

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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STATE OF ILLINOIS
Pollution Control Board

MAC'S CONVENIENCE STORES, LLC,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 05- 124
(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

Kenneth M. Miller
American Environmental Corporation
3700 West Grand Avenue
Suite A
Springfield, IL 62711

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: January 11, 2005

JAN 13 2005

STATE OF ILLINOIS
Pollution Control Board

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

MAC'S CONVENIENCE STORES, LLC,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

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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 April 11, 2005, 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 December 6, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On January 4, 2005, 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 earliest the final decision could have been served upon the Petitioner was on December 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
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: January 11, 2005



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL

7002 3150 0000 1112 3783

DEC 06 2004

Mac's Convenience Stores, LLC
Attention: Matt McCure
P.O. Box 347
Columbus, IN 47202

Re: LPC #1671205270 - Sangamon County
Springfield/Mac's Convenience Store #160
2901 Stevenson Drive
LUST Incident No. 20021336 & 20021337
LUST Technical File

Dear Mr. McCure:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Site Investigation Plan (plan) submitted for the above-referenced incident. This plan, dated August 4, 2004, was received by the Illinois EPA on August 9, 2004. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The plan and the associated budget are rejected for the reason(s) listed below (Sections 57.7(a) and 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b)).

The plan is rejected for the following reason(s):

1. The plan indicates the LUST incident 20021336 was from gasoline USTs. All information currently in the Illinois EPA's possession indicates the gas contamination on site (and potentially off site) was due to the release in 1992 that has been "remediated" and has received a No Further Remediation letter dated May 7, 2002. Please provide information to indicate that LUST incident 20021336 is not a re-reporting of the closed LUST incident 920410.
2. The soil borings/monitoring wells may not be necessary if it cannot be proven that the LUST incident 20021336 is not a re-reporting of the closed LUST incident 920410 as requested above.

The plan budget is rejected for the following reason(s):

1. A full financial review shall consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations.

EXHIBIT

A

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Items to be reviewed shall include, but not be limited to, costs associated with any materials, activities, or services that are included in the budget plan. The overall goal of the financial review shall be to assure that costs associated with materials, activities, and services shall be reasonable, shall be consist with the associated technical plan, shall be incurred in the performance of corrective action activities, and shall not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 732.505(c)).

Without an approvable plan, the proposed budget cannot be fully reviewed.

Pursuant to Sections 57.7(a) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 732.100 and 732.105, a revised plan and/or budget must be submitted within 90 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.

If you have any questions or need further assistance, please contact Mindy Weller at 217/782-6762.

Sincerely,



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

HAC:MW:mw\20021336&20021337-3.DOC

cc: James Nelson, P.G., American Environmental
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



From Springfield Regional Office

VIA FACSIMILE
January 4, 2005

Illinois Environmental Protection Agency
Attn: John Kim
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Re: Request for Extension for Petitioning the IPCB
LPC #1671205270 – Sangamon County
Mac's Convenience Store #160- Springfield/Mac's Convenience Stores LLC
2901 Stevenson Drive
LUST Incident No. 20021336 & 20021337
American Environmental Project Number 227037

Dear Mr. Kim

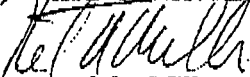
Mac's Convenience Stores LLC ("Mac's"), requests that the Illinois Environmental Protection Agency ("Agency") join them in requesting a 90-day extension to the 35-day deadline for filing a petition for a hearing before the Illinois Pollution Control Board ("IPCB"). This request is being made to preserve Mac's right to appeal the Agency decision contained in a December 6, 2004 letter regarding an August 4, 2004 Site Investigation Plan and Budget for the above referenced LUST incident. A copy of the Agency letter is attached.

The additional time is needed for Mac's to submit additional information and for the Agency to review the information. If necessary, we will participate in a teleconference and/or meet with the Agency in an effort to resolve the issues without the need to submit a formal petition request.

Please take the necessary action to file this extension request before the 35-day appeal time expires on January 11, 2005. If you need additional information, please advise.

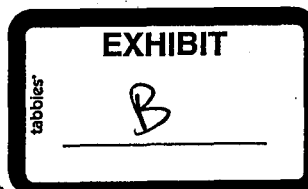
Sincerely,

AMERICAN ENVIRONMENTAL CORPORATION


Kenneth M. Miller, P.E., P.G.
Regional Manager

pc: Kevin Merritt, Mac's Convenience Stores LLC
Jacob Smith (cover letter only)

Enclosure



Corporate Office

8500 Georgetown Road
Indianapolis, Indiana 46268-1647
317-871-4090
317-871-4094 Fax

Regional Office

3700 W. Grand Ave. Ste. A
Springfield, IL 62711
217-585-9517
217-585-9518 Fax

Regional Office

410 Production Court
Louisville, KY 40299
502-491-0144
502-491-9271 Fax

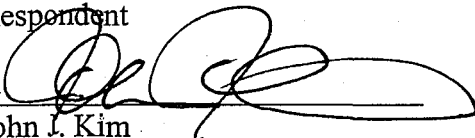
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on January 11, 2005, 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

Kenneth M. Miller
American Environmental Corporation
3700 West Grand Avenue
Suite A
Springfield, IL 62711

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
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