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JUL 30 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

BILL CARTER d/b/a CARTER)
CONVENIENCE STORE,)
Petitioner,)
v.) PCB No. 05- 15
ILLINOIS ENVIRONMENTAL) (LUST – Ninety Day Extension)
PROTECTION AGENCY,)
Respondent.)

NOTICE


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

Carolyn S. Hesse
Barnes & Thornburg
Suite 4400
One North Wacker Drive
Chicago, IL 60606-2809

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: July 28, 2004

JUL 30 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

BILL CARTER d/b/a CARTER)	
CONVENIENCE STORE,)	
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v.)	PCB No. 05- 15
ILLINOIS ENVIRONMENTAL)	(LUST – Ninety Day Extension)
PROTECTION 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, 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 October 26, 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 June 22, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On July 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’s request includes information indicating the final decision was received on June 23, 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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Dated: July 28, 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

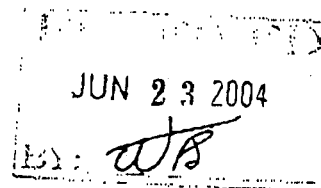
217/782-6762

CERTIFIED MAIL

7002 3150 0000 1257 8861

JUN 22 2004

William Carter
P.O. Box 505
Mill Shoals, IL 62862



Re: LPC #1934305002 -- White County
Mill Shoals/Carter, Bill (Carter Convenience Store)
829 Loy Street
LUST Incident Nos. 20000788 and 20020190
LUST Technical File

Dear Mr. Carter:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Budget Amendment (budget amendment) submitted for the above-referenced incident. This budget amendment, dated May 12, 2004, was received by the Illinois EPA on May 13, 2004. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

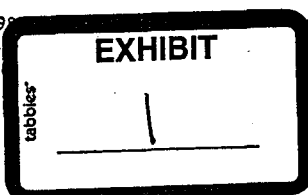
The budget amendment is rejected for the reason(s) listed below (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c) and 732.503(b)).

1. In accordance with Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b), any action by the Illinois EPA to disapprove or modify a plan or budget submitted pursuant to Title XVI of the Act shall be provided to the owner or operator in writing within 120 days of receipt.

The Illinois EPA previously notified the owner or operator of its final action. Further, in accordance with Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f), the Illinois EPA's action to reject or require modification of the plan or budget, or the rejection of any plan or budget by operation of law, was subject to appeal to the Illinois Pollution Control Board within 35 days after the Illinois EPA's final action.

All future correspondence must be submitted to:

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 998-3300
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3300
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (312) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 782-3397
MARION - 2309 W. Main Street, Marion, IL 62959 - (217) 993-7200



CHICAGO - 100 West Randolph, Suite 11-300, Chicago, IL 60601 - (312) 814-6026
DES PLAINES - 1000 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
PEORIA - 1000 W. Harrison St., Peoria, IL 61614 - (309) 693-5463
CHAMPAIGN - 25 South First Street, Champaign, IL 61820 - (217) 278-5800
COLLINSVILLE - 19 Mall Street, Collinsville, IL 62234 - (618) 346-5120
SPRINGFIELD - 1000 W. Harrison St., Springfield, IL 62706 - (217) 993-7200

MAILED
JUN 23 2004
BY: *[Signature]*

Page 2

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 the Illinois EPA project manager, Steve Jones, at 217/524-1253.

Sincerely,

Hernando A. Albarracin

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

HAA:SJ\Carter HPCAP BUD Amend 1.doc

Attachments: Appeal Rights

cc: CW3M Company
Division File

JUN 23 2004
WTS

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

BARNES & THORNBURG

Carolyn S. Hesse
(312) 214-8301
Email: chesse@btlaw.com

Suite 4400
One North Wacker Drive
Chicago, Illinois 60606-2809 U.S.A.
(312) 357-1313
Fax (312) 759-5646
www.btlaw.com

July 15, 2004

VIA FACSIMILE & FEDERAL EXPRESS

Mr. John Kim
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

RECEIVED
Division of Legal Counsel

JUL 16 2004

Environmental Protection
Agency

Re: LPC #1934305002 - White County
Mill Shoals / Carter, Bill (Carter Convenience Store)
829 Loy Street
LUST Incident Nos. 20000788 and 20020190
LUST Technical File

Dear John:

On June 22, 2004, the Illinois Environmental Protection Agency issued a letter with respect to the above-referenced LUST Incident. A new High Priority Corrective Action Budget Amendment was submitted to the Illinois Environmental Protection Agency dated May 12, 2004, which was received by the Agency on May 13, 2004. Carter Convenience Store is located in Mill Shoals, White County, Illinois. These documents were submitted pursuant to 35 IAC Section 732.405(e) which states as follows:

If, following approval of any groundwater monitoring plan, corrective action plan or associated budget plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended groundwater monitoring plan, corrective action plan or associated budget plan for review by the Agency. The Agency shall review and approve, reject or require modifications of the amended plan in accordance with the procedures contained in Subpart E of this Part.

Mr. John Kim
July 15, 2004
Page 2


It appears that the Agency did not review these documents in accordance with the procedures contained in Subpart E.

Carter Convenience Store believes that, based upon discussions with Illinois Environmental Protection Agency and for other reasons, that we will be able to resolve the issues raised in the Agency's letter. However, we believe that we will not be able to resolve these issues by the deadline for filing an appeal of these issues to the Illinois Pollution Control Board. Thus, this is a request for a 90-day extension pursuant to the Illinois Environmental Protection Act Section 40(a)(1) and 35 IAC 105.406 to allow us to continue these discussions and to try to resolve this issue.

If, for any reason, the Agency will not seek the 90-day extension, please notify me immediately so that I may file the appeals to the Board. If you have any questions or comments, please do not hesitate to contact me.

Sincerely yours,

BARNES & THORNBURG LLP



Carolyn S. Hesse

CSH/jmr
Enclosure
cc: William Sinnott
Carol L. Rowe
227836v1

CERTIFICATE OF SERVICE


I, the undersigned attorney at law, hereby certify that on July 28, 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

Carolyn S. Hesse
Barnes & Thornburg
Suite 4400
One North Wacker Drive
Chicago, IL 60606-2809

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent



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