

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

OCT 26 2004

BILL CARTER, d/b/a/  
CARTER CONVENIENCE,

Petitioner,

v.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Respondent.

STATE OF ILLINOIS  
Pollution Control Board

PCB 05-15  
(UST Appeal)

NOTICE OF FILING

TO: John Kim  
Special Assistant Attorney General  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Carol Sudman  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274

PLEASE TAKE NOTICE that on October 26, 2004, filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original, executed copy of a Petition for Review of Illinois Environmental Protection Agency Decision.

Dated: October 26, 2004

Respectfully submitted,

Bill Carter d/b/a Carter Convenience Store

By: Carolyn S Hesse  
One of Its Attorneys

Carolyn S. Hesse  
Barnes & Thornburg LLP  
One North Wacker Drive  
Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313  
243060v1

CERTIFICATE OF SERVICE

I, on oath state that I have served the attached Petition for Review of Illinois Environmental Protection Agency Decision. by placing a copy in an envelope addressed to:

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

Carol Sudman  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274

from One North Wacker Drive, Suite 4400, Chicago, Illinois, before the hour of 5:00 p.m., on this 26<sup>th</sup> Day of October, 2004.



Carolyn S. Hesse

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

OCT 26 2004

STATE OF ILLINOIS  
Pollution Control Board

BILL CARTER, d/b/a )  
CARTER CONVENIENCE STORE, )  
 )  
Petitioner, ) ..  
 )  
v. ) PCB 05-15  
 ) (UST Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

**PETITION FOR REVIEW OF ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY DECISIONS**

Bill Carter d/b/a Carter Convenience Store, by their attorney, Carolyn S. Hesse of Barnes & Thornburg, pursuant to the Illinois Environmental Protection Act, 415 ILCS 5/1 *et. seq.* (the "Act") and 35 Illinois Administrative Code Section 105.400 *et. seq.*, hereby appeals certain decisions by the Illinois Environmental Protection Agency (the "Agency").

1. Bill Carter d/b/a Carter Convenience Store ("Carter") is the owner of a convenience store with a gasoline service station located at 829 Loy Street, Mill Shoals, White County, Illinois (the "Station"). This gasoline service station had underground storage tanks (UST's) on the property, which stored gasoline and diesel fuel.
2. LUST Incident Numbers 20000788 and 20020190 were obtained following a site investigation. The site has also been assigned LPC #1934305002-White County.
3. On May 12, 2004, Petitioner sent to the Agency a High Priority Corrective Action Plan Budget Amendment (the "Budget Amendment") to perform

corrective action at the Station. (See Exhibit 1.) The Agency received this document on May 13, 2004. The Budget included signed certifications to the effect that the submitted Budget complied with the Environmental Protection Act. (See Exhibit 1, 3<sup>rd</sup> page.)

4. On June 22, 2004, the Agency sent a letter to Petitioner rejecting the High Priority Corrective Action Plan Budget Amendment (See Exhibit 2.) The letter stated as follows:

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

\* \* \*

The Illinois EPA previously notified the owner or operator of its final action. Further, in accordance with 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.

The letter then goes on to state that Petitioner has the right to appeal this decision to the Illinois Pollution Control Board.

5. The Agency's letter provides no additional information regarding why IEPA disapproved the Budget.
6. Petitioner is appealing the Agency's decision letter dated June 22, 2004.
7. The parties timely filed a joint notice to extend the 35-day period for Carter to file this appeal. (See Exhibit 4.)
8. By Order dated August 5, 2004, the Illinois Pollution Control Board extended the appeal period to October 26, 2004. (See Exhibit 5.)

9. Petitioner's submittal dated May 12, 2004 to the Illinois EPA included a detailed budget and in its cover letter for the Budget Amendment, the consultant provided to the Illinois EPA responses to questions the Illinois EPA asked in prior correspondence to Carter. (See Exhibit 3.)
10. The letter from Carter's consultant to the Agency dated May 12, 2004 that forwards the Budget Amendment states that:

The costs and personnel hours proposed are based on actual field costs, which were incurred and necessary to meet all technical, regulatory and safety requirement.
11. Section 732.405(e) provides as follows:
  - e) 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.
12. Carter's Budget Amendment provides costs that are necessary to comply with the Act.
13. Under the terms of Section 732.405(e), the Agency is required to review the revised Budget in accordance with the procedures contained in Subpart E of part 732. Illinois EPA has failed to perform the detailed review required by Subpart E, Section 732.505.
14. Petitioner has determined that revised cost estimates are necessary in order to comply with the minimum required activities for the site and that the costs IEPA previously approved are not adequate to allow Petitioner to

comply with the Act or to perform the work described in the approved CAP.

15. Petitioner's costs to perform the work as set forth in the revised Budget are reasonable costs.

WHEREFORE, Bill Carter d/b/a Carter Convenience Store respectfully requests that the Board enter an order requiring the Agency to approve the High Priority Corrective Action Plan Budget Amendment to allow Bill Carter d/b/a Carter Convenience Store to cover the costs of the cleanup at this facility and for Bill Carter d/b/a Carter Convenience Store's fees and costs in bringing this appeal.

Respectfully submitted,

**Bill Carter d/b/a Carter Convenience Store**

By: Carolyn S. Hesse  
One of Their Attorneys

Carolyn S. Hesse, Esq.  
Barnes & Thornburg LLP  
One North Wacker Drive  
Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313

243030v1

May 12, 2004

Mr. Steve Jones, Project Manager  
LUST Section, Bureau of Land  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276

RE: LPC #1934305002—White County  
Mill Shoals/Carter Convenience Store/Bill Carter  
829 Loy Street  
Incident Number: 02-0190  
LUST Technical Report—High Priority Corrective Action Budget

Dear Mr. Jones:

Enclosed, please find the High Priority Corrective Action Budget Amendment, in response to your April 3, 2003 letter for Incident Number 02-0190. Deductions made will be referenced by the number by which they are labeled in Attachment A of the above-referenced letter.

#6.) A further breakdown and description of the tasks designated as CA Status Reports/CA Arrangements/Mobilizations has been attempted in this submittal per the Agency's request. If the breakdown provided in this submittal is insufficient, please refer to the reimbursement package which was previously submitted for a breakdown by the quarter hour of all costs. Included in these hours are tasks ranging from site assessment activities (mapping, waste characterization sampling) to a status report.

#7.) It appears that these costs were effectively deducted twice by the Agency. The rate for the mileage is being cut for the mileage for personnel in the excavation and disposal as well as in the backfilling sections of the budget. However, it then appears that the mileage is included in deductions #8 & #9, where all excavation and disposal costs are deducted at what appears to be an overall unit rate.

#3, #4, #8, & #9.) Deductions were made of the excavation and disposal costs and the backfill costs to an overall unit rate for each. They were not evaluated on a time and material basis.

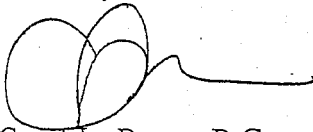
Additionally, the Agency's letter dated April 3, 2003 states that, "additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable." It is in accordance with this statement that this letter is being

provided. The information which is required for the demonstration may be found amongst this letter, the previous submittal, and the reimbursement request previously submitted. It is therefore requested that the information in the Agency's file be given a further review in order to review the excavation and disposal costs on a time and material basis. The costs and personnel hours proposed are based on actual field costs, which were incurred and were necessary to meet all technical, regulatory and safety requirements.

In accordance with the above discussion, a budget amendment has been prepared. A time and materials breakdown has not been provided since it is impossible to determine, because the deductions made by the Agency have not been completed on a time and material basis.

If you have any questions or require additional information, please do not hesitate to contact Mr. Jeff Wienhoff or me at (217) 522-8001.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carol L. Rowe', with a long horizontal flourish extending to the right.

Carol L. Rowe, P.G.  
Senior Environmental Geologist

xc: Mr. Bill Carter, *Carter Convenience Store*  
Mr. William T. Sinnott, *CW<sup>2</sup>M Company, Inc.*

H:\Carter\Cap\EA-CA cl.doc



Illinois Environmental Protection Agency

Owner/Operator and Professional Engineer Budget Certification Form for Leaking Underground Storage Tanks Sites

In accordance with 415 ILCS 5/57, if an owner or operator intends to seek payment from the UST Fund, an owner or operator must submit to the Agency, for the Agency's approval or modification, a budget which includes an accounting of all costs associated with the implementation of the investigative, monitoring and/or corrective action plans.

I hereby certify that I intend to seek payment from the UST Fund for performing Corrective Action activities at Carter Convenience Store LUST site. I further certify that the costs set forth in this budget are necessary activities and are reasonable and accurate to the best of my knowledge and belief. I also certify that the costs included in this budget are not for corrective action in excess of the minimum requirements of 415 ILCS 5/57 and no costs are included in this budget which are not described in the corrective action plan. I further certify that costs ineligible for payment from the Fund pursuant to 35 Illinois Administrative Code Section 732.606 are not included in the budget proposal or amendment. Such ineligible costs include but are not limited to:

- Costs associated with ineligible tanks.
- Costs associated with site restoration (e.g., pump islands, canopies).
- Costs associated with utility replacement (e.g., sewers, electrical, telephone, etc.).
- Costs incurred prior to IEMA notification.
- Costs associated with planned tank pulls.
- Legal defense costs.
- Costs incurred prior to July 28, 1989.
- Costs associated with installation of new USTs or the repair of existing USTs.

Owner/Operator: William Carter Title: Owner

Signature: William J. Carter Date: 1/21/04

Subscribed and sworn to before me the 21<sup>st</sup> day of January, 2004  
(Budget Proposals and Budget Amendments must be notarized when the certification is signed.)

[Signature]  
(Notary Public) OFFICIAL SEAL  
CAROL L. ROWE  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 2-26-2005

P.E.: \_\_\_\_\_

P.E. Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Subscribed and sworn to before me the 12<sup>th</sup> day of May, 2004  
(Budget Proposals and Budget Amendments must be notarized when the certification is signed.)

[Signature]  
(Notary Public) Seal:

The Agency is authorized to require this information under 415 ILCS 5/1. Disclosure of this information is required. Failure to do so may result in the delay or denial of any budget or payment requested hereunder. This form has been approved by the Forms Management Center.

OFFICIAL SEAL  
CAROL L. ROWE  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 2-26-2005



If eligible for reimbursement where should reimbursement checks be sent? Please note that only owners or operators of USTs may be eligible for reimbursement. Therefore, payment can only be made to an owner or operator.

Pay to the order of: Carter Convenience Store

Send in care of: CW<sup>3</sup>M Company, Inc.

Address: P.O. Box 571

City: Carlinville State: Illinois Zip: 62626

Number of Petroleum USTs in Illinois presently owned or operated by the owner or operator; any subsidiary, parent or joint stock company of the owner or operator, and any company owned by any parent, subsidiary or joint stock company of the owner or operator:

Fewer than 101: X 101 or more: \_\_\_\_\_

Number of USTs at the site: 5 (Number of USTs includes USTs presently at the site and USTs that have been removed.)

Number of incidents reported to IEMA: 2

Incident Numbers assigned to the site due to releases from USTs: 2000-0788, 2002-0190

Please list all tanks which have ever been located at the site and are presently located at the site.

Product Stored	Size (gallons)	Did UST have a release?		Incident No.	Type of Release
<u>Gasoline</u>	<u>4,000</u>	<u>Yes</u>	<u>No</u>	<u>02-0190</u>	<u>Overfills &amp; Piping</u>
<u>Gasoline</u>	<u>4,000</u>	<u>Yes</u>	<u>No</u>	<u>02-0190</u>	<u>Overfills &amp; Piping</u>
<u>Gasoline</u>	<u>4,000</u>	<u>Yes</u>	<u>No</u>	<u>02-0190</u>	<u>Overfills &amp; Piping</u>
<u>Diesel</u>	<u>2,000</u>	<u>Yes</u>	<u>No</u>	<u>02-0190</u>	<u>Overfills &amp; Piping</u>
<u>Used Oil</u>	<u>2,000</u>	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____

## B. PROPOSED BUDGET SUMMARY AND BUDGET TOTAL

1. Investigation Costs:	\$	-
2. Analysis Costs:	\$	-
3. Personnel Costs:	\$	16,094.85
4. Equipment Costs:	\$	-
5. Field Purchases and Other Costs:	\$	19,209.55
6. Handling Charges:	\$	-

TOTAL PROPOSED BUDGET = \$ 35,304.40

**G. PERSONNEL**

All personnel costs that are not included elsewhere in the budget/billing form must be listed here. Costs must be listed per task, not personnel type. The following are some examples of tasks: Drafting, data collection, plan, report, or budget preparation for Supervising (i.e., site classification work plan, 45 day report, or high priority corrective action budget), sampling, field oversight for CAP Dev.& (i.e., drilling/well installation, corrective action, or early action) of maintenance of Carter. The above list is not inclusive of all possible tasks.

Environmental Personnel for Excavation hours x \_\_\_\_\_ per hour = \$ 3,420.02  
 (Title)

Task to be performed for the above hours: Hours were detailed and broken down in previous budget. Deducted dollars are being submitted per cover letter.

Environmental Personnel for Backfill hours x \_\_\_\_\_ per hour = \$ 5,010.08  
 (Title)

Task to be performed for the above hours: Hours were detailed and broken down in previous budget. Deducted dollars are being submitted per cover letter.

\_\_\_\_\_ hours x \_\_\_\_\_ per hour = \$ -  
 (Title)

Task to be performed for the above hours:

\_\_\_\_\_ hours x \_\_\_\_\_ per hour = \$ -  
 (Title)

Task to be performed for the above hours:

\_\_\_\_\_ hours x \_\_\_\_\_ per hour = \$ -  
 (Title)

Task to be performed for the above hours:

\_\_\_\_\_ hours x \_\_\_\_\_ per hour = \$ -  
 (Title)

Task to be performed for the above hours:

\_\_\_\_\_ hours x \_\_\_\_\_ per hour = \$ -  
 (Title)

Task to be performed for the above hours:

\_\_\_\_\_ hours x \_\_\_\_\_ per hour = \$ -  
 (Title)

Task to be performed for the above hours:

**G. PERSONNEL CAP DEVELOPMENT**

All personnel costs that are not included elsewhere in the budget/billing form must be listed here. Costs must be listed per task, not personnel type. The following are some examples of tasks: Drafting, data collection, plan, report, or budget preparation for CAP & (i.e., site classification work plan, 45 day report, or high priority corrective action budget), sampling, field oversight for CAP Dev.& (i.e., drilling/well installation, corrective action, or early action)of maintenance of Carter. The above list is not inclusive of all possible tasks.

Environmental Engineer 10 hours x \$ 100.00 per hour = \$ 1,000.00  
(Title)

Task to be performed for the above hours: CA Status Report/Review

Environmental Engineer 4.5 hours x \$ 100.00 per hour = \$ 450.00  
(Title)

Task to be performed for the above hours: CA Documentation/Analytical Review/Site Assessment

Senior Env. Geologist 5 hours x \$ 92.00 per hour = \$ 460.00  
(Title)

Task to be performed for the above hours: CA Status Report/Review

Senior Env. Geologist 14 hours x \$ 100.00 per hour = \$ 1,400.00  
(Title)

Task to be performed for the above hours:

General Project Manager 2.5 hours x \$ 81.00 per hour = \$ 202.50  
(Title)

Task to be performed for the above hours: CA Status Report/Review

Env. Project Geologist 13.25 hours x \$ 81.00 per hour = \$ 1,073.25  
(Title)

Task to be performed for the above hours: CA Status Report/Review

Env. Project Geologist 11 hours x \$ 81.00 per hour = \$ 891.00  
(Title)

Task to be performed for the above hours: Site Assessment/CA Arrangements/Landfill/Subcontractor

Env. Project Scientist 11 hours x \$ 81.00 per hour = \$ 891.00  
(Title)

Task to be performed for the above hours: Site Investigation/Site Mapping/Utility Locate







### INVESTIGATION & CAP DEVELOPMENT

Other Costs - A listing and description of all other costs which will be/were incurred and are not specifically listed on this form should be attached. The listing should include a cost breakdown in a time and materials format.

Other Costs	No.	Rate	Cost
Copies	0	\$ 0.10	\$ - ..
Mileage for CW <sup>3</sup> M trips	0.00	\$ 0.38	\$ -
Double Cut of Milage			\$ 194.00
Per Diem	0.00	\$ 36.00	\$ -
<b>Total Other</b>			<b>\$ 194.00</b>

TOTAL OTHER COSTS = \$ 19,209.55

Subtotal Page I-2	\$ 194.00
<b>Total (Pages I-1 and I-2)</b>	<b>\$ 19,209.55</b>

I-2

This form must be submitted in duplicate



# 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

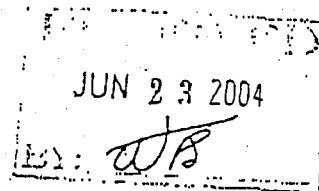
JUN 22 2004

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

CERTIFIED MAIL

7002 3150 0000 1257 6861



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)).

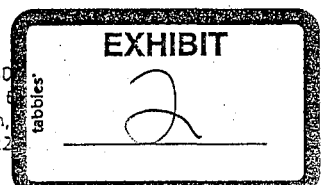
1. In accordance with Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b), any action by the Illinois EPA to disapprove or modify a plan or budget submitted pursuant to Title XVI of the Act shall be provided to the owner or operator in writing within 120 days of receipt.

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 61105 - (815) 998-3300  
 ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3300  
 BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 673-3300  
 SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 782-3300  
 MARION - 2309 W. Main Street, Marion, IL 62959 - (217) 993-7200

7 V. Harrison St., Des Plaines, IL 60018 - (708) 421-3300  
 City St., Peoria, IL 61614 - (309) 673-3300  
 25 South First Street, Champaign, IL 61820 - (217) 244-3300  
 9 Mall Street, Collinsville, IL 62234 - (618) 993-7200



UNRECORDED  
JUN 23 2004  
BY: *WJS*

Page 2

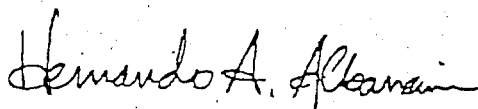
Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

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  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

HAA:SN\Carter HPCAP BUD Amend 1.doc

Attachments: Appeal Rights

cc: CW3M Company  
Division File

JUN 23 2004  
JTB

### 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



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. BLAGOJEVICH, GOVERNOR      RENEE CIPRIANO, DIRECTOR

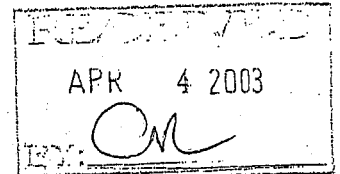
217/782-6762

CERTIFIED MAIL

7002 2030 0001 1522 1033

APR 03 2003

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

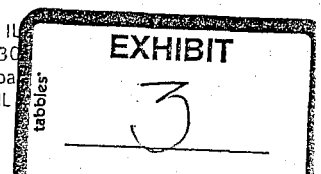
Dear Mr. Carter:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan Budget (budget) submitted for the above-referenced incident. This budget, dated March 3, 2003, was received by the Illinois EPA on March 3, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The budget is modified pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of reimbursement may be limited by Sections 57.8(e), 57.8(g) and 57.8(d) of the Act, as well as 35 Ill. Adm. Code 732.604, 732.606(s), and 732.611.

All future correspondence must be submitted to:

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



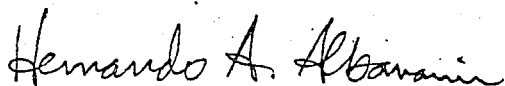
Page 2

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

Unit Manager

Leaking Underground Storage Tank Section

Division of Remediation Management

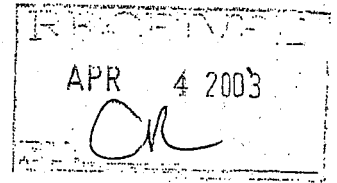
Bureau of Land

HAA:SJC<sup>2</sup>Carter HPCAP BUD.doc

Attachments: Attachment A  
Appeal Rights

cc: CW3M Company  
Division File

Attachment A



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

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

SECTION 1

As a result of the Illinois EPA's modification(s) in Section 2 of this Attachment A, the following amounts are approved:

\$0.00	Investigation Costs
\$2,720.00	Analysis Costs
\$16,858.40	Personnel Costs
\$0.00	Equipment Costs
\$34,579.90	Field Purchases and Other Costs
\$4,564.24	Handling Charges

SECTION 2

1. \$120.00 for an adjustment in costs for soil PNA analyses. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
2. \$5.00 for an adjustment in soil phenols analysis. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
3. \$3,420.02 for an adjustment in unreasonable personnel costs associated with excavation and disposal activities. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code

732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.

Total costs for excavation and disposal activities are unreasonable. Therefore, the Personnel Costs amount and Field Purchases and Other Costs amount have been proportionally modified to a more reasonable cost.

4. \$5,010.08 for an adjustment in personnel costs associated with backfilling activities. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.

Total costs for backfilling activities are unreasonable. Therefore, the Personnel Costs amount and Field Purchases and Other Costs amount have been proportionally modified to a more reasonable cost.

5. \$1,163.50 for an adjustment in costs for reimbursement. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
6. \$7,600.25 for CAP development personnel costs that lack supporting documentation (35 Ill. Adm. Code 732.606(gg)). A corrective action plan budget for a site classified as high priority must include, but not be limited to, an accounting of all costs associated with the development, implementation, and completion of the applicable activities (Section 57.7(c)(1)(B) of the Act and 35 Ill. Adm. Code 732.405(b)). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be 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 owner or operator must provide documentation detailing the specific tasks performed by all personnel for the CAP development and the number of hours associated with each task.

7. \$194.00 for an adjustment in mileage costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs



APR 4 2003  
CR

associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.

8. \$8,145.83 for an adjustment in field purchases and other costs associated with excavation and disposal activities. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.

Total costs for excavation and disposal activities are unreasonable. Therefore, the Personnel Costs amount and Field Purchases and Other Costs amount have been proportionally modified to a more reasonable cost.

9. \$10,869.72 for an adjustment in field purchases and other costs associated with backfilling activities. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.

Total costs for backfilling activities are unreasonable. Therefore, the Personnel Costs amount and Field Purchases and Other Costs amount have been proportionally modified to a more reasonable cost.

## 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

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

BILL CARTER d/b/a CARTER )  
CONVENIENCE STORE, )  
Petitioner, )  
v. ) PCB No. 05-  
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

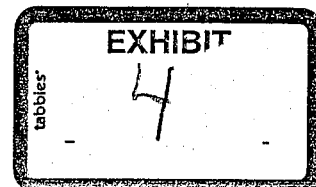
PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, copies of which are herewith served upon you.

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



7

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

BILL CARTER d/b/a CARTER	)	
CONVENIENCE STORE,	)	
Petitioner,	)	
v.	)	PCB No. 05-
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  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)  
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

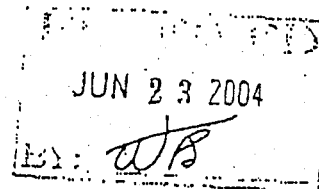
217/782-6762

CERTIFIED MAIL

7002 3150 0000 1257 6861

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).

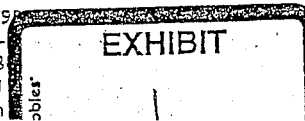
The budget amendment is rejected for the reason(s) listed below (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c) and 732.503(b)).

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) 224-3300  
 SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 782-3300  
 MARION - 2309 W. Main Street, Marion, IL 62959 - (217) 993-7200



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  
 999 MAIN STREET, COLLINSVILLE, IL 62234 - (618) 346-5120  
 (217) 993-7200

RECEIVED  
JUN 23 2004  
BY: *WTS*

Page 2

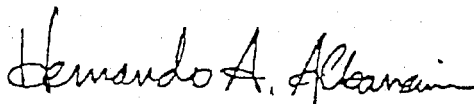
Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

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  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

HAA:SJCarter 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

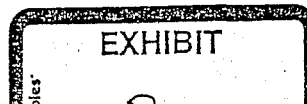
Environmental Protection  
Agency

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

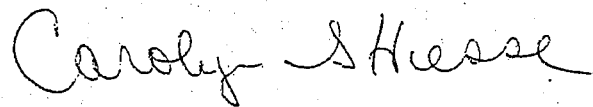
It appears that the Agency did not review these documents in accordance with the procedures contained in Subpart E.

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



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)

ILLINOIS POLLUTION CONTROL BOARD  
August 5, 2004

BILL CARTER d/b/a CARTER	)	
CONVENIENCE STORE,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 05-15
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	(90-Day Extension)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

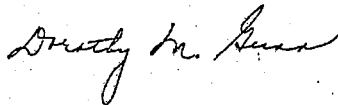
ORDER OF THE BOARD (by J.P. Novak):

On July 30, 2004, the parties timely filed a joint notice to extend the 35-day period within which Bill Carter d/b/a Carter Convenience Store may appeal a June 22, 2004 determination of the Illinois Environmental Protection Agency (Agency). See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402, 105.406. Because the postmark date of the joint request is within the time for filing, the joint request was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency rejected petitioner's high priority corrective action budget amendment for Bill Carter d/b/a Carter Convenience Store's leaking underground petroleum storage tank facility located at 809 Loy Street, Mill Shoals, White County.

The Board extends the appeal period until October 26, 2004, as the parties request. See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. If Bill Carter d/b/a Carter Convenience Store fails to file an appeal on or before that date, the Board will dismiss this case and close the docket.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 5, 2004, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

