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JUN 14 2007

STATE OF ILLINOIS
Pollution Control Board

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

BIG TONY'S LOUNGE,)	
)	
Petitioner,)	
)	
v.)	PCB No. 07- 142
ILLINOIS ENVIRONMENTAL)	(LUST Appeal - Ninety Day Extension)
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE

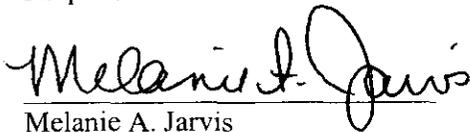
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Carolyn S. Hesse
Barnes & Thornburg, LLP
One North Wacker Drive
Suite 4400
Chicago, IL 60606-2833

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: June 12, 2007

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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JUN 14 2007

STATE OF ILLINOIS
Pollution Control Board

BIG TONY'S LOUNGE,)
Petitioner,)
v.) PCB No. 07- 142
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 September 11, 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:

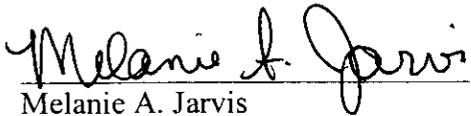
1. On May 10, 2007, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)
2. On June 11, 2007, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend 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 May 14, 2007. (Exhibit C)

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: June 12, 2007

This filing submitted on recycled paper.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 282-3397
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

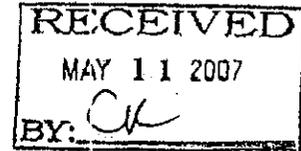
CERTIFIED MAIL

MAY 10 2007

7004 2510 0001 8616 3163

Mr. Robert Thompson
R. R. # 1, Box 333
Cairo, IL 62914

Re: LPC #0030055049 -- Alexander County
Cairo/ Big Tony's Lounge
Rt. 51 North
LUST Incident No. 20020881
LUST Technical File



Dear Mr. Thompson:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan Budget (budget) submitted for the above-referenced incident. This budget, dated March 21, 2007, was received by the Illinois EPA on March 21, 2007. 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 budget is rejected for the reason(s) listed below (Sections 57.7(b) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b), 734.510(a) and 734.510(b)):

1. The budget includes costs that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). 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 therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.
2. The budget includes corrective action costs for Excavation, Transportation, Disposal and Backfill that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Exhibit A

Page 2

A detailed time and materials cost breakdown is required from each bidder to demonstrate they are qualified and able to perform the work being bid pursuant to 35 Ill. Adm. Code Section 734.855(a). This information should include a time and materials breakdown of all subcontractors costs as well.

3. The budget includes costs requested that are based on mathematical errors. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(bb). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Based on a April 17, 2007 telephone conversation between Dave Myers of the Illinois EPA and Jeff Wienhoff of CW3M, postage associated with distribution of a reimbursement claim should have been \$5.00 rather than \$8500.00.

4. The budget includes site investigation or corrective action costs for latex gloves that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Costs associated with disposable latex gloves (\$12.00) appear twice under Consultant's Material Costs.

Pursuant to Sections 57.7(b) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, a budget must be submitted within 30 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.

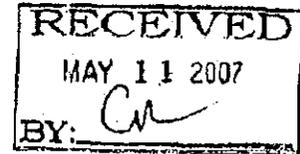
Page 3

If you have any questions or need further assistance, please contact Dave Myers at 217/785-7491.

Sincerely,



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



TAH:dm:\CamCAPBUdden.doc

c: CW3MCompany, Inc.
BOL 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

BARNES & THORNBURG LLP

Carolyn S. Hesse
(312) 214-8301
Email: chesse@btlaw.com

Suite 4400
One North Wacker Drive
Chicago, IL 60606-2833 U.S.A.
(312) 357-1313
Fax (312) 759-5646

www.btlaw.com

June 11, 2007

VIA FACSIMILE & FEDERAL EXPRESS

Mr. William Ingersoll
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Re: LPC #0030055049 - Alexander
Cairo / Big Tony's Lounge
Route 51 North
LUST Incident #20020881

Dear Bill:

On May 10, 2007, the Agency issued a letter with respect to the above referenced LUST Incident. While this letter was received by Mr. Thompson's consultant on May 11, 2007, it is my understanding that the letter was received by Mr. Thompson on May 14, 2007. Thus, the appropriate deadline for filing the appeal is June 19, 2007. A copy of the letter and the United State Postal Service Track and Confirm printout are attached.

Based upon discussions with you and others at the Illinois Environmental Protection Agency and for other reasons, we believe that we will be able to resolve the issues raised in the IEPA 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 the needed time to continue these discussions and to try to resolve the issues.

Exhibit B

Mr. William Ingersoll
June 11, 2007
Page 2

Earlier today we discussed this request for a time extension and agreed to such a time extension. If for any reason the Agency will not seek the 90 day extension please notify me no later than the close of business on June 14, 2007, so that I may file the appropriate appeals to the Board. If you have any questions or comments, please do not hesitate to contact me

Sincerely yours,

BARNES & THORNEURG



Carolyn S. Hesse

CSH/jmr
Enclosure

cc: William Sinnott
Carol L. Rowe

001616v1



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[Track & Confirm](#)

Track & Confirm

Search Results

Label/Receipt Number: 7004 2510 0001 8616 3163
Status: Delivered

Your item was delivered at 3:48 PM on May 14, 2007 in CAIRO, IL 62914.

[Track & Confirm](#)

Enter Label/Receipt Number.

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Exhibit C

6/11/2007

TOTAL P.08

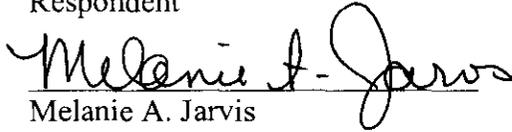
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on June 12, 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

Carolyn S. Hesse
Barnes & Thornburg, LLP
One North Wacker Drive
Suite 4400
Chicago, IL 60606-2833

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