

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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AUG 30 2005

STATE OF ILLINOIS
Pollution Control Board

| | | |
|------------------------|---|-------------------------------|
| BEVERLY BANK, |) | |
| |) | |
| Petitioner, |) | |
| v. |) | PCB No. 06- 32 |
| 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

Robert L. Mankowski
Environmental Protection Industries
16650 South Canal
South Holland, IL 60473

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 T. 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: August 26, 2005

AUG 30 2005

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

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| |) | |
| 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 November 28, 2005, 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 November 24, 2005, a State holiday. The next business day is November 28, 2005. In support thereof, the Illinois EPA respectfully states as follows:

1. On July 20, 2005, the Illinois EPA issued a final decision to the Petitioner.
(Exhibit A)

2. On August 2, 2005, 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 documentation provided by the Petitioner represented that the final decision was received on July 22, 2005. (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

A handwritten signature in black ink, appearing to read 'John J. Kim', is written over a horizontal line.

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: August 26, 2005

This filing submitted on recycled paper.

Rm/AN/AL/LAETS



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

217/782-6762

CERTIFIED MAIL

7002 3150 0000 1108 9393

JUL 20 2005

Beverly Bank
Attention: James O'Malley
1908 West 103rd Street
Chicago, Illinois 60643

RECEIVED
BY *AT* DATE 7/28/05

Re: LPC #0316755008 - Cook County
Chicago/Beverly Bank
10258 South Western Avenue
LUST Incident No. 20040826
LUST Technical File

Dear Mr. O'Malley:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Site Investigation Plan (plan) submitted for the above-referenced incident. This plan, dated May 12, 2005, was received by the Illinois EPA on May 23, 2005. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The plan is rejected for the reason(s) listed below (Sections 57.7(a)(1) and 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(b)):

It appears to the Illinois EPA that this LUST incident is a re-reporting of the LUST incident #891392 which is currently completing remedial actions pursuant to an approved Corrective Action Plan on March 17, 2005 by the Illinois EPA on this site. Therefore, you are not required to perform corrective actions for the above-referenced incident since the Illinois EPA considers the LUST incident #20040826 a re-reporting. However, the Illinois EPA has no authority to rescind an incident number reported to the Illinois Emergency Management Agency.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 398-6000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 601-6000
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

EXHIBIT

A

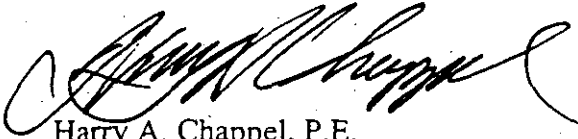
PRINTED ON RECYCLED PAPER

W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
University St., Peoria, IL 61614 - (309) 693-5463
125 South First Street, Champaign, IL 61820 - (217) 278-5800
209 Mall Street, Collinsville, IL 62234 - (618) 346-5120
(618) 993-7200

Page 2

If you have any questions or need further assistance, please contact Mindy Weller at 217/782-6762.

Sincerely,

A handwritten signature in black ink, appearing to read "Harry A. Chappel", with a large, stylized flourish at the end.

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

HAC:MW:mw\20040826-2.DOC

cc: Robert Mankowski, EPI, Inc.
Division File

Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4)(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



ENVIRONMENTAL PROTECTION INDUSTRIES

VIA CERTIFIED MAIL

August 2, 2005

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

**RE: LPC #0316755008 – Cook County
10258 South Western Avenue
Chicago, Illinois 60642
LUST Incident #20040826**

RECEIVED
Division of Legal Counsel

AUG 04 2005

**Environmental Protection
Agency**

Dear Mr. Kim:

Environmental Protection Industries (EPI) on behalf of Beverly Bank (owner) is submitting this letter for a 90-day extension for a hearing regarding the IEPA Final Decision attached with this letter. The final decision is dated July 20, 2005 and was received by EPI and the Owner on or about July 22, 2005.

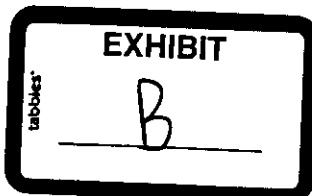
If you have any questions, Please do not hesitate to contact us.

Sincerely,
Environmental Protection Industries, Inc.

Robert L. Mankowski
Vice President

Enclosure July 20, 2005 IEPA Letter

cc: Beverly Bank
 Mr. Jeff Divers




CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on August 26, 2005, 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

Robert L. Mankowski
Environmental Protection Industries
16650 South Canal
South Holland, IL 60473

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
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