

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

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CLERK'S OFFICE

JAN 22 2007

SIEMENS ENERGY & AUTOMATION )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB No. 07-69  
(LUST Appeal – Ninety Day Extension)

NOTICE

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

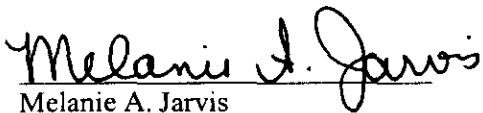
John W. Watson  
Baker & McKenzie  
One Prudential Plaza, Suite 3500  
130 East Randolph Drive  
Chicago, IL 60601

Kevin Sweeney  
Siemens Energy & Automation  
3333 Old Milton Parkway  
Alpharetta, GA 30005

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



Melanie A. Jarvis  
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: January 19, 2007

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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

SIEMENS ENERGY & AUTOMATION )  
Petitioner, )  
v. ) PCB No. 07- 69  
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, Melanie A. Jarvis, 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 April 20, 2007, 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:

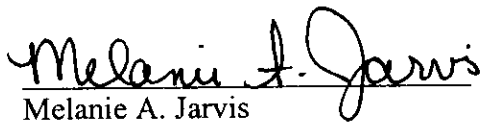
1. On December 14, 2006, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On January 17, 2007, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. (Exhibit B) Tracking information from the Certified Mail number on the final decision indicates the final decision was received on December 18, 2006.

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



Melanie A. Jarvis  
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: January 19, 2007

This filing submitted on recycled paper.

WTS



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      DOUGLAS P. SCOTT, DIRECTOR

217/524-3300

December 14, 2006

CERTIFIED MAIL  
7004 2510 0001 8620 5597

Mr. Kevin Sweeney  
Siemens Energy & Automation  
3333 Old Milton Parkway  
Alpharetta, Georgia 30005

Re: 0890100010 -- Kane County  
Siemens Energy & Automation  
Site Remediation Program

Dear Mr. Sweeney:

As you know, Siemens Energy is pursuing a comprehensive No Further Remediation Letter under Illinois EPA's Site Remediation Program for the above-referenced facility (located at 100 McKee Street in Batavia, Illinois). On September 19, 2006 Illinois EPA approved a Comprehensive Site Investigation Report, Remediation Objective Report and Remedial Action Plan for this project. On September 29, 2006, Jennifer L. Troast and Steven R. Bosko of Weston Solutions, Inc. submitted a response to the September 19, 2006 letter on your behalf. This letter responds to the September 29, 2006 letter from Weston Solutions.

The September 29, 2006 submittal was reviewed as a request to modify the approved Site Remediation Program documents mentioned above for this facility. This request is hereby approved subject to the following conditions and modifications:

1. Except as modified herein, remedial activities at this facility must be carried out in accordance with Illinois EPA's September 19, 2006 letter.
2. Condition 6 of the Illinois EPA's September 19, 2006 letter states: "35 Ill. Adm. Code 721.131 F001 through F005 wastes must be disposed in accordance with 35 Ill. Adm. Code 728". It appears as though the former North and South TCE storage areas and the Adjacent Parking Lot were impacted by product trichloroethene. Therefore, the soil from these three areas must be disposed of as hazardous waste - USEPA Hazardous Waste No. U228.
3. Regarding Condition 7 of Illinois EPA's September 19, 2006 letter, "above a saturated zone" is the area above a saturated zone that is hydraulically connected to the saturated zone where there is the potential for any soil contamination present to leach into the saturated zone. Condition 7 of the Illinois EPA's September 19, 2006 letter is intended to

Exhibit A

provide for a groundwater investigation where there is the potential for soil contamination to leach to the saturated zone, thus causing groundwater to be contaminated above an applicable groundwater quality standard.

4. Due to the fact that the only contaminant detected to date in groundwater was not above applicable 35 Ill. Adm. Code Part 620, Groundwater Quality Standards, the Illinois EPA concurs that Condition 9 of its September 19, 2006 letter is not applicable at this time. However, as part of the goal of obtaining a Comprehensive No Further Remediation (NFR) for all recognized environmental conditions (RECs) at the facility, in the future, the facility must submit all data gathered relative to the groundwater investigation from which a Focused NFR was obtained for the two TCE product storage areas. At a minimum, the following information must be submitted:
  - a. Map of the facility with the locations of the former groundwater monitoring wells;
  - b. Groundwater analytical data of the former groundwater monitoring wells presented in tabular form;
  - c. Boring logs and Well Completion Reports of the former groundwater monitoring wells; and
  - d. Summary of the groundwater investigation presented in text format, which must include all geologic and hydrogeological information gathered as part of the investigation.
5. Remedial activities at this facility must meet the requirements of 35 Ill. Adm. Code 740 and 742.

This letter shall constitute Illinois EPA's final action on the subject submittal. Within 35 days after the date of mailing of the Illinois EPA's final decision, the applicant may petition for a hearing before the Illinois Pollution Control Board to contest the decision of the Illinois EPA, however, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Illinois EPA within the 35-day initial appeal period.

Work required by this letter, your submittals or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the Structural Engineering Licensing Act of 1989. This letter does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them.

Mr. Kevin Sweeney  
Page 3

The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

Should you have questions regarding the groundwater aspects of this project please contact Paula Stine at 217/524-3861; questions regarding other aspects of this project should be directed to William T. Sinnott, II at 217/524-3310.

Sincerely,



Stephen F. Nightingale, P.E.  
Manager, Permit Section  
Bureau of Land

SFN:WTS:bjh\06872s.doc

*BJM IBM*

cc: Weston Solutions

bcc: Bureau File  
Des Plaines Region  
Jim Moore  
Terri Blake Myers  
Paula Stine  
William T. Sinnott II

**RECEIVED**  
Division of Legal Counsel

JAN 17 2007

**Environmental Protection  
Agency**

January 17, 2007

William Ingersoll  
Illinois EPA  
1021 N. Grand Avenue, East  
P.O. Box 19276  
Springfield, IL 62794-9276

John W. Watson  
Tel: +1 312 861 2646  
john.w.watson@BakerNet.com

**Via Federal Express**

**RE: Request for Extension of the 35-day Period for Filing a Petition with the Illinois  
Pollution Control Board for Review of Agency Decision**  
File No.: 0890100010  
Siemens Energy & Automation

Dear Bill:


I am writing to follow-up on our conversation yesterday regarding our request for an extension of the period for filing a petition for review to the Illinois Pollution Control Board in order to discuss issues relating to the Siemens Energy & Automation site remediation project in Batavia, Illinois. We are asking for an extension from 35 days from the date of service of the Agency's final decision to 90 days. Based on our conversation, it is my understanding that you are in agreement regarding this request for an extension to 90 days.

We feel that an extension is appropriate in order to allow sufficient time to set up a meeting to discuss our concerns with IL EPA's letter dated December 14, 2006 regarding Siemens' site remediation plan for the Batavia site. Specifically, we would like to discuss item 2 of the December 14, 2006 IL EPA letter regarding the characterization of the waste at the Batavia site.

The 90-day extension will allow sufficient time to explore a cooperative resolution with the Agency rather than filing a petition for formal review with the Illinois Pollution Control Board. We will work with Bill Sinnott schedule such a meeting as soon as practicable.

With respect to the required formal filing for the extension to 90 days with the Illinois Pollution Control Board, please let me know if you need assistance from us. We understand that Illinois EPA will proceed with the required Board filing. Thank you for your cooperation in this matter.

Sincerely,

  
John W. Watson

cc: William T. Sinnott, II

- Asia
- Pacific
- Bangkok
- Beijing
- Hanoi
- Ho Chi Minh City
- Hong Kong
- Jakarta
- Kuala Lumpur
- Manila
- Melbourne
- Shanghai
- Singapore
- Sydney
- Taipei
- Tokyo
- Europe & Middle East
- Almaty
- Amsterdam
- Antwerp
- Bahian
- Baku
- Barcelona
- Berlin
- Bologna
- Brussels
- Budapest
- Cairo
- Düsseldorf
- Frankfurt / Main
- Geneva
- Kyiv
- London
- Madrid
- Milan
- Moscow
- Munich
- Paris
- Prague
- Riyadh
- Rome
- St. Petersburg
- Stockholm
- Vienna
- Warsaw
- Zurich
- North & South America
- Bogota
- Brasilia
- Buenos Aires
- Calgary
- Caracas
- Chicago
- Dallas
- Guadalajara
- Houston
- Juarez
- Mexico City
- Miami
- Monterrey
- New York
- Palo Alto
- Porto Alegre
- Rio de Janeiro
- San Diego
- San Francisco
- Santiago
- Sao Paulo
- Lisbon
- Toronto
- Valencia
- Washington, DC

Exhibit B

**CERTIFICATE OF SERVICE**

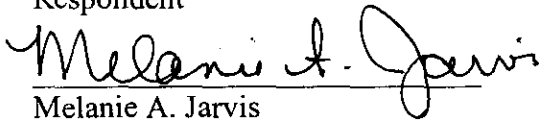
I, the undersigned attorney at law, hereby certify that on January 19, 2007, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class 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

John W. Watson  
Baker & McKenzie  
One Prudential Plaza, Suite 3500  
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