

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

JUL 30 2004

STATE OF ILLINOIS
Pollution Control Board

JOHNSON OIL COMPANY,)
)
Petitioner,)
)
vs.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 04-190
(LUST Appeal)

NOTICE OF FILING

To: John Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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

PLEASE TAKE NOTICE that I have today, July 27, 2004, filed with the Clerk of the Illinois Pollution Control Board a PETITION FOR REVIEW of a certain final Illinois Environmental Protection Agency Decision, a copy of which is herewith served upon you through overnight courier or United States Mail.

Respectfully Submitted,

JOHNSON OIL COMPANY, LLC OF INDIANA
Petitioner



Dick Johnson, Managing Member
Johnson Oil Company, LLC
P.O. Box 27
Columbus, Indiana 47202

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

JOHNSON OIL COMPANY, LLC,)

Petitioner,)

vs.)

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,)

Respondent.)

PCB No. 04-190
(LUST Appeal)

RECEIVED
CLERK'S OFFICE
JUL 30 2004
STATE OF ILLINOIS
Pollution Control Board

**PETITION FOR REVIEW OF FINAL AGENCY
LEAKING UNDERGROUND STORAGE TANK DECISION**

The petitioner, Johnson Oil Company, LLC ("Johnson Oil"), pursuant to Sections 40(a)(1) and 57.7(c)(4)(D) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1) and 57.7(c)(4)(D)) and 35 Ill. Adm. Code 105.400-412, hereby requests that the Illinois Pollution Control Board ("Board") review the final decision of the Illinois Environmental Protection Agency ("Agency") in the above-referenced case. In support thereof, Johnson Oil respectfully states as follows:

I. Facts and Procedural History

1. Johnson Oil formerly owned and operated a gasoline service station on property located at 629 West Champaign Road, Rantoul, Champaign County, Illinois (the "Site"). On August 2, 2000, Johnson Oil reported a release of petroleum at the Site and the Site was assigned Incident No. 20001456. Johnson Oil retained American Environmental Corporation to complete Site Investigation and Corrective Action, including preparation of Site Investigation and Corrective Action Plans.
2. On November 17, 2003, American Environmental Corporation submitted on behalf of Johnson Oil a High Priority Corrective Action Plan

("HPCAP") and Budget for investigation to define the extent of contamination and for a pilot study to evaluate the Method of Multi-phase Extraction to remediate contamination.

3. On March 19, 2004, the Agency issued a Final Decision to Johnson Oil in which the HPCAP was approved with modifications to the Budget, a copy of which is attached hereto as Exhibit A.
4. On April 27, 2004, Johnson Oil made written request to the Agency for an extension of time by which to file a petition for review. The Agency joined in Johnson Oil's request that the Board extend the thirty-five day period for filing a Petition for Review by an additional ninety days, a copy of which is attached hereto as Exhibit B.
5. On May 6, 2004 the Board entered an Order to extend the time in which Johnson Oil could file a Petition for Review for an additional ninety days, up to and including July 28, 2004, a copy of which is attached as Exhibit C.
6. The grounds for the Petition for Review are as follows:

II. The HPCAP and Budget

Johnson Oil's consultant, Simon P. Broomhead, P.G. of American Environmental Corporation, prepared the November 17, 2003 HPCAP and Budget in accordance with the Environmental Protection Act ("Act") and regulations, in addition to generally accepted engineering practices. Mr. Broomhead is a Licensed Professional Geologist with ten (10) years experience in the environmental consulting industry. The HPCAP detailed the procedures necessary to define the extent of residual contamination and evaluate the proposed method of corrective action.

In accordance with 35 Ill. Adm. Code 732.404(f), the Budget included an estimate of all costs associated with the implementation and completion of the Corrective Action Plan. The budget also included personnel costs for activities which had been completed and for which copies of invoices were provided to

document such costs. These costs were reasonable and were necessary to achieve the applicable remediation objectives, including the minimum requirements for corrective action required under 35 Ill. Adm. Code 732.404 and 732.505. The personnel activities included in the budget consisted of:

- Completion of a geoprobe investigation to establish that contamination extends off-site,
- Obtaining and updating access agreements for neighboring properties,
- Evaluation of data and Site conditions to determine the most effective and economical method of Corrective Action,
- Preparation of Corrective Action Plan and Budget,
- Preparation of reimbursement claims,
- Completion of additional investigation, including soil and groundwater sampling, and
- Completion of a pilot study to evaluate the method of Multi-phase Extraction for the remediation of residual contamination.

III. Budget Expenses That Were Improperly Disallowed

The Agency approved the HPCAP in a March 19, 2004 letter to Johnson Oil. However, the personnel costs in the associated budget were modified down to an unreasonable level with no justification for the reductions. The Agency unjustifiably reduced the budget for personnel costs from \$34,239.25 to \$9,100.00. Furthermore, the reduced personnel costs of \$9,100.00 did not even cover the \$16,421.75 of completed personnel costs for which documentation was provided. The Agency's reduction for personnel cost was without any technical justification and was arbitrary and capricious.

The Agency deducted \$1,453.00 for monitoring well, manway installation, and well materials, alleging that the well and manway installation costs should be included with the monitoring well installation materials. However, these same

monitoring well and manway installation costs were previously approved when presented in the Budget approved on October 31, 2001 for this Site. No details were provided for the deductions from the well installation materials, except that they were unreasonable. The Agency's reduction for monitoring well, manway installation, and well materials was without any technical justification and was arbitrary and capricious.

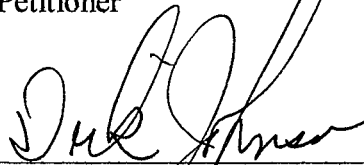
The Agency also deducted \$36.00 for report shipping costs, alleging that these costs are indirect corrective action costs charged as direct costs. The referenced costs were clearly identified in the budget for the shipment of required plans and claims to the Agency and are therefore direct costs. The November 17, 2003 HPCAP and budget does not include indirect costs, which would be such things as shipping costs for stock items, computer time, telephone toll charges, etc. The Agency's reduction for report shipping costs was without any technical justification and was arbitrary and capricious.

Mr. Broomhead, other environmental consultants from American Environmental Corporation, and other qualified experts will testify that the approved budget for the HPCAP is vastly below industry norms, is not reasonable, and violates 35 Ill. Adm. Code Sections 732.505 and 732.605. Furthermore, the HPCAP cannot be implemented with the unreasonably low budgetary amounts approved by the Agency. The budget approved by the Agency is unreasonable, is arbitrary and capricious, and does not account for the multiple investigations and corrective action activities which were proposed in the approved HPCAP. Furthermore, upon information and belief, Johnson Oil alleges that the Agency improperly utilized certain rate sheets to reduce the budget. These rate sheets were not promulgated pursuant to the Illinois Administrative Procedure Act (APA) and Illinois Ayers Oil Company vs. IEPA, PCB 03-214. Thus, the budget approved by the Agency is invalid.

WHEREFORE, Petitioner, Johnson Oil Company, LLC, for the reasons stated above and others that may be discerned through the course of discovery, requests that the Board reverse the Final Decision of the Agency and restore the above-referenced personnel, drilling, and field purchase amounts as submitted in Johnson Oil's Budget associated with the November 17, 2003 HPCAP and consultant and attorney's fees incurred pursuant to 415 ILCS 5/57.8(l) and 35 Ill. Adm. Code 732.606(g).

Respectfully Submitted,

JOHNSON OIL COMPANY, LLC OF INDIANA
Petitioner

A handwritten signature in black ink, appearing to read "Dick Johnson", is written over a horizontal line.

Dick Johnson, Managing Member
Johnson Oil Company, LLC
P.O. Box 27
Columbus, Indiana 47202



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

MAR 19 2004

7002 3150 0000 1255 8140

Johnson Oil Company of Indiana
Jeffrey N. Bush
P.O. Box 347
Columbus, Indiana 47202

Re: LPC#0190655076 -- Champaign County
Rantoul/Johnson Oil Co.
629 West Champaign Road
LUST Incident No. 20001456
LUST Technical File

Dear Mr. Bush:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Site Investigation Corrective Action Plan (plan) submitted for the above-referenced incident. This information, dated November 17, 2003, was received by the Illinois EPA on November 21, 2003. This document was originally submitted as a High Priority Site Investigation Corrective Action Budget, however, due to revisions made to the plan, which was previously approved, it is considered a Revised High Priority Site Investigation Corrective Action Plan (plan). Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is modified. The modifications listed below are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732. Please note that the activities proposed in the plan are for investigative purposes only. Final approval for corrective action activities is contingent upon the submittal of a High Priority Corrective Action Plan that documents the results of the proposed investigation and satisfies the requirements set forth in Section 57.7(c)(1) of the Act and 35 Ill. Adm. Code 732.404. The required modification(s) is/are as follows:

Monitoring wells MW10 thru MW17 are only approved if necessary to define the plume. Specifically, if the analytical results of MW12 define the extent of contamination, then MW16 and MW17 would be unnecessary and therefore ineligible for payment. The same principal of plume definition would also apply to all other wells proposed in this revised plan (MW10 thru MW17).

In addition, the budget for the High Priority Site Investigation Corrective Action Plan 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

EXHIBIT

A

ROCKFORD - 4302 North Main Street, Rockford, IL 61107
ELGIN - 595 South State, Elgin, IL 60120
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62761

MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

IRRISON ST., Des Plaines, IL 60016 - (847) 294-4000
ST. PEORIA, IL 61614 - (309) 693-5463
SOUTH FIRST STREET, Champaign, IL 61820 - (217) 278-5800
EAST STREET, Collinsville, IL 62234 - (618) 346-5120

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.

Please note that, if the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f)). Additionally, pursuant to Section 57.8(a)(5) of the Act and 35 Ill. Adm. Code 732.405(e), if reimbursement will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted.

NOTE: Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be reimbursable.

Pursuant to 35 Ill. Adm. Code 732.401, the site investigation results and a High Priority Corrective Action Plan demonstrating compliance with the requirements set forth in Section 57.7(c)(1) of the Act and 35 Ill. Adm. Code 732.404 must be submitted within 90 days of the date of this letter 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

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 Lizz Schwartzkopf at 217/557-8763.

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC:LS

Attachment: Attachment A

c: American Environmental
Division File

Attachment A

Re: LPC#0190655076 -- Champaign County
Rantoul/Johnson Oil Co.
629 West Champaign Road
LUST Incident No. 20001456
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

The budget was previously approved for:

\$6,436.20	Investigation Costs
\$1,015.00	Analysis Costs
\$9,256.00	Personnel Costs
\$375.00	Equipment Costs
\$682.05	Field Purchases and Other Costs
\$858.62	Handling Charges

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

\$7,836.98	Investigation Costs
\$2,505.00	Analysis Costs
\$9,100.00	Personnel Costs
\$725.00	Equipment Costs
\$7,974.36	Field Purchases and Other Costs
\$1,832.06	Handling Charges

Therefore, the total cumulative budget is approved for:

\$14,273.18	Investigation Costs
\$3,520.00	Analysis Costs
\$18,356.00	Personnel Costs
\$1,100.00	Equipment Costs
\$8,656.41	Field Purchases and Other Costs
\$2,690.68	Handling Charges

SECTION 2

1. \$1,453.00 for an adjustment in Monitoring Well and Manhole installation, \$2,498.00 for an adjustment in Personnel costs previously deducted as unreasonable, \$1,832.00 for an adjustment in Pilot Study Personnel costs, \$20,809.25 for an adjustment in Personnel costs for site investigation costs, \$15.00 for an adjustment in Digital Camera costs, \$10.00 for an adjustment in Development pump costs, \$135.68 for an adjustment in Nitrile glove costs,

\$109.50 for an adjustment in mobilization costs for personnel from Indianapolis for Pilot Study, and \$6.49 for an adjustment in mileage costs due to incorrect rate. 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.

Well/manhole installation cost should be included with the monitoring well installation materials. In addition the monitoring well installation materials listed on page E-2 of the budget are unreasonable.

The Personnel cost deducted from the previous budget remain unreasonable.

Personnel costs for the Pilot Study were considered separately from the previous personnel costs (listed above) and the personnel costs for site investigation activities (listed below).

Personnel costs for the final HPCAP and budget should be included with the plan and budget and will be addressed at that time. These costs should not be included with the additional site investigation. The personnel costs for the site investigation activities include costs for the installation and development of the wells and interim report of the findings of the investigation. The pilot study costs were not included in this amount.

2. \$36.00 for report shipping costs(FedEx). Indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs are ineligible for payment from the Fund (35 Ill. Adm. Code 732.606(v)).
3. \$61.62 for an adjustment in handling charges. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(g) of the Act and 35 Ill. Adm. Code 732.607):

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
\$0 - \$5,000	12%
\$5,001 - \$15,000	\$600 plus 10% of amount over \$5,000
\$15,001 - \$50,000	\$1,600 plus 8% of amount over \$15,000
\$50,001 - \$100,000	\$4,400 plus 5% of amount over \$50,000
\$100,001 - \$1,000,000	\$6,900 plus 2% of amount over \$100,000

This amount reflects and adjustment due to a calculation error and a reduction due to the removal of ineligible shipping costs. The calculation error appears to be the application of 10% to the amount over \$15,000 as apposed to 8%.

HAC:LS

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**

JOHNSON OIL COMPANY,)	
Petitioner,)	
v.)	PCB No. 04-
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

Simon P. Broomhead, P.G.
American Environmental Corp.
3700 West Grand Avenue
Suite A
Springfield, IL 62707

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: April 29, 2004

**EXHIBIT
B**

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

JOHNSON OIL COMPANY,)	
Petitioner,)	
v.)	PCB No. 04-
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 July 28, 2004, or any other date not more than a total of one hundred twenty-five (125) days from the date of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On March 19, 2004, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On April 27, 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 represented that the final decision was received on March 25, 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 G. 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: April 29, 2004

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PAGE 02



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

217782-6762

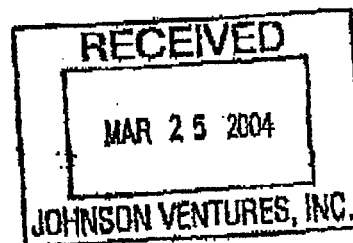
CERTIFIED MAIL

MAR 19 2004

7002 3150 0000 1255 8140

Johnson Oil Company of Indiana
Jeffrey N. Bush
P.O. Box 347
Columbus, Indiana 47202

Re: LPC#0190655076 -- Champaign County
Rantoul/Johnson Oil Co.
629 West Champaign Road
LUST Incident No. 20001456
LUST Technical File



Dear Mr. Bush:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Site Investigation Corrective Action Plan (plan) submitted for the above-referenced incident. This information, dated November 17, 2003, was received by the Illinois EPA on November 21, 2003. This document was originally submitted as a High Priority Site Investigation Corrective Action Budget, however, due to revisions made to the plan, which was previously approved, it is considered a Revised High Priority Site Investigation Corrective Action Plan (plan). Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is modified. The modifications listed below are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732. Please note that the activities proposed in the plan are for investigative purposes only. Final approval for corrective action activities is contingent upon the submittal of a High Priority Corrective Action Plan that documents the results of the proposed investigation and satisfies the requirements set forth in Section 57.7(c)(1) of the Act and 35 Ill. Adm. Code 732.404. The required modification(s) is/are as follows:

Monitoring wells MW10 thru MW17 are only approved if necessary to define the plume. Specifically, if the analytical results of MW12 define the extent of contamination, then MW16 and MW17 would be unnecessary and therefore ineligible for payment. The same principal of plume definition would also apply to all other wells proposed in this revised plan (MW10 thru MW17).

In addition, the budget for the High Priority Site Investigation Corrective Action Plan 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

Rockford - 4902 North Main Street, Rockford, IL 61103 - (815) 967-7700 • Des Plaines - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
Evanston - 585 South State, Evanston, IL 60123 - (847) 608-3131 • Peoria - 3415 N. University St., Peoria, IL 61614 - (309) 693-3463
Bureau de Land - Peoria - 7520 N. University St., Peoria, IL 61614 - (309) 693-3463
Springfield - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 270-3470
Macon - 2347 W. Main Street, Macon, IL 61455 - (312) 346-5120
B 893-7200

EXHIBIT

A

Page 2

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.

Please note that, if the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f)). Additionally, pursuant to Section 57.8(a)(5) of the Act and 35 Ill. Adm. Code 732.405(e), if reimbursement will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted.

NOTE: Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be reimbursable.

Pursuant to 35 Ill. Adm. Code 732.401, the site investigation results and a High Priority Corrective Action Plan demonstrating compliance with the requirements set forth in Section 57.7(c)(1) of the Act and 35 Ill. Adm. Code 732.404 must be submitted within 90 days of the date of this letter to:

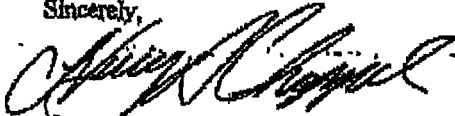
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

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 Lizz Schwartzkopf at 217/557-8763.

Sincerely,



Barry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HACLS

Attachment: Attachment A

c: American Environmental
Division File

Attachment A

Re: LPC#0190655076 -- Champaign County
 Rantoul/Johnson Oil Co.
 629 West Champaign Road
 LUST Incident No. 20001456
 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

The budget was previously approved for:

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\$1,015.00	Analysis Costs
\$9,256.00	Personnel Costs
\$375.00	Equipment Costs
\$682.05	Field Purchases and Other Costs
\$858.62	Handling Charges

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

\$7,836.98	Investigation Costs
\$2,505.00	Analysis Costs
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\$1,832.06	Handling Charges

Therefore, the total cumulative budget is approved for:

\$14,273.18	Investigation Costs
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\$18,356.00	Personnel Costs
\$1,100.00	Equipment Costs
\$8,656.41	Field Purchases and Other Costs
\$2,690.68	Handling Charges

SECTION 2

1. \$1,453.00 for an adjustment in Monitoring Well and Manhole installation, \$2,498.00 for an adjustment in Personnel costs previously deducted as unreasonable, \$1,832.00 for an adjustment in Pilot Study Personnel costs, \$20,809.25 for an adjustment in Personnel costs for site investigation costs, \$15.00 for an adjustment in Digital Camera costs, \$10.00 for an adjustment in Development pump costs, \$135.68 for an adjustment in Nitrile glove costs,

\$109.50 for an adjustment in mobilization costs for personnel from Indianapolis for Pilot Study, and \$6.49 for an adjustment in mileage costs due to incorrect rate. 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.

Well/manhole installation cost should be included with the monitoring well installation materials. In addition the monitoring well installation materials listed on page E-2 of the budget are unreasonable.

The Personnel cost deducted from the previous budget remain unreasonable.

Personnel costs for the Pilot Study were considered separately from the previous personnel costs (listed above) and the personnel costs for site investigation activities (listed below).

Personnel costs for the final HPCAP and budget should be included with the plan and budget and will be addressed at that time. These costs should not be included with the additional site investigation. The personnel costs for the site investigation activities include costs for the installation and development of the wells and interim report of the findings of the investigation. The pilot study costs were not included in this amount.

2. \$36.00 for report shipping costs(FedEx). Indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs are ineligible for payment from the Fund (35 Ill. Adm. Code 732.606(v)).
3. \$61.62 for an adjustment in handling charges. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(g) of the Act and 35 Ill. Adm. Code 732.607):

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
\$0 - \$5,000	12%
\$5,001 - \$15,000	\$600 plus 10% of amount over \$5,000
\$15,001 - \$50,000	\$1,600 plus 8% of amount over \$15,000
\$50,001 - \$100,000	\$4,400 plus 5% of amount over \$50,000
\$100,001 - \$1,000,000	\$6,900 plus 2% of amount over \$100,000

This amount reflects an adjustment due to a calculation error and a reduction due to the removal of ineligible shipping costs. The calculation error appears to be the application of 10% to the amount over \$15,000 as apposed to 8%.

HAC:LS

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 Gann, 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



American
Environmental

American Environmental
Corporation

3700 W. Grand Avenue, Suite A

Springfield, Illinois 62707

Phone: (217) 585-9517 Fax: 217-585-9518

8500 Georgetown Road, Indianapolis, IN 46268

Phone: (317) 871-4090 Fax: (317) 871-4094

410 Production Court - Louisville, KY 40299

Phone: (502) 491-0144 Fax: (502) 491-9271

Fax

To: John Kim

From: Simon Broomhead

Fax: 782-9807

Pages: 6 + Cover

Phone: 782-5544

Date: 4/27/04

Re: Request for extension of appeal

CC:

☐ Urgent

☐ For Review

☐ Please Comment

☐ Please Reply

☐ For Information

CONFIDENTIALITY NOTICE:

The documents constituting this facsimile transmittal may contain confidential information belonging to the sender which is legally privileged and exempt from disclosure under applicable law. The information is intended only for the use of the individual(s) or entity named above. If the reader is not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance upon the content of this facsimile transmittal is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at the number above to arrange for return of the original documents to us. Thank You.

John,

Please call if you have questions or comments. 35 day period expires Thursday.

Thanks!

Simon.



From Springfield Regional Office

April 27, 2004

Illinois Environmental Protection Agency
Attn: John Kim
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

VIA FACSIMILE
782-9807

Re: Request for Extension for Petitioning the IPCB
LPC #0190655076 - Champaign County
Johnson Oil #878- Rantoul/Johnson Oil Company, LLC of Indiana
629 West Champaign Road
LUST Incident No. 20001456
American Environmental Project Number 207030

Dear Mr. Kim

Johnson Oil Company, LLC of Indiana ("Johnson Oil"), requests that the Illinois Environmental Protection Agency ("Agency") join them in requesting a 90-day extension to the 35-day deadline for filing a petition for a hearing before the Illinois Pollution Control Board (IPCB). This request is being made to preserve Johnson Oil's right to appeal the Agency decision contained in a March 19, 2004 letter, received by Johnson Oil on March 25, 2004, regarding a November 17, 2003 Corrective Action Plan and Budget for the above referenced LUST incident. A copy of the Agency letter is attached.

The additional time is needed for American Environmental to submit information and a request for the Agency to reconsider some of their budget deductions. If necessary, we will also meet with the Agency in an effort to resolve the issues without the need to submit a formal petition request.

Please take the necessary action to file this extension request before the 35-day appeal time expires on April 29, 2004. If you need additional information, please advise.

Sincerely,

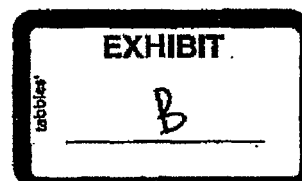
AMERICAN ENVIRONMENTAL CORPORATION

Simon P. Broomhead

Simon P. Broomhead, P.G.
Project Manager

pc: Rick Johnson, Johnson Oil Company, LLC of Indiana

Enclosure



Corporate Office

8500 Georgetown Road
Indianapolis, Indiana 46228-1647
317-871-4090
317-871-4094 Fax

Regional Office

3700 W. Grand Ave. Ste. A
Springfield, IL 62707
217-585-9517
217-585-9518 Fax

Regional Office

410 Production Court
Louisville, KY 40299
502-491-0144
502-491-9271 Fax

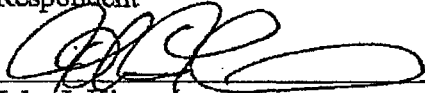
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on April 29, 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

Simon P. Broomhead, P.G.
American Environmental Corp.
3700 West Grand Avenue
Suite A
Springfield, IL 62707

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

May 6, 2004

JOHNSON OIL COMPANY,

Petitioner,

v.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

PCB 04-190

(UST Appeal)

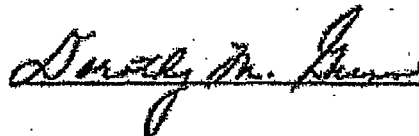
(90-Day Extension)

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

On May 3, 2004, the parties timely filed a joint notice to extend the 35-day period within which Johnson Oil Company may appeal a March 19, 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 approved petitioner's high priority site investigation corrective action plan, with modifications, for Johnson Oil Company's leaking underground petroleum storage tank facility located at 629 West Champaign Road, Rantoul, Champaign County. The Board extends the appeal period until July 28, 2004, as the parties request. See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. If Johnson Oil Company 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 May 6, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

EXHIBIT

C