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CLERK'S OFFICE

APR 07 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS STATE TOLL HIGHWAY)
 AUTHORITY (Des Plaines Oasis North),)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

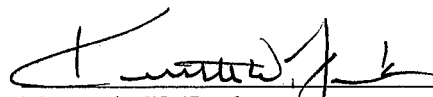
PCB - 04- 177
(UST Appeal)

NOTICE OF FILING

To: Renee Cipriano, Director
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, IL 62794

John Kim, Esq.
 Special Assistant Attorney General
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, IL 62794

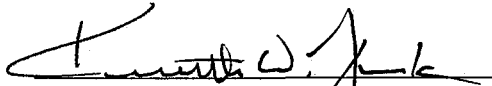
PLEASE TAKE NOTICE that on April 7, 2004 we filed with the Clerk of the Illinois Pollution Control Board the originals and nine (9) copies each, via personal delivery, of 1) **Appearance of Deutsch, Levy & Engel, Chartered** and 2) **Petition for Review of Agency Modification of Budget for High Priority Corrective Action Plan for Des Plaines North** for filing the above-entitled cause, copies of which are attached hereto.



 Kenneth W. Funk
 Special Assistant Attorney General

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the Notice of Filing, together with copies of the documents described above, were served upon the above-named Respondent by enclosing same in envelope addressed to said Respondent, certified mail, return receipt requested, and by depositing said envelopes in a U.S. Post Office Mail Box at Chicago, Illinois, with postage fully prepaid on the 7 day of April, 2004


Kenneth W. Funk
Special Assistant Attorney General

Kenneth W. Funk, Esq.
Phillip J. Zisook, Esq.
Karen Kavanagh Mack, Esq.
Special Assistant Attorneys General
Deutsch, Levy & Engel, Chartered
225 W. Washington Street, Suite 1700
Chicago, IL 60606
(312) 346-1460 /Firm No. 90235

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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CLERK'S OFFICE

APR 07 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

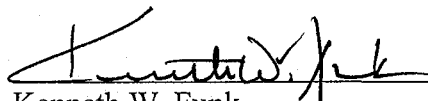
STATE OF ILLINOIS
Pollution Control Board

ILLINOIS STATE TOLL HIGHWAY)
 AUTHORITY (Des Plaines Oasis North),)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

PCB - 04-177
(UST Appeal)

APPEARANCE

I, Kenneth W. Funk, hereby file the appearance of Deutsch, Levy & Engel, Chartered in this proceeding on behalf of the Illinois State Toll Highway Authority.



 Kenneth W. Funk
 Special Assistant Attorney General

Kenneth W. Funk, Esq.
 Phillip J. Zisook, Esq.
 Karen Kavanagh Mack, Esq.
 Special Assistant Attorneys General
 Deutsch, Levy & Engel, Chartered
 225 W. Washington Street
 Suite 1700
 Chicago, IL 60606
 (312) 346-1460

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CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

APR 07 2004

ILLINOIS STATE TOLL HIGHWAY)
AUTHORITY (Des Plaines Oasis North),)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB - 04-177
(UST Appeal)

PETITION FOR REVIEW OF AGENCY MODIFICATION OF BUDGET FOR HIGH PRIORITY CORRECTIVE ACTION PLAN

Petitioner, the Illinois State Toll Highway Authority ("ISTHA") by its attorneys, Kenneth W. Funk, Phillip J. Zisook, and Karen Kavanagh Mack, as Special Assistant Attorneys General, petitions the Illinois Pollution Control Board, pursuant to 415 ILCS 5/57.7(c)(4)(D), 415 ILCS 57.8(i) and 415 ICLS 5/40, for review of the March 4, 2004 final determination of Respondent, the Illinois Environmental Protection Agency (the "Agency"), with respect to Petitioner's High Priority Corrective Action Plan and Budget relating to its Des Plaines Oasis North facility, and in support thereof, states:

1. ISTHA is the owner of the facility, including underground storage tanks and related piping, commonly known as the Des Plaines Oasis North located on the I-90 Tollway (West Bound), in Des Plaines, Illinois.

2. In 1994, Wight and Company, on ISTHA's behalf, notified the Illinois Emergency Management Agency ("IEMA") that gasoline, diesel and waste oil target analytes were detected above the Tier I Remediation Objectives, to which the IEMA assigned Incident No. 94-1811.

3. On or about August, 2002, Wight and Company, on ISTHA's behalf, notified the IEMA that soil and excavation water contained concentrations of target analytes above the Tier I

Remediation Objectives, to which the IEMA assigned Incident No. 2002-1263, which was considered a re-reporting of Incident No. 94-1811, since the release was reported during the removal of the existing tank system associated with Incident No. 94-1811.

4. On or about September 9, 2003, ISTHA submitted a High Priority Corrective Action Plan ("Plan"), including a Budget, to the Agency; and, on or about January 8, 2004, the Agency responded by approving the Plan, but materially modifying the Budget (the "Final Determination"). A true and complete copy of that Final Determination is attached hereto as Exhibit "A".

5. Also on January 8, 2004, the Agency approved ISTHA's corrective action completion report and issued a No Further Remediation Letter. A true and complete copy of the No Further Remediation Letter is attached hereto as Exhibit "B".

6. On or about January 27, 2004, Wight & Company contacted the Agency by letter, requesting that the Agency re-evaluate its January 8, 2004 modifications to the Budget. A copy of that letter is attached hereto as Exhibit "C".

7. On or about March 4, 2004, the Agency responded to Wight & Company's letter and issued another Final Determination, affirming its modifications to the Budget. A copy of the Agency's letter is attached hereto as Exhibit "D".

8. While ISTHA acknowledges the Agency's No Further Remediation Letter ("NFR Letter"), ISTHA accepts said NFR Letter with the reservation that ISTHA not be precluded from appealing the Agency's Final Determinations of January 8, 2004 and March 4, 2004 concerning the CAP Budget. ISTHA requests that the Board reverse the Agency's Final Determinations with respect to its modification of the Des Plaines North Corrective Action Plan Budget, because *inter alia*, the Budget included investigation costs, analytical costs, personnel costs, equipment costs and handling

charges that were necessary and reasonable to execute the Plan.

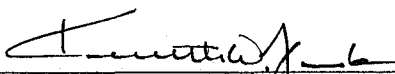
9. Additionally, ISTHA appeals the Agency's modifications to the Budget that seek to apportion ISTHA's corrective action costs. The Agency's bases for apportionment were that (a) ISTHA was deemed eligible to access the LUST Fund for payment of corrective action costs for some, but not all of the USTs at the site; and (b) ISTHA failed to justify that all costs were attributable to each [eligible] UST at the site. However, on information and belief, the contaminants remediated by ISTHA under the approved Plan emanated from the USTs registered in 1986, which were found eligible for reimbursement by the Office of the Illinois State Fire Marshal and identified as a source of the 1994 incident. Additionally, ISTHA demonstrated that the corrective action costs it incurred by ISTHA were attributable to the eligible USTs at the site. Accordingly, ISTHA's budget information provided to the Agency sufficiently demonstrated the costs that were necessary and reasonable to execute the approved Plan, and the Agency erroneously apportioned ISTHA's corrective action costs. Therefore, the Agency's decision to apportion the costs should be reversed.

10. ISTHA reserves the right to present additional grounds for reversal of the Agency's determination, as they appear during the course of this Appeal.

WHEREFORE, the Petitioner, The Illinois State Toll Highway Authority, respectfully requests that this Board grant a hearing in this matter, reverse the Agency's January 8, 2004 and March 4, 2004 determinations (modifications) of ISTHA's Budget for the High Priority Corrective Action Completion Plan for the Des Plaines Oasis North, and remand this matter to the Agency with instructions to approve the Amendment as aforesaid, and for any other relief as the Board deems just and appropriate.

Respectfully submitted,

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: 
One of their attorneys

Kenneth W. Funk, Esq.
Phillip J. Zisook, Esq.
Karen Kavanagh Mack, Esq.
Deutsch, Levy & Engel, Chartered
225 W. Washington Street, Suite 1700
Chicago, IL 60606
(312) 346-1460



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

JAN 08 2004

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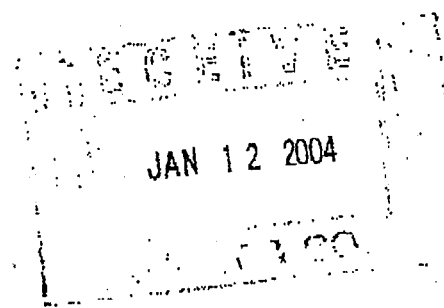
Illinois State Toll Highway Authority

Attn: John R. Wagner

2700 Ogden Avenue

Downers Grove, Illinois 60515

Re: LPC # 0310635372 - Cook County
Des Plaines/Illinois State Toll Hwy. Auth.
I-90, Des Plaines Oasis-North
LUST Incident No. 941811, 890113, 922148, 933219 & 20021263
LUST Technical File



Dear Mr. Wagner:

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 September 9, 2003, was received by the Illinois EPA on September 10, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

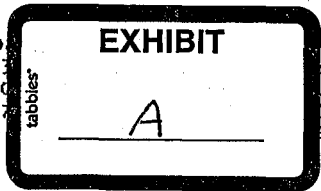
Pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732. Please note that all activities associated with the remediation of this 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 I 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.

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 has not been approved prior to the issuance of an NFR Letter will not be reimbursable.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 998-6100
ELGIN - 593 South State, Elgin, IL 60123 - (847) 608-3300
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



W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
City St., Peoria, IL 61614 - (309) 693-5463
25 South First Street, Champaign, IL 61820 - (217) 278-5800
99 Mall Street, Collinsville, IL 62234 - (618) 346-5120
618) 993-7200

Page 2

All future correspondence must be submitted to:

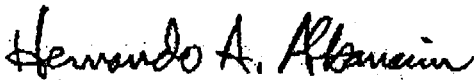
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

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 Jay F. Gaydosh at 217-785-0231.

Sincerely,



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

HAA: JFG941811 CAP & B Review Letter

Attachment: Attachment A
Appeal Rights

cc: Wight & Company
Division File

Attachment A

Re: LPC # 0310635372 -- Cook County
 Des Plaines/Illinois State Toll Hwy. Auth.
 I-90, Des Plaines Oasis-North
 LUST Incident No. 941811, 890113, 922148, 933219 & 20021263
 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:

\$ 771.75	Investigation Costs
\$ 4,120.85	Analysis Costs
\$ 6,522.00	Personnel Costs
\$ 576.00	Equipment Costs
\$115,838.40	Field Purchases and Other Costs
\$ 3,904.60	Handling Charges

SECTION 2

1. \$2,445.00 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. \$2,377.50 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. \$15,560.00 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. \$4,830.00 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.

Page 2

5. \$53,322.33 for an adjustment in Field Purchases & 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. \$1,096.30 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

Deductions identified in items 1 through 5 resulted in a reduced base figure used to calculate handling charges. This resulted in reduced handling charges.

7. \$307,378.38 for an apportionment of costs. The Illinois EPA has determined that the apportionment shall be based on number of eligible USTs (35 Ill. Adm. Code 732.608(b)). The Illinois EPA may apportion payment of costs for plans submitted under Section 57.7(c)(4)(E)(iii) of the Act if: (1) the owner or operator was deemed eligible to access the Fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and (2) the owner or operator failed to justify all costs attributable to each underground storage tank at the site (Section 57.8(m) of the Act and 35 Ill. Adm. Code 732.608).

Calculations were made to determine the apportionment of costs based on the number of eligible tanks compared to the total number of tanks in comparison to the apportionment of costs based on the capacity of the eligible tanks in comparison to the total volume of all the tanks. The calculations using the number of eligible tanks resulted in a multiplier of .30, while the volume calculations resulted in a multiplier of .22. Therefore the higher of the two multipliers was used to calculate the eligible costs, thereby, providing a greater eligible amount.

Budget Category	Proposed Costs	Deductions	Approvable Costs	Post-Appportionment
Investigation Costs	5,017.50	-2445.00	2,572.5	771.75
Analysis Costs	16,113.65	-2,377.5	13,736.15	4,120.85
Personnel Costs	37,300.00	-15,560.00	21,740.00	6,522.00
Equipment Costs	6,750.00	-4,830.00	1,920.00	576.00
Field Purchases & Other Costs	439,450.33	-53,322.33	386,128.00	115,838.40
Handling Charges	14,111.63	-1,096.30	13,015.33	3,904.60
Totals	518,743.11	-79,631.13	439,111.98	131,733.60

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



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. BLAČOJEVICH, GOVERNOR

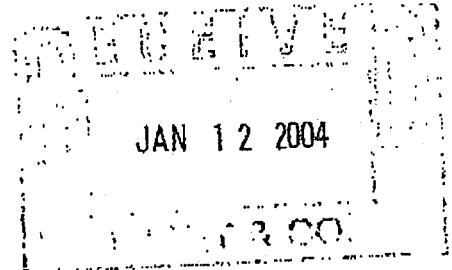
RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL

7001 2510 0002 5277 7372

JAN 08 2004



Illinois State Toll Highway Authority
Attn: John R. Wagner
2700 Ogden Avenue
Downers Grove, Illinois 60515

Re: LPC # 0310635372 – Cook County
Des Plaines/Illinois State Toll Hwy. Auth.
I-90, Des Plaines Oasis-North
LUST Incident No. 941811, 890113, 922148, 933219 & 20021263
LUST Technical File

Dear Mr. Wagner:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Completion Report submitted for the above-referenced incident. This information is dated September 9, 2003 and was received by the Illinois EPA on September 10, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

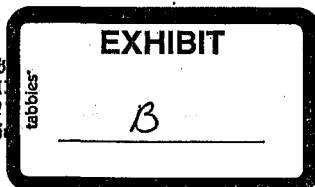
The High Priority Corrective Action Completion Report and associated Professional Engineer Certification indicate corrective action for the above-referenced site was conducted in accordance with the Corrective Action Plan approved by the Illinois EPA. The Corrective Action Completion Report demonstrates that the requirements of Section 57.7(c)(1)(E) of the Act and 35 Ill. Adm. Code 732.409(a)(2) have been satisfied.

Based upon the certification by Jinan Yan, a Licensed Professional Engineer, and pursuant to Section 57.10 of the Act (415 ILCS 5/57.10), your request for a no further remediation determination is granted under the conditions and terms specified in this letter.

Issuance of this No Further Remediation Letter (Letter), based on the certification of the Licensed Professional Engineer, signifies that: (1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with; (2) all corrective action concerning the remediation of the occurrence has been completed; and (3) no further corrective action concerning the occurrence is necessary for the protection of human health, safety, and the environment. Pursuant to Section 57.10(d) of the Act, this Letter shall apply in favor of the following parties:

1. Illinois State Toll Highway Authority, the owner or operator of the underground storage tank system(s).
2. Any parent corporation or subsidiary of such owner or operator.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 398-6000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-6000
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (317) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 782-3397
MARKON - 2309 W. Main Street, Markon, IL 62450 - (618) 993-7200



V. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
City St., Peoria, IL 61614 - (309) 693-5463
25 South First Street, Champaign, IL 61820 - (217) 278-5800
09 Mall Street, Collinsville, IL 62234 - (618) 346-5120
618) 993-7200

Page 2

3. Any co-owner or co-operator, either by joint tenancy, right-of-survivorship, or any other party sharing a legal relationship with the owner or operator to whom the Letter is issued.
4. Any holder of a beneficial interest of a land trust or inter vivos trust whether revocable or irrevocable.
5. Any mortgagee or trustee of a deed of trust of such owner or operator.
6. Any successor-in-interest of such owner or operator.
7. Any transferee of such owner or operator whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest.
8. Any heir or devisee of such owner or operator.

This Letter and all attachments, including but not limited to the Leaking Underground Storage Tank Environmental Notice, must be filed within 45 days of receipt as a single instrument with the Office of the Recorder or Registrar of Titles in the county in which the above-referenced site is located. This Letter shall not be effective until officially recorded by the Office of the Recorder or Registrar of Titles of the applicable county in accordance with Illinois law so it forms a permanent part of the chain of title for the above-referenced property. Within 30 days of this Letter being recorded, an accurate and official copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA. For recording purposes, it is recommended that the Leaking Underground Storage Tank Environmental Notice of this Letter be the first page of the instrument filed.

CONDITIONS AND TERMS OF APPROVAL

LEVEL OF REMEDIATION AND LAND USE LIMITATIONS

1. The remediation objectives have been established in accordance with an industrial/commercial land use limitation. The remediation objectives for the above-referenced site, more particularly described in the Leaking Underground Storage Tank Environmental Notice of this Letter, were established in accordance with the requirements of the Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742) rules.
2. As a result of the release from the underground storage tank system(s) associated with the above-referenced incident, the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter, shall not be used in a manner inconsistent with the following land use limitation: The land use shall be industrial/commercial. The groundwater under the site shall not be used as a potable water supply.
3. The land use limitation specified in this Letter may be revised if:
 - a. Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and

Page 3

- b. A new No Further Remediation Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

PREVENTIVE, ENGINEERING, AND INSTITUTIONAL CONTROLS

4. **Preventive:** The groundwater under the site described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter shall not be used as a potable supply of water. No person shall construct, install, maintain, or utilize a potable water supply well. In accordance with Section 3.65 of the Act, "potable" means generally fit for human consumption in accordance with accepted water supply principles and practices.

Engineering: None.

Institutional: This Letter shall be recorded as a permanent part of the chain of title for the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter.

5. Failure to establish, operate, and maintain controls in full compliance with the Act, applicable regulations, and the approved Corrective Action Plan, if applicable, may result in voidance of this Letter.

OTHER TERMS

6. Any contaminated soil or groundwater removed or excavated from, or disturbed at, the above-referenced site, more particularly described in the Leaking Underground Storage Tank Environmental Notice of this Letter, must be handled in accordance with all applicable laws and regulations under 35 Ill. Adm. Code Subtitle G.
7. Further information regarding the above-referenced site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency
Attention: Freedom of Information Act Officer
Bureau of Land - #24
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

8. Pursuant to 35 Ill. Adm. Code 732.704, should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the owner or operator of the leaking underground storage tank system(s) associated with the above-referenced incident and the current title holder of the real estate on which the tanks were located, at their last known addresses. The notice shall specify the cause for the voidance, explain the provisions for appeal, and describe the facts in support of the voidance. Specific acts or omissions that may result in the voidance of this Letter include, but shall not be limited to:

Page 4

- a. Any violation of institutional controls or industrial/commercial land use restrictions;
- b. The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
- c. The disturbance or removal of contamination that has been left in-place in accordance with the Corrective Action Plan or Completion Report;
- d. The failure to comply with the recording requirements for the Letter;
- e. Obtaining the Letter by fraud or misrepresentation; or
- f. Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment.

Submit an accurate and official copy of this Letter, as recorded, 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

If you have any questions or need further assistance, please contact the Illinois EPA project manager, Jay F. Gaydosh, at 217-785-0231.

Sincerely,



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

HAA: JFG\941811 NFR Letter

Attachments: Leaking Underground Storage Tank Environmental Notice
Site Base Map

cc: Wight & Company
Division File

PREPARED BY:**Name:** Illinois State Toll Highway Authority**Address:** I-90, Des Plaines Oasis - North
Des Plaines, Illinois 60016**RETURN TO:****Name:** Illinois State Toll Highway Authority
Attn: John R. Wagner**Address:** 2700 Ogden Avenue
Downers Grove, Illinois 60515**(THE ABOVE SPACE FOR RECORDER'S OFFICE)****LEAKING UNDERGROUND STORAGE TANK ENVIRONMENTAL NOTICE**

THE OWNER AND/OR OPERATOR OF THE LEAKING UNDERGROUND STORAGE TANK SYSTEM(S) ASSOCIATED WITH THE RELEASE REFERENCED BELOW, WITHIN 45 DAYS OF RECEIVING THE NO FURTHER REMEDIATION LETTER CONTAINING THIS NOTICE, MUST SUBMIT THIS NOTICE AND THE REMAINDER OF THE NO FURTHER REMEDIATION LETTER TO THE OFFICE OF THE RECORDER OR REGISTRAR OF TITLES OF COOK COUNTY IN WHICH THE SITE DESCRIBED BELOW IS LOCATED.

Illinois EPA Number: 0310635372

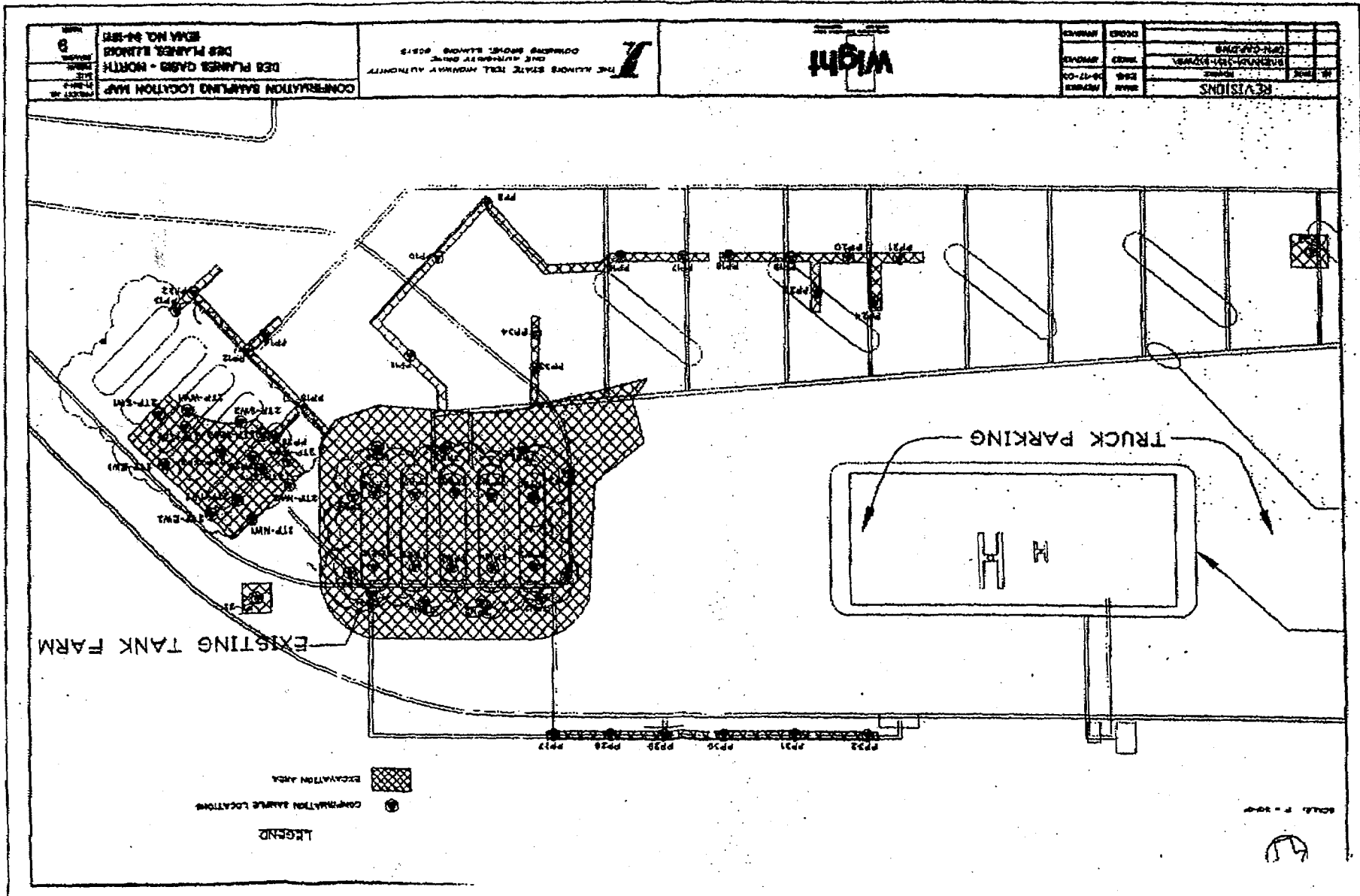
LUST Incident No.: 941811, 890113, 922148, 933219 & 20021263

Illinois State Toll Highway Authority, the owner and/or operator of the leaking underground storage tank system(s) associated with the above-referenced incident, whose address is 2700 Ogden Avenue, Downers Grove, Illinois, has performed investigative and/or remedial activities for the site identified as follows and depicted on the attached Site Base Map:

1. Legal Description or Reference to a Plat Showing the Boundaries: That part of Section 25, Township 41 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois, described as follows: Commencing at the Northeast corner of the Southeast Quarter of said Section 25; thence South 88°56'37" West, on the North line of said Southeast Quarter, 403.15 feet to the point of beginning; thence North 70°37'56" West, 1165.76 feet; thence south 65°59'58" West, 735.21 feet; thence South 51°37'31" West, 74.03 feet; thence South 70°08'00", 30.81 feet; thence South 74°29'27" East, 72.92 feet; thence South 88°56'37" East, 4.96 feet; thence South 70°37'03" East, 1473.64 feet; thence North 13°49'38 East, 109.69 feet; thence North 66°08'16" West, 88.49 feet; thence North 40°47'55" West, 140.01 feet, Thence North 00°29'23" West, 123.59 feet; thence North 88°56'37" East, 240.00 feet; thence North 84°07'54" East, 247.50 feet; thence North 01°03'23" West, 80.00 feet to the point of beginning.
2. Common Address: I-90, Des Plaines Oasis - North
3. Real Estate Tax Index/Parcel Index Number: 08-25-400-010-8002
4. Site Owner: Illinois State Toll Highway Authority
5. Land Use Limitation: The land use shall be industrial/commercial. The groundwater under the site shall not be used as a potable water supply.
6. See the attached No Further Remediation Letter for other terms.

HAA: JFG

Leaking Underground Storage Tank Environmental Notice





ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276
 JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

RENEE CIPRIANO, DIRECTOR

RECORDING REQUIREMENTS FOR NO FURTHER REMEDIATION LETTERS

Introduction

The Illinois Environmental Protection Agency's (Illinois EPA) Bureau of Land/Leaking Underground Storage Tank Section issues a No Further Remediation (NFR) Letter after a demonstration of compliance with Title XVI of the Environmental Protection Act and applicable regulations is made. The NFR Letter signifies that: (1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with, (2) all corrective action concerning the remediation of the occurrence has been completed, and (3) no further corrective action concerning the occurrence is necessary so long as the site is used in accordance with the terms and conditions of the NFR Letter.

Significance

When properly recorded, the NFR Letter holds legal significance for all applicable parties outlined at Section 57.10(d) of the Environmental Protection Act. (See 415 ILCS 5/57.10(d).) If not properly recorded, the Illinois EPA will take steps to void the NFR Letter in accordance with the regulations.

Duty to Record

The duty to record the NFR Letter is *mandatory*. You *must* submit the NFR Letter, with a copy of any applicable institutional controls proposed as part of a corrective action completion report, to the Office of the Recorder or the Registrar of Titles of the county in which the site is located *within 45 days after receipt of the NFR Letter*. You must record the NFR Letter and any attachments. The NFR Letter shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title to ensure current and future users of the property will be informed of the conditions and terms of approval including level of remediation; land use limitations; and preventive, engineering, and institutional controls. A certified or otherwise accurate and official copy of the NFR Letter and any attachments, as recorded, must be submitted to the Illinois EPA. Failure to record the NFR Letter in accordance with the regulations will make the NFR Letter voidable.

For More Information

Please refer to Tiered Approach to Corrective Action Objectives (TACO) Fact Sheet 3 available from the Illinois EPA by calling 1-888-299-9533 or by accessing it on the Illinois EPA Web site at <http://www.epa.state.il.us/land/taco/3-no-further-remediation-letters.html>.

Wight

814 Ogden Avenue
Downers Grove IL 60515
630.969.7000
Fax 630.969.7979

January 27, 2004

Mr. Jay Gaydosh
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

**RE: Response to IEPA Letter dated January 8, 2004
Corrective Action Plan and Budget
LPC# 0310635372 - Cook County
I-90, Des Plaines Oasis - North
LUST Incident Numbers 941811, 890113, 922148, 933219 & 20021263**

Dear Mr. Gaydosh:

Wight & Company is submitting a response to the Illinois Environmental Protection Agency's (EPA's) letter dated January 8, 2004 regarding the High Priority Corrective Action Plan (CAP) and Budget dated September 9, 2003. Wight & Company, on behalf of the Illinois State Toll Highway Authority, understands the IEPA's application of apportionment to remediation costs (field purchases); although, the underground storage tanks that the Office of the State Fire Marshal deemed ineligible for accessing the LUST Fund were removed prior to the 1994 release. This implies that apportionment is not appropriate.

A CAP has been developed for the property to meet the Tier 1 Remediation Objectives set forth in 35 Illinois Administrative Code (IAC) Part 742. All the investigations, analytical testing, equipment and professional services (personnel) included in the Budget were necessary to develop and execute the CAP. We strongly believe that apportionment to these costs does not apply. Therefore, Wight & Company requests that the IEPA re-evaluate the information and approve an additional \$25,308.95 for the Budget. The additional Budget allowance includes:

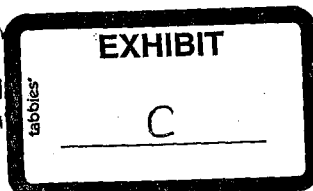
- 1) Investigation costs of \$2,445.00
- 2) Analytical costs of \$2,377.50
- 3) Personnel costs of \$15,560.00
- 4) Equipment of \$4,830.00
- 5) Handling charges of \$96.45 (2% of investigation and analytical costs).

Wight & Company thanks you in advance for your prompt review of this submittal. Should you have any questions, please do not hesitate to contact the undersigned at your earliest convenience.

Respectfully submitted,
Wight & Company


Mary A. Kruk
Manager, Environmental Services

cc: Gregory Stukel, PE, I
Ken Funk, Attorney at Law



Authority
Engel



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

MAR 04 2004

CERTIFIED MAIL

7002 3150 0000 1255 3909

Illinois State Toll Highway Authority
Attn: Steve Gillen
1 Authority Drive
Downers Grove, Illinois 60515

Re: LPC # 0310635372 – Cook County
Illinois State Toll Hwy. Authority
I-90, Des Plaines Oasis-North
Incident No. 941811, 890113, 922148, 933219 & 20021263
LUST Technical File

Dear Mr. Gillen:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the letter from Wight & Co. dated January 27, 2004 that was submitted for the above-referenced incident. The Illinois EPA received this correspondence on February 3, 2004. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The letter requested that the Illinois EPA re-evaluate the apportionment of the corrective action costs as stated in the Illinois EPA's letter dated November 18, 2003. The letter requested Illinois EPA approval of additional investigation costs, analytical costs, personnel costs, equipment costs and handling charges.

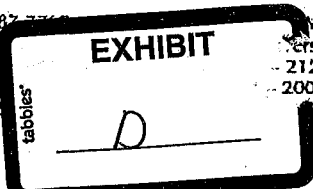
Based upon a review of the information submitted to the Illinois EPA, the apportionment of the corrective action costs as stated in the Illinois EPA's letter dated January 8, 2004 is appropriate. The request for approval of additional corrective action costs is denied.

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

ROCKFORD – 4302 North Main Street, Rockford, IL 61103 – (815) 987-7330
ELGIN – 595 South State, Elgin, IL 60123 – (847) 608-1100
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 Street, Marion, IL 62959 – (217) 993-7200

W. Harrison St., Des Plaines, IL 60016 – (847) 294-4000
University St., Peoria, IL 61614 – (309) 693-5463
2125 South First Street, Champaign, IL 61820 – (217) 278-5800
2009 Mall Street, Collinsville, IL 62234 – (618) 346-5120
(18) 993-7200



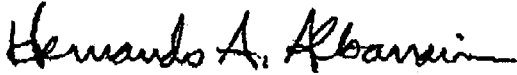
Page 2

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 Jay F. Gaydosh at 217/785-0231.

Sincerely,



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

HAA:JFG/941811 Request for reconsideration letter

Attachments: Appeal Rights

cc: Wight & Company
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