

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

MAY 20 2005

PETE'S MARATHON,  
Petitioner,  
v.  
ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,  
Respondent.

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PCB No. 05- 197  
(LUST Appeal - Ninety Day Extension)

STATE OF ILLINOIS  
Pollution Control Board

NOTICE

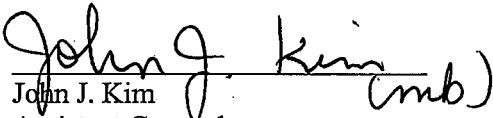
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Marlena Mackie  
3035 Santa Barbara Drive  
Brookfield, WI 53005

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 (mb)  
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: May 18, 2005

MAY 20 2005

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE POLLUTION CONTROL BOARD  
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PETE'S MARATHON, )  
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PROTECTION AGENCY, )  
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Respondent. )

PCB No. 05- 197  
(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 August 17, 2005, 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:

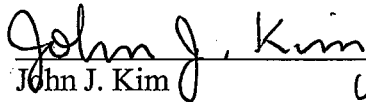
1. On April 12, 2005, the Illinois EPA issued a final decision to the Petitioner.  
(Exhibit A)
2. On April 29, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The Petitioner did not represent when the final decision was received, but tracking information based on the Certified Mail number indicates the final decision was received on April 14, 2005. (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 (mb)

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: May 18, 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

APR 12 2005

7002 3150 0000 1109 4908

Ms. Marlena Mackie  
Attention: Ms. Marlena Mackie  
3035 Santa Barbara Drive  
Brookfield, WI 53005

Re: LPC #1214220017 -- Marion County  
Centralia/Pete's Marathon  
539 South Poplar  
LUST Incident #892101  
LUST FISCAL FILE

Dear Ms. Mackie:

The Agency has completed the review of the request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for the above-referenced facility. The invoices reviewed covered the period from June 18, 2002 to October 31, 2004. The amount requested was \$2,258.39.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the Invoice Voucher dated November 8, 1993. Listed in Attachment A are the costs which are not being reimbursed from this request and the reasons these costs are not being reimbursed.

On March 28, 2005, the Agency received your complete request for payment for this claim. As a result of the Agency's review of this claim, a voucher for \$781.51 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Agency received your complete request for payment of this claim. Subsequent claims that have been/are submitted will be processed based upon the date complete subsequent billings requests are received by the Agency.

This constitutes the Agency's final action with regard to the above invoices. An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 22.18b(g) and Section 40 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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 9  
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-  
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

EXHIBIT

A

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  
99 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
618) 993-7200

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:

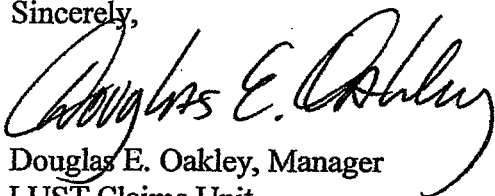
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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

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

**If you have any questions, please contact Theresa Sitton of my staff at 217/782-6762.**

Sincerely,



Douglas E. Oakley, Manager  
LUST Claims Unit  
Planning & Reporting Section  
Bureau of Land

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Attachment

cc: Philip Environmental Services Corp.

Attachment A  
Accounting Deductions

Re: LPC #1214220017 -- Marion County  
Centralia/Pete's Marathon  
539 South Poplar  
LUST Incident No. 892101  
LUST FISCAL FILE

- | <u>Item #</u> | <u>Description of Deductions</u>   |
|---------------|--|
| 1.            | <p>\$0.82, deduction for an adjustment in costs due to a lack of supporting documentation (Section 22.18b(d)(4)(C) of the Environmental Protection Act).</p> <p>Deduction is from Certified Mail Receipt 7000 1670 0005 2479 4712 Wallace West, billed amount \$4.42, receipt amount \$3.60.</p> |
| 2.            | <p>\$1,476.06, deduction for adjustment in legal defense costs (Section 22.18b(d)(4)(C) of the Environmental Protection Act).</p> <p>Deduction is from Lackey &amp; Stevenson P.C. Legal fees.</p>   |

DEO:TS:bjh\052684.doc

**RECEIVED**  
Division of Legal Counsel

MAY 05 2005

**Environmental Protection  
Agency**

Fax to: John Kim, Attorney  
Fax number: 217-782-9807

Fax from: Marlena Mackie  
Fax number: 262/784-8042

Date: April 29, 2005

Regarding: 90 Day Extension and Filing of an Appeal for Expense Reimbursement from  
the LUST FUND

SITE:

LPC 12114220017—Marion County  
Centralia/Pete's Marathon  
539 S. Poplar Street  
LUST Incident #892101  
LUST TECHNICAL FILE

TOTAL NUMBER OF PAGES INCLUDING THIS PAGE: 5

Mr. Kim:

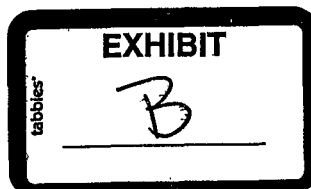
Attached is a copy of the IEPA Final Determination Letter dated April 12, 2005.

I am requesting a 90 day extension during which time I plan to file an Appeal regarding the deduction of the Attorney John Lackey's fees. The fees were for the modification of the ELUC's and HAA's that are legal documents that were a requirement by IEPA to make progress on the above site. Legal documents require an attorney to review them and to modify them. I do not have legal expertise and being an individual with no company I do not have access to legal expertise except to hire an attorney.

On the Determination Letter in Attachment A it states the John Lackey fees were for "Legal Defense Costs". This is not correct.

Thank you for your help.

Marlena Mackie  
262/784-2676 (phone)  
262/784-8042 (fax)



April 29, 2005  
3035 Santa Barbara Drive  
Brookfield, WI. 53005

John Kim, Attorney (FAX: 217/782-9807)  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276  
(217/782-5544)

Re: Request for 90-Day Extension of IEPA Final Determination received April 19, 2005  
LPC #1214220017-Marion County  
Centralia/Pete's Marathon  
539 South Poplar  
LUST Incident #892101

Dear Mr. Kim:

This letter is a request for a 90-day extension of the Final Determination rendered in the communication from IEPA dated April 12, 2005. During the extension period my intent is to file an appeal to receive the reimbursement for the claim that was deducted from my reimbursement request.

The information describing the portions of the submittals that were deducted is detailed in "Attachment A, Item #2" of the IEPA Determination Letter that is attached to this letter. I am attempting to get a reimbursement for the \$1476.06 that was deducted. These costs were for costs to modify and implement the required Highway Authority Agreements and the ELUC's for the LUST SITE cited above.

The billing period was November 1, 2002 to October 31, 2004. The work consisted of Personnel costs and Materials and Expendables for a total payment requested of \$2258.39.

I am trusting that you can assist me in obtaining the extension. This is the same procedure that I used in the past and you were able to assist me. I have faxed a copy of this letter to Mr. James Malcom, III, IEPA Project Manager, for this LUST site

Please advise me if I need to do anything else to help you assist me in obtaining the 90-day extension. I can be reached at the address and the telephone number given on this letter.

Thank you for your assistance in this very complicated, lengthy, and stressful process of soil remediation.

Sincerely,

Marlena Mackie

(262) 784-2676

c: James Malcom (FAX: 217/534-4193)



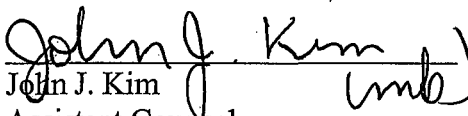
## CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on May 18, 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

Marlena Mackie  
3035 Santa Barbara Drive  
Brookfield, WI 53005

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