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SEP 28 2004

STATE OF ILLINOIS
Pollution Control Board

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

HAROLD HART SERVICE,)	
Petitioner,)	
v.)	PCB No. 05- <i>61</i>
ILLINOIS ENVIRONMENTAL)	(LUST Appeal – 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

Christina E. Manuel
Livingston Law Firm
4972 Benchark Centre
Suite 100
Swansea, IL 62226

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: September 24, 2004

SEP 28 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

HAROLD HART SERVICE,)	
Petitioner,)	
v.)	PCB No. 05- 61
ILLINOIS ENVIRONMENTAL)	(LUST Appeal – 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 December 27, 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. The 125th day is December 26, 2004, a Sunday, and December 27th is the next business day. In support thereof, the Illinois EPA respectfully states as follows:

1. On August 19, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On September 21, 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. Information provided by the Petitioner represents that the final decision was received on August 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
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P.O. Box 19276
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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

RECEIVED

AUG 23 2004

AUG 19 2004

Harold Hart Service
2605 College Avenue
Alton, Illinois 62002

Re: LPC #1190105061 -- Madison County
Alton/Harold Hart Service
2605 College Avenue
LUST Incident No. 981766
LUST FISCAL FILE

Dear Mr. Hart:

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 July 12, 2004 and was received by the Agency on September 14, 1999. The application for payment covers the period from August 26, 1998 to November 17, 1998. The amount requested is \$31,024.20.

The deductible amount to be assessed on this claim is \$15,000.00, 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 July 14, 2004, 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 cannot be prepared for submission to the Comptroller's office 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 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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-1100
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 278-5800
MARION - 2309 W. Main Street, Marion, IL 62959 - (618) 993-7200
W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
25 South First Street, Champaign, IL 61820 - (217) 278-5800
09 Mall Street, Collinsville, IL 62234 - (618) 346-5120
618) 993-7200

tabbies
EXHIBIT
A

Page 2

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:

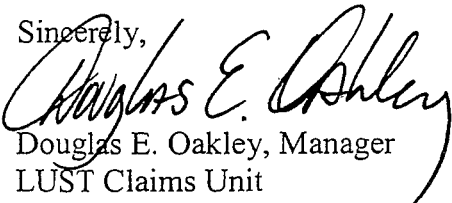
Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620

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 Lieura Hackman of my staff at 217/782-6762.

Sincerely,


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

DEO:LH:ct\041443.doc

Attachment

cc: Safety Partners, Inc.
Christina E. Manuel

Attachment A
Accounting Deductions

Re: LPC #1190105061 -- Madison County
Alton/Harold Hart Service
2605 College Avenue
LUST Incident No. 981766
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

1. None of the costs incurred from September 11, 1998 to November 17, 1998 are eligible for reimbursement. To be considered for reimbursement, early action activities must be performed within 45 days after initial notification to the Illinois Emergency Management Agency of a release. The costs in question were not incurred within the time allowed for such reimbursement. (35 Ill. Adm. Code 732.202(g))

Personnel Costs in the amount of \$6,927.50 for work done from September 11, 1998 to November 17, 1998:

W. Watt	\$650.00	September 11, 1998
T. Dixon	\$360.00	September 11, 1998
W. Watt	\$585.00	September 17, 1998
T. Dixon	\$360.00	September 17, 1998
W. Watt	\$650.00	September 21, 1998
J. Brown	\$405.00	September 21, 1998
T. Eisenberg	\$200.00	September 21, 1998
W. Watt	\$617.50	September 22, 1998
J. Brown	\$360.00	September 22, 1998
T. Eisenberg	\$120.00	September 22, 1998
T. Eisenberg	\$400.00	September 28, 1998
T. Eisenberg	\$560.00	September 29, 1998
B. Miller	\$560.00	September 30, 1998
B. Miller	\$320.00	October 5, 1998
B. Miller	\$400.00	October 9, 1998
M. Trgovich	\$110.00	October 9, 1998
M. Trgovich	\$110.00	October 12, 1998
T. Eisenberg	\$160.00	November 17, 1998

Stock Items in the amount of \$230.15 were made for items used from September 11, 1998 to November 17, 1998.

Sample Jars in the amount of \$38.75 (these items were denied based on the dates the analyses were conducted).

Samples Gloves in the amount of \$11.40 (these items were denied based on the dates the analyses were conducted).

Mileage in the amount of \$108.00, this deduction was based on the number of days worked prior to the early action completion date.

Barricades in the amount of \$72.00, this deduction was based on the number of days worked prior to the early action completion date.

Equipment in the amount of \$445.25 was denied for items used from September 11, 1998 to November 17, 1998.

A deduction of \$250.25 was made on the amount requested for Trucks (cute 38.5 hours @ \$6.50 per hour).

A deduction of \$135.00 was made for tool rental (3 days @ \$45.00)

A deduction of \$60.00 was made for sample probe this deduction was based on the dates the analyses were conducted.

Field Purchases in the amount of \$82.80 were denied for items purchased beyond the early action completion date of September 10, 1998:

Photosheets on October 6, 1998 in the amount of \$18.00

Photosheets on October 9, 1998 in the amount of \$12.00

Jackhammer rental on September 11, 1998 in the amount of \$42.80

Aerial maps on September 22, 1998 in the amount of \$10.00

Subcontractors: deductions in the amount of \$12,125.36 was made for costs incurred beyond the early action completion date of September 10, 1998:

ATAS invoice #S21440 in the amount of \$127.40

ATAS invoice #S21485 in the amount of \$1,548.00

ATAS invoice #S21329 in the amount of \$1,194.00

Gateway Petroleum invoice #1420 in the amount of \$435.00

VB Construction invoice #9996 in the amount of \$480.00

VB Construction invoice #2014 in the amount of \$815.76

VB Construction invoice #2021 in the amount of \$358.88

Bluff City Minerals Co. invoice #6794 in the amount of \$64.93

Bluff City Minerals Co. invoice #6980 in the amount of \$87.22

Bluff City Minerals Co. invoice #6981 in the amount of \$63.32

Bluff City Minerals Co. invoice #7241 in the amount of \$316.53
Milan Recycling invoice #318-005126 in the amount of \$1,967.00
River Bend Contractors invoice #973439 in the amount of \$678.58
River Bend Contractors invoice #973459 in the amount of \$3,988.74

- 2. \$2,730.84, deduction for costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs were not used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).

The following deductions were made because the dates of the costs were not included in the certified billing period:

Personnel costs for:

T. Eisenberg	\$160.00	on November 18, 1998
T. Eisenberg	\$640.00	on January 14, 1999
W. St. Peters	\$1,360.00	no date
N. Volentine	\$560.00	no date

Field Purchases:

Film & development \$10.84 July 27 & July 30, 1998

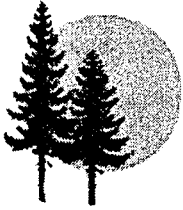
- 3. \$100.00, deduction for costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs were not used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act (Section 57.5(a) of the Act and 35 Ill. Adm. Code 732.606(o)).

This deduction was made on the amount requested for the OSFM permit, there was no receipt submitted as documentation of the cost.

- 4. \$1,320.85, adjustment in the handling charges due to the deduction(s) of ineligible costs (Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607).

A deduction of \$23.24 for handling charges were made on the ineligible Field Purchases.

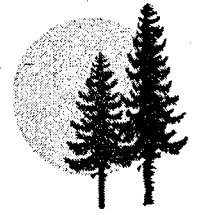
A deduction of \$1,297.61 for handling charges were made on the ineligible Subcontractors costs.



LIVINGSTON LAW FIRM

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ATTORNEYS AT LAW

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September 21, 2004

Mr. John Kim, Esq.
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Via U.S. Mail and fax

RE: Harold Hart, LUST Incident No. 981766

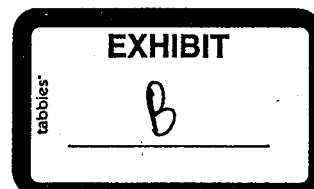
Dear Mr. Kim:

Per the Agency's final decision letter of August 19, 2004, please consider this Mr. Hart's written request for a ninety (90) day extension in order to file an Appeal. I have attached a copy of the Agency's final decision letter.

Thank you for your agreement in this matter. Should you need further information or have questions, please do not hesitate to contact myself or Penni S. Livingston at this office. Thank you.

Sincerely,

Christina E. Manuel
Attorney at Law



CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on September 24, 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

Christina E. Manuel
Livingston Law Firm
4972 Bencharck Centre
Suite 100
Swansea, IL 62226

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



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