

SECTION 2

1. \$48,198.45 for an adjustment in plan modification and unreasonable 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.

The following proposed costs were deducted from the budget based on the denial of the round II investigation and PNA and metals analysis:

Investigation -- \$8,818.75
Analysis -- \$28,952.00
Equipment -- \$560.00
Field Purchases -- \$60.00

The amount proposed for the round I drilling costs was deemed unreasonable with \$1,680.00 deducted from the investigative portion of the budget. The amount proposed for well materials was deemed unreasonable with \$1,488.50 deducted from the budget.

The amount requested for latex gloves was deemed unreasonable with \$67.20 deducted from the budget. The amount proposed for the PID meter was deemed unreasonable with \$15.00 deducted from the budget. The amount proposed for the transducer/data logger was deemed unreasonable with \$102.00 deducted from the budget. The amount proposed for survey equipment was deemed unreasonable with \$41.00 deducted from the budget. The amount proposed for the lazer level was deemed unreasonable with \$60.00 deducted from the budget. The amount proposed for the ISWS & ISGS was deemed unreasonable with \$30.00 deducted from the budget. The amount proposed for personnel costs were deemed unreasonable with \$6,324.00 deducted from the personnel portion of the budget.

2. \$2,572.40 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

Based on the deductions outlined previously the proposed handling charges were reduced accordingly.

Please note, this approved budget replaces the budget approved January 2, 1996, as that plan was never initiated.

jrm

If you have any questions or need further assistance, please contact James R. Malcom, III at 217/524-9140.

Sincerely,

A handwritten signature in black ink, appearing to read "Harry A. Chappel". The signature is fluid and cursive, with a large, stylized initial "H".

Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC: jrm

Attachment: Budget Modifications

cc: USI
Division File

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



P.O. Box 360
6295 East Illinois Highway 15
Woodlawn, Illinois 62898-0360

Phone: (618) 735-2411
Fax: (618) 735-2907
E-Mail: unitedscience@unitedscience.com

May 3, 2004

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, IL 62792-9276
Attn: John Kim

**Re: LPC# 0770155030--Jackson Co.
Carbondale/Hicks Bulk Distribution
221 North Illinois
LUST Incident No. 911015**

Dear Mr. Kim,

United Science Industries, Inc. (USI), on behalf of our client, Hick Bulk Distribution, is requesting a 90-day extension to the 35-day appeal period in regards to the IEPA correspondence included.

I appreciate your time and consideration in this matter. If you have any questions or comments regarding this matter please contact me at (618) 735-2411 ext. 192.

Sincerely yours,

UNITED SCIENCE INDUSTRIES, INC.

Holly Hurt
Project Manager

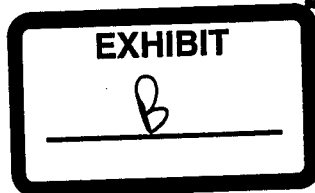
Enclosures

HH:bg

RECEIVED
Division of Legal Counsel

MAY 06 2004

Environmental Protection
Agency




CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on May 11, 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

Holly Hurt, Project Manager
United Science Industries
P.O. Box 360
6295 East Illinois Highway 15
Woodlawn, IL 62898-0360

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
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1021 North Grand Avenue, East
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