

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

JUN 25 2004

SG SUPPLY, )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB No. 04-223  
(LUST Appeal – Ninety Day Extension)

NOTICE

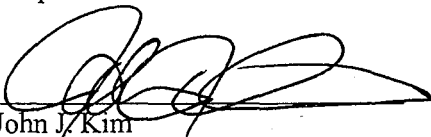
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Steven J. Murawski  
Sasha M. Engle  
Gardner Carton & Douglas  
191 North Wacker Drive  
Suite 3700  
Chicago, IL 60606-1698

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: June 23, 2004

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

JUN 25 2004

SG SUPPLY, )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB No. 04-223  
(LUST Appeal – Ninety Day Extension)

**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 September 21, 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 May 18, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)

2. On June 15, 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 did not represent when the final decision was received. The Illinois EPA has discussed this matter with counsel for the Petitioner, and the parties agree that the letter was received no earlier than May 19, 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  
217/782-9143 (TDD)  
Dated: June 23, 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**

**MAY 18 2004**

**7002 3150 0000 1257 8537**

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

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

Dear Mr. Deleuw:

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

Pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732. Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

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

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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7750 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (815) 394-1000  
EGLIN - 595 South State, Egin, IL 60123 - (847) 608-3131 • PEORIA - 3415 N. University St., Peoria, IL 61614 - (309) 693-3462  
BUREAU OF LAND - PEORIA - 7820 N. University St., Peoria, IL 61614 - (309) 693-3462 • CHAMPAIGN - 2123 South First Street, Champaign, IL 61818  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 785-6882 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 244-1000

**EXHIBIT**

**A**

71-36

Page 2

NOTE: Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be reimbursable.

All future correspondence must be submitted to:

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

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

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

Sincerely,

*Clifford L. Wheeler*

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

CLW:SRR\20011086

Attachment: A

c: Leyden Environmental, Inc.  
Division File

## Attachment A

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

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

### SECTION 1

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

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

### SECTION 2

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

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

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

### Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4)(D) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276  
217/782-5544



**GCD**

Gardner Carton &amp; Douglas

191 N. Wacker Drive, Suite 3700  
Chicago, Illinois 60606-1698Tel 312 569 1000 | Fax 312 569 3000  
www.gcd.comSTEVEN J. MURAWSKI  
(312) 569-1445  
Fax: (312) 569-3445  
smurawski@gcd.com0310420006 - Cook  
SG Supply  
Lust Teck  
Washington, D.C.member  
World Law Group  
a global network  
of independent  
firms located in  
37 countries

June 15, 2004

By Facsimile (217) 782-9807  
and Overnight MailIllinois Environmental Protection Agency  
Division of Legal Counsel  
1021 N. Grand Avenue East  
P.O. Box 19276  
Mail Code 21  
Springfield, Illinois 62794-9276**RECEIVED**  
Division of Legal Counsel

JUN 23 2004

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

Dear Legal Counsel:

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

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

EXHIBIT

B

tabbles

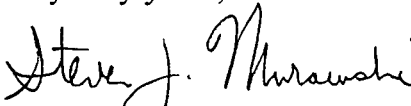
**RECEIVED**  
JUN 16 2004  
EPA/BOI

Illinois Environmental Protection Agency  
June 15, 2004  
Page 2

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

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

Very truly yours,

  
Steven J. Murawski

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

CH02/22319716.1

RECEIVED  
JUN 16 2004  
IEPA/BOI

## CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on June 23, 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

Steven J. Murawski  
Sasha M. Engle  
Gardner Carton & Douglas  
191 North Wacker Drive  
Suite 3700  
Chicago, IL 60606-1698

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)