

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

MAR 19 2007

STATE OF ILLINOIS
Pollution Control Board

ESTATE OF FRED JOHNSON,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 07-81
(LUST Appeal – Ninety Day
Extension)

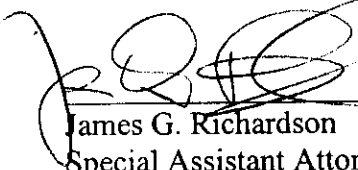
NOTICE

Dorothy Gunn
Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Mark Basler
United Science Industries, Inc.
P.O. Box 360
Woodlawn, Illinois 62898

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY


James G. Richardson
Special Assistant Attorney General

Dated: March 15, 2007
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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STATE OF ILLINOIS
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ESTATE OF FRED JOHNSON,)
Petitioner,)
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ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 07- 87
(LUST Appeal – Ninety Day Extension)

REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James G. Richardson, 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 June 14, 2007, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

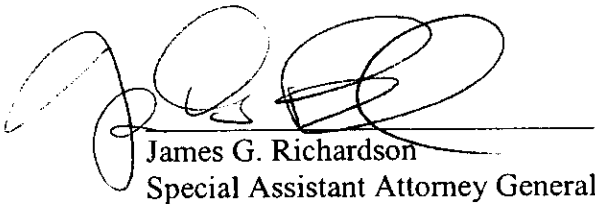
1. On February 8, 2007, the Illinois EPA issued a final decision to the Petitioner.
2. On March 12, 2007, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief the Petitioner did receive the final decision on February 9, 2007.

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



James G. Richardson
Special Assistant Attorney General

Dated: March 15, 2007

1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)

THIS FILING IS SUBMITTED ON RECYCLED PAPER



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

217/782-6762

RECEIVED

CERTIFIED MAIL

FEB 08 2007

FEB 13 2007

7004 2510 0001 8586 9516

BY: _____

Fred Johnson, Estate of
 Attention: Ralph Johnson, Exec.
 900 South Poplar
 Pana, Illinois 62557

Re: LPC #0210505033 -- Christian County
 Pana/ Fred Johnson
 9th Street and Fair Avenue
 Leaking UST Incident No. 950344
 Leaking UST Technical File

Dear Mr. Johnson:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Amended High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated November 2006, was received by the Illinois EPA on December 4, 2006. Citations in this letter are from the Environmental Protection Act (Act) in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is modified. The following modifications 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:

- A. BTEX and MTBE must be modeled from the highest contaminated monitoring wells to the closest point of compliance and in the down gradient direction. The Agency has modeled the MTBE from RMW#2 to extend to a distance of (600) feet; approximately 75 ft. further than your proposed groundwater restricted area. This additional area must be taken into consideration for your proposed zone or ordinance.
- B. Your proposed Highway Authority Agreement (HAA) does not extend to encompass all possible soil contamination. The proposed HAA must extend from known clean sample to clean sample. Also at BH17, while your Tier 2 clean up objective addresses an Inhalation issue on site, it does not address potential off site contamination above Tier 1 Class 1 clean up levels.

Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, the budget for the High Priority Corrective Action Plan is modified pursuant to Section 57.7(c) 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 payment from the Fund 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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
 ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
 BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
 SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-8892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
 MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

Page 2

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) of the Act. Additionally, pursuant to Section 57.8(a)(5) of the Act and 35 Ill. Adm. Code 732.405(e), if payment from the Fund 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 paid.

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

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 Donna Wallace at 217/ 524-1283.

Sincerely,



Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

TAH:DW:dwl

Attachment: A

c: United Science Industries/ Mike Hodgkinson
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) 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

Attachment A

Re: LPC #0210505033 -- Christian County
 Pana/ Fred Johnson
 9th Street and Fair Avenue
 Leaking UST Incident No. 950344
 Leaking UST Technical File

SECTION 1

The budget was previously approved for:

\$1,904.00	Investigation Costs
\$3,494.00	Analysis Costs
\$54,805.00	Personnel Costs
\$4,655.00	Equipment Costs
\$578,850.08	Field Purchases and Other Costs
\$4,204.65	Handling Charges

As a result of review of the budget at-hand and the Illinois EPA's modification(s) in Section 2 of this attachment, the following amounts are approved:

\$4,637.87	Investigation Costs
\$1,717.52	Analysis Costs
\$20,351.99	Personnel Costs
\$1,016.98	Equipment Costs
\$296.49	Field Purchases and Other Costs

Therefore, the total cumulative budget is approved for:

\$6,541.87	Investigation Costs
\$5,211.52	Analysis Costs
\$75,156.99	Personnel Costs
\$5,671.98	Equipment Costs
\$579,146.57	Field Purchases and Other Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.8(f) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 732.607.

SECTION 2

\$11,384.89 for corrective action costs for personnel hours or activities that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh).

Hours were deducted for project design, data review and research, planning and report writing.

DW:dw\

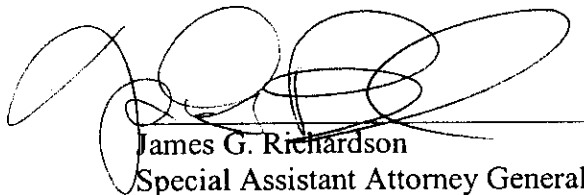
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on March 15, 2007 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by first class mail of the United States Postal Service upon the persons as follows:

Dorothy Gunn
Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Mark Basler
United Science Industries, Inc.
P.O. Box 360
Woodlawn, Illinois 62898

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Special Assistant Attorney General
Division of Legal Counsel
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