

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
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DEC 1 2003  
STATE OF ILLINOIS  
Pollution Control Board

ROBERT & TONY THOMPSON, )  
Petitioners, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

PCB No. 04- 85  
(LUST - 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

Carolyn S. Hesse  
Barnes & Thornburg  
One North Wacker Drive  
Suite 4400  
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: November 21, 2003

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STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE POLLUTION CONTROL BOARD  
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ROBERT & TONY THOMPSON,        )  
  Petitioners,                        )  
  v.   )  
ILLINOIS ENVIRONMENTAL         )  
PROTECTION AGENCY,             )  
  Respondent.                        )

PCB No. 04- 85  
(LUST - 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 February 20, 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 October 17, 2003, the Illinois EPA issued a final decision to the Petitioners.  
(Exhibit A)
2. On November 19, 2003, the Petitioners 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 Petitioners represented that the final decision was received on October 18, 2003. (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: November 21, 2003



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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

ROD R. BLAGOIEVICH, GOVERNOR      RENEE CIPRIANO, DIRECTOR

217/782-6762

OCT 17 2003

OCT 18 2003  
JTB

Mr. Robert Thompson  
c/o CW3M Company  
Post Office Box 571  
Carlinville, Illinois 62626

Re: LPC #0030055050 -- Alexander County  
Cairo/Robert & Tony Thompson  
4th & Jefferson  
LUST Incident No. 20020882  
LUST FISCAL FILE

Dear Mr. Thompson:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced LUST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), and 35 Ill. Adm. Code 732, Subpart F. This information is dated April 17, 2003 and was received by the Agency on September 18, 2003. The application for payment covers the period from June 1, 2002 to November 30, 2002. The amount requested is \$30,711.89.

The deductible amount to be assessed on this claim is \$10,000.00, which is being deducted from this payment. In addition to the deductible, there are costs from this claim that are not being paid. Listed in Attachment A are the costs that are not being paid and the reasons these costs are not being paid.

On September 18, 2003, the Agency received your complete application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher for \$19,426.64 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 application for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date complete subsequent application for payment requests are received by the Agency. This constitutes the Agency's final action with regard to the above application(s) for payment.

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) and Section 40 of the Act by filing a

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
ELGIN - 595 South State, Elgin, IL 60124 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5461  
BUREAU OF LAND - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 270-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62714 - (618) 340-5120

A

Page 2

OCT 18 2003  
*JS*

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 applicant 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:

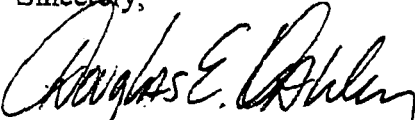
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

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 or require further assistance, please contact Catherine S. Elston of my staff at 217/782-6762.**

Sincerely,

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

DEO:CSE:cr\038410.doc

Attachment

cc: CW3M Company

Attachment A  
Accounting Deductions

OCT 18 2003  
*DB*

Re: LPC #0030055050 -- Alexander County  
Cairo/Robert & Tony Thompson  
4th & Jefferson  
LUST Incident No. 20020882  
LUST Fiscal File

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

Item # Description of Deductions

Rate for per diem is not reasonable -- July 1-31, 2002 - \$6.00  
Rate for per diem is not reasonable -- October 1-31, 2002 - \$26.00  
Rate for mileage is not reasonable -- July 1-31, 2002 - \$5.10  
Rate for mileage is not reasonable - October 1-31, 2002 - \$26.40  
Rate for Field Supervisor/Coordinator is not reasonable -- October 1-31, 2002 - \$88.00  
Rate for Trackhoe is not reasonable -- October 1-31, 2002 - \$33.75  
Mobilization/Demobilization for backhoe and trackloader is not reasonable - \$1,100.00

CSE:ct\03832.doc

# 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

November 19, 2003

## VIA FACSIMILE & FEDERAL EXPRESS

Mr. John Kim  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

**RECEIVED**  
Division of Legal Counsel  
NOV 20 2003  
Environmental Protection  
Agency

Re: LPC #0030055050 -- Alexander  
Cairo / Robert and Tony Thompson  
4<sup>th</sup> and Jefferson  
LUST Incident #20020882  
LUST FISCAL FILE

Dear John:

On October 17, 2003, the Agency issued a letter with respect to the above referenced LUST Incident regarding the payment, in part, of costs for which reimbursement was requested.

The letter was received on October 18, 2003. The amount requested for reimbursement was \$30,711.89.

The letters were received by CW3M on behalf of Mr. Robert Thompson. Mr. Thompson's facility is located in Alexander County, Illinois. A copy of the letter is attached. CW3M believes that, based upon discussions with the Illinois Environmental Protection Agency and for other reasons, that we will be able to resolve the issues raised in the IEPA letters. 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 the needed time to continue these discussions and to try to resolve the issues.

On November 18, 2003, we discussed this request for a time extension and agreed to such a time extension. If for any reason the Agency will not seek the 90 day extension, please notify

— **B** —

Mr. John Kim  
November 19, 2003  
Page 2

me no later than the close of business on November 20, 2003, so that I may file the appropriate appeals to the Board. If you have any questions or comments, please do not hesitate to contact me.

Sincerely yours,

**BARNES & THORNBURG**

A handwritten signature in cursive script that reads "Carolyn S. Hesse". The signature is written in black ink and is positioned above the printed name.

Carolyn S. Hesse

CSH/jmr  
Enclosure

cc: William Sinnott  
Carol L. Rowe

183606v1



**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on November 21, 2003, 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  
One North Wacker Drive  
Suite 4400  
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent



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