

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHN DEERE HARVETER)	
Petitioner,)	
)	
v.)	PCB 22-
)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

NOTICE

Don Brown, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
don.brown@illinois.gov

Michael Best & Friedrich, LLP
Attn: Leah H. Ziemba
One South Pinckney Street, Suite 700
Madison, WI 53703
lhziemba@michaelbest.com

PLEASE TAKE NOTICE that I have today caused to be filed a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



Melanie A. Jarvis
Deputy Chief Counsel – Land Enforcement
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
melanie.jarvis@illinois.gov
Dated: March 15, 2023

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHN DEERE HARVETER)	
Petitioner,)	
)	
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)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
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, Melanie A. Jarvis, Assistant Counsel, 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 June 18, 2023, 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 or about February 08, 2023, the Illinois EPA issued a final decision to the Petitioner.
2. On March 14, 2023, 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 to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about February 13, 2023.

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



Melanie A Jarvis
Deputy Chief Counsel – Land Enforcement
1021 North Grand Avenue, East
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217/782-5544
866/273-5488 (TDD)
melanie.jarvis@illinois.gov
Dated: March 15, 2023

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on March 15, 2023, I served true and correct copies of a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** by the method(s) and to the persons identified below:

Electronic Service

Don Brown, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
don.brown@illinois.gov

Michael Best & Friedrich, LLP
Attn: Leah H. Ziemba
One South Pinckney Street, Suite 700
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Michael Best & Friedrich LLP
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Leah H. Ziemba
T 608.283.4420
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March 14, 2023

Via Email (Melanie.Jarvis@Illinois.gov)

Melanie A. Jarvis
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62794-9276

RE: Notice regarding Request to Extend Appeal Period by 90 Days
1610255045- Rock Island County
East Moline/John Deere Harvester
1800 158th Street
Leaking UST Incident #922654
Leaking UST Technical File

Dear Attorney Jarvis:

On behalf of John Deere Harvester Product Development Center, this letter hereby requests a 90-day extension to file a petition for a hearing with the Illinois Pollution Control Board pursuant to Section 40 of the Environmental Protection Act. The attached decision is dated February 8, 2023 and was received by John Deere Harvester Product Development Center on February 13, 2023.

Please let me know if you have any questions.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP

Leah H. Ziemba

Enc.

cc: Melanie Gotto, Deere & Company (via e-mail)
Jackie Spengler, Deere & Company (via e-mail)
Lisa Meagher, TRC Environmental Corporation (via e-mail)
Mohammed Rahman, IEPA (via-email)
Nathan Fox, Project Manager, IEPA (via-email)



(217) 524-3300

CERTIFIED MAIL

7021 1970 0001 8416 7772

FEB 08 2023

Larry Meyer
John Deere Harvester
1800 158th Street
East Moline, IL 61244

Re: 1610255045 – Rock Island County
East Moline/John Deere Harvester
1800 158th Street
Leaking UST Incident 922654
Leaking UST Technical File

Dear Mr. Meyer:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Completion Report (report) submitted for the above-referenced incident. This report was dated October 18, 2022 and was received by the Illinois EPA on October 21, 2022. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a), the report is rejected for the reason(s) listed below:

The Illinois EPA is requiring a full stage 1 groundwater investigation to be conducted in accordance with 35 Ill. Adm. Code 734.315(2)(B) through (E) to define the extent of groundwater contamination. Pursuant to 734.315(a)(2)(A):

A groundwater investigation is required under the following circumstances:

- i) There is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.
- ii) Free product that may impact groundwater is found to need recovery in compliance with Section 734.215 of this Part; or
- iii) There is evidence that contaminated soils may be or may have been in contact with groundwater, except that, if the owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping, the

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owner or operator does not have to complete a groundwater investigation, unless the Agency's review reveals that further groundwater investigation is necessary.

During excavation activities on October 4, 1994 for the waste oil underground storage tank (UST) groundwater with a thin sheen of yellow brown petroleum floating on the water was encountered at 13 feet below ground surface (bgs)., therefore there is evidence that groundwater has been in contact with contamination.

The Illinois EPA is requiring additional excavation perimeter sampling along the excavation sidewalls. In addition to BTEX and PNAs, the Illinois EPA requires the additional samples to be analyzed for Methylene chloride, RCRA 8 metals, styrene and cis-1,2-dichloroethylene. These chemicals were left out of previous analysis and are required pursuant to Section 734.405(g). The perimeter samples should be collected in accordance with 734.210(h)(2).

- 1) At a minimum, for each UST that is removed, the owner or operator must collect and analyze soil samples as indicated in subsections (h)(1)(A) through (E). The Agency must allow an alternate location for, or excuse the collection of, one or more samples if sample collection in the following locations is made impracticable by site-specific circumstances.
- 2) One sample must be collected from each UST excavation wall. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified on a wall, the sample must be collected from the center of the wall length at a point located one-third of the distance from the excavation floor to the ground surface. For walls that exceed 20 feet in length, one sample must be collected for each 20 feet of wall length, or fraction thereof, and the samples must be evenly spaced along the length of the wall.
- 3) Two samples must be collected from the excavation floor below each UST with a volume of 1,000 gallons or more. One sample must be collected from the excavation floor below each UST with a volume of less than 1,000 gallons. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If areas of contamination cannot be identified, the samples must be collected from below each end of the UST if its volume is 1,000 gallons or more, and from below the center of the UST if its volume is less than 1,000 gallons.
- 4) One sample must be collected from the floor of each 20 feet of UST piping run excavation, or fraction thereof. The samples must be collected from a location representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a length of piping run excavation being sampled, the sample must be collected from the center of the length being sampled. For UST piping abandoned in place, the samples must be collected in accordance with subsection (h)(2)(B) of this Section.

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- 5) If backfill is returned to the excavation, one representative sample of the backfill must be collected for each 100 cubic yards of backfill returned to the excavation.
- 6) The samples must be analyzed for the applicable indicator contaminants. In the case of a used oil UST, the sample that appears to be the most contaminated as a result of a release from the used oil UST must be analyzed in accordance with Section 734.405(g) of this Part to determine the indicator contaminants for used oil. The remaining samples collected pursuant to subsections (h)(1)(A) and (B) of this Section must then be analyzed for the applicable used oil indicator contaminants.

It appears that there may have been a release from the diesel UST system to the east of the waste oil tank. Please submit information confirming or denying whether there has been an additional release at this site.

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 undersigned at (217) 524-1663 or at nathan.d.fox@illinois.gov.

Sincerely,



Nathan Fox
Project Manager
Leaking Underground Storage Tank Section
Bureau of Land

 Attachment: Appeal Rights

c: Lisa Meagher, TRC Environmental Corporation (electronic copy),
lmeagher@trccompanies.com
BOL 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) 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 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:

Clerk of the Board
Illinois Pollution Control Board
James R. Thompson 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
PO Box 19276
Springfield, IL 62794-9276
(217) 782-5544