

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

VILLAGE OF NILES	)	
Petitioner,	)	
	)	
v.	)	PCB 22-
	)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION	)	Extension)
AGENCY,	)	
Respondent.	)	

**NOTICE**

Don Brown, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Village of Niles – Public Works  
Attn: John Giannetti  
Superintendent of Fleet and Facilities  
6849 W. Touhy Avenue  
Niles, IL 60714

PLEASE TAKE NOTICE that I have today caused to be filed a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Melanie A. Jarvis  
Assistant Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
[melanie.jarvis@illinois.gov](mailto:melanie.jarvis@illinois.gov)  
Dated: August 4, 2022

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

VILLAGE OF NILES	)	
Petitioner,	)	
	)	
v.	)	PCB 22-
	)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION	)	Extension)
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 2, 2022, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On or about June 28, 2022, the Illinois EPA issued a final decision to the Petitioner.
2. On July 31, 2022, 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 to join in requesting that the Board extend the thirty-five-day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about June 30, 2022.

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



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Melanie A Jarvis  
Assistant Counsel  
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217/782-5544  
866/273-5488 (TDD)  
[melanie.jarvis@illinois.gov](mailto:melanie.jarvis@illinois.gov)  
Dated: August 4, 2022

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on August 4, 2022, I served true and correct copies of a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** by the method(s) and to the persons identified below:

*Electronic Service*

Don Brown, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Village of Niles – Public Works  
Attn: John Giannetti  
Superintendent of Fleet and Facilities  
6849 W. Touhy Avenue  
Niles, IL 60714  
via fax: (847)588-7950

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Melanie A. Jarvis  
Associate Counsel  
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[melanie.jarvis@illinois.gov](mailto:melanie.jarvis@illinois.gov)



**MAYOR**  
George D. Alpigianis

**VILLAGE  
MANAGER**  
Joseph S. La Margo

**VILLAGE CLERK**  
Marlene J. Victorine

**TRUSTEES**  
John C. Jekot  
Joe LoVerde  
Danette O'Donovan Matyas  
Craig Niedermaier  
Dean Strzelecki

July 31, 2022

Ms. Nicole Cosenza  
Project Manager: Leaking Underground Storage Tank Section  
Division of Remediation Management, Bureau of Land  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

**RE: 0312015144 -- Cook County  
Niles/Village of Niles  
7300 North Waukegan Road  
Leaking UST Incident 20210090  
Leaking UST Technical File**

Dear Ms. Cosenza:

This letter has been prepared and is being submitted by the Village of Niles (the Village) in response to your letter dated June 28, 2022. The letter stated the following appeal rights with regard to decisions determined and stated in the June letter.

"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 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."

The Village wishes to preserve its right to appeal and so requests that this letter serve as the aforementioned written request in response to the June 28, 2022 letter, received by the Village on July 5, 2022. Please extend the 35-day period by an additional 90-days to allow the Village time to evaluate the letter received from the Illinois EPA.

Thank you for your assistance with this.

Sincerely,

John Giannetti  
Superintendent of Fleet and Facilities

A handwritten signature in black ink, appearing to read "John Giannetti", is written over the typed name and title.

RECEIVED

JUL 29 2022

IEPA/BOL



**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY\***

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

(217) 524-3300

**CERTIFIED MAIL**

7011 1150 0001 0855 0885

JUN 28 2022

John Giannetti  
Village of Niles  
6849 West Touhy Avenue  
Niles, IL 60714

Re: 0312015144 -- Cook County  
Niles/Niles, Village of  
7300 North Waukegan Road  
Leaking UST Incident 20210090  
Leaking UST Technical File

Dear Mr. Giannetti:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Completion Report (report) submitted for the above-referenced incident. This report was dated March 8, 2022 and was received by the Illinois EPA on March 9, 2022. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a), the report is rejected for the reason(s) listed in Attachment A.

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 the undersigned at (217) 782-1638 or at [nicole.cosenza@illinois.gov](mailto:nicole.cosenza@illinois.gov).

Sincerely,

Nicole Cosenza  
Project Manager  
Leaking Underground Storage Tank Section  
Bureau of Land

SP  
SP:TB TB

Attachments: Attachment A  
Appeal Rights

c: Wood Environment & Infrastructure Solutions, Inc. (electronic copy), Mary Jank,  
[mary.jank@woodplc.com](mailto:mary.jank@woodplc.com)  
BOL File

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Attachment A

Re: 0312015144 -- Cook County  
Niles/Niles, Village of  
7300 North Waukegan Road  
Leaking UST Incident 20210090  
Leaking UST Technical File

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

1. Pursuant to 35 Ill. Adm. Code 734.310, the investigation of a release must proceed in three stages until the extent of contamination exceeding the most stringent Tier 1 remediation objectives has been defined. The contamination has not been defined to the most stringent Tier 1 remediation objectives, which are the Tier 1, Class I remediation objectives. At a minimum, the following borings or monitoring wells will need to be drilled or installed:
  - A. One monitoring well north of MW-5 near the north property boundary line. Monitoring well MW-5 cannot be used for the northern well as it is not at the property boundary or 200 feet from the UST system pursuant to 35 Ill. Adm. Code 734.315(a)(2)(B).
  - B. One monitoring well at the location of former monitoring well MW-2 or dry monitoring well MW-6.
  - C. Borings within 5 feet of NSB1, NSB2, and NSB3. WSB-11/MW-6 and WSB-12/MW-7 are not close enough to NSB3 and NSB1, respectively, to be considered replacement borings. It is noted that WSB-14 replaces NSB8 and NSB9.
  - D. One boring north of WSB-11 to delineate contamination present at WSB-11.
  - E. One boring north of WSB-14 to delineate contamination present at WSB-13 and WSB-14.
  - F. One boring south of WSB-13/MW-8 to delineate contamination present at WSB-13/MW-8.
  - G. Multiple borings across North Milwaukee Avenue to delineate contamination present at WSB-13/MW-8 and WSB-14 to the west.
  - H. Two monitoring wells across North Milwaukee Avenue to delineate the Tier 1, Class I lead exceedance at MW-5.
  - I. Multiple borings across Waukegan Road to delineate contamination present at NSB3, WSB-11/MW-6, NSB2, and NSB1 to the east. One of the borings across Waukegan Road must be converted to a monitoring well to delineate the water contamination at MW-2 that could not be resampled in 2021.

It is noted that soil samples collected as part of site investigation must be analyzed for BTEX/MTBE, and groundwater samples collected as part of site investigation must be analyzed for BTEX/MTBE and lead. Therefore, groundwater samples must be collected from MW-7 and MW-8 and analyzed for lead.

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JUL 29 2022

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In addition, the investigation of the release has not proceeded in three stages. The Illinois EPA considers MW-4 (groundwater), WSB-11, WSB-12/MW-7, WSB-13/MW-8, and WSB-14 to be part of the Stage 1 site investigation. The monitoring wells described in 1A and 1B above and the groundwater samples (lead) from MW-7 and MW-8 are necessary to complete the Stage 1 site investigation. Pursuant to 35 Ill. Adm. Code 734.315(c), if one or more samples collected as part of the Stage 1 site investigation exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742, within 30 days after completing the Stage 1 site investigation, the owner or operator must submit to the Illinois EPA for review a Stage 2 site investigation plan in accordance with 35 Ill. Adm. Code 734.320. The owner or operator has not submitted a Stage 2 site investigation plan.

The Illinois EPA considers MW-1 (groundwater) and MW-5 (groundwater) to be part of the Stage 2 site investigation. At a minimum, the borings described in 1C, 1D, 1E, and 1F above are necessary to complete the Stage 2 site investigation. Pursuant to 35 Ill. Adm. Code 734.320(d), if the results of the Stage 2 site investigation indicate that applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, within 30 days after the completion of the Stage 2 site investigation, the owner or operator must submit to the Illinois EPA for review a Stage 3 site investigation plan in accordance with 35 Ill. Adm. Code 734.325. The owner or operator has not submitted a Stage 3 site investigation plan.

At a minimum, the borings and monitoring wells described in 1G, 1H, and 1I above are necessary to complete the Stage 3 site investigation. Pursuant to Section 57.7(a)(5) of the Act and 35 Ill. Adm. Code 734.325(c) and 734.330, within 30 days after completing the site investigation, the owner or operator shall submit to the Illinois EPA for approval a site investigation completion report that meets the requirements of 35 Ill. Adm. Code 734.330. The owner or operator has not submitted a site investigation completion report.

2. Pursuant to 35 Ill. Adm. Code 734.425(c), soil boring logs must be completed on forms prescribed and provided by the Illinois EPA. The borings logs submitted with the Corrective Action Completion Report are not on Illinois EPA-prescribed forms, and, therefore, must be corrected and provided in a future submittal.
3. Pursuant to 35 Ill. Adm. Code 734.430(b), monitoring well diagrams must be completed on forms prescribed and provided by the Illinois EPA. The monitoring well diagrams submitted with the Corrective Action Completion Report are not on Illinois EPA-prescribed forms, and, therefore, must be corrected and provided in a future submittal.
4. Pursuant to 35 Ill. Adm. Code 734.330(a)(2), (3), (4), and (7), a site investigation completion report must contain site maps showing groundwater flow direction and the horizontal and vertical extent of contamination exceeding Tier 1 remediation objectives and a table comparing sample analytical results to the most stringent Tier 1 remediation objectives. The report submitted did not contain site maps showing groundwater flow direction and the horizontal and vertical extent of contamination exceeding Tier 1 remediation objectives (which extend clean boring/well to clean boring/well) or a table comparing sample analytical results to the most stringent Tier 1 remediation objectives. The missing maps and corrected data tables must be provided in a future submittal. Also, the corrected sampling map (Figure 2B) that was emailed to the Illinois EPA on June 1, 2022 must be included in a future submittal.
5. Pursuant to 35 Ill. Adm. Code 734.135(a), (c), and (d), all plans, budgets, and reports, must be submitted to the Illinois EPA on forms prescribed and provided by the Illinois EPA, must be



signed by the owner or operator and list the owner's or operator's full name, address, and telephone number, and must contain the certification listed at 35 Ill. Adm. Code 734.135(d) from a Licensed Professional Engineer or Licensed Professional Geologist, as applicable. The report submitted did not contain the forms prescribed and provided by the Illinois EPA, which contain fields for the owner's or operator's full name, address, telephone number, and signature, and the certification listed at 35 Ill. Adm. Code 734.135(d). Future submittals must contain the forms prescribed and provided by the Illinois EPA.

6. Pursuant to 35 Ill. Adm. Code 734.420, a certification from the accredited laboratory must be included with the sample results when they are submitted to the Illinois EPA. The report submitted did not contain the Laboratory Certification for Chemical Analysis. This form must be included in a future submittal.
  
7. The Corrective Action Completion Report compares the analytical data to Class II soil and groundwater remediation objectives. The Illinois EPA does not approve the Class II groundwater determination. The owner or operator did not successfully demonstrate that groundwater is not Class I, III, or IV pursuant to 35 Ill. Adm. Code 620.220(a) and 620.220(b). The owner or operator did not demonstrate that the geologic material containing the groundwater is located less than 10 feet below the ground surface or that the geologic material containing the groundwater does not meet any of the criteria listed at 35 Ill. Adm. Code 620.210(a)(1), 620.210(a)(2), 620.210(a)(3), and 620.210(a)(4). The owner or operator did not successfully demonstrate that groundwater encountered is not hydraulically connected to Class I groundwater or that contaminants will not migrate to Class I groundwater, and pump test results were not provided to demonstrate that the geologic material containing the groundwater does not meet the criteria listed at 35 Ill. Adm. Code 620.210(a). It is noted that, even if the owner or operator could demonstrate that groundwater is Class II, delineation and modeling would need to be based on Class I soil and groundwater remediation objectives.

### 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 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:

Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson 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