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CLERK'S OFFICE

JUN 08 2009

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

OSCO/HENRY SERVICE COMPANY, )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

PCB No. 09- 122  
(LUST Appeal – Ninety Day Extension)

ORIGINAL

NOTICE

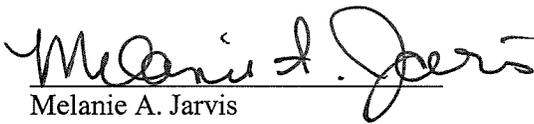
John Therriault, Acting Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Greg Howard  
Gold Star FS, Inc.  
101 N. East Street  
P.O. Box 79  
Cambridge, IL 61238-0079

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  
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 5, 2009

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Pollution Control Board  
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**REQUEST FOR NINETY DAY EXTENSION  
OF APPEAL PERIOD**

ORIGINAL

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, Melanie A. Jarvis, Assistant Counsel, 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 16, 2009, 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:

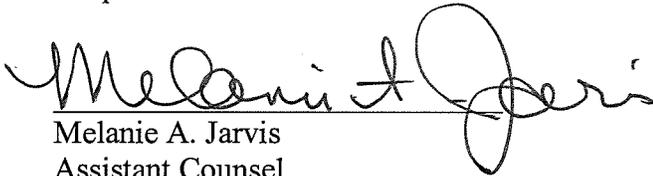
1. On May 12, 2009, the Illinois EPA issued a final decision to the Petitioner.  
(Exhibit A)
2. On June 3, 2009, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. Tracking information from the Certified Mail number on the final decision indicates the final decision was received on May 14, 2009.

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  
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 5, 2009

This filing submitted on recycled paper.

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CLERK'S OFFICE

JUN 08 2009

STATE OF ILLINOIS  
Pollution Control Board

**CERTIFICATE OF SERVICE**

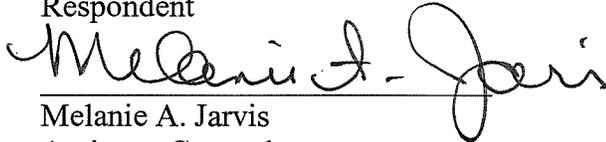
I, the undersigned attorney at law, hereby certify that on June 5, 2009, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class postage affixed thereto, upon the following named persons:

John Therriault, Acting Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Greg Howard  
Gold Star FS, Inc.  
101 N. East Street  
P.O. Box 79  
Cambridge, IL 61238-0079

ORIGINAL

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
Respondent



Melanie A. Jarvis  
Assistant Counsel  
Division of Legal Counsel  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)



**Gold Star FS, Inc.**

101 N. EAST ST. • P.O. BOX 79 • CAMBRIDGE, IL 61238-0079  
OFFICE: 1-800-443-8497 OR 1-309-937-3369 • WEB SITE: goldstarfs.com

June 3, 2009

Mr. Bill Ingersoll  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Springfield, IL 62794-9276

Subject: Claim Decision Letter Dated May 12, 2009  
LPC# 0738175002 – Henry County  
Osco/Henry Service Company  
East Main Street  
LUST Incident # 971741 / 972022  
LUST Technical File

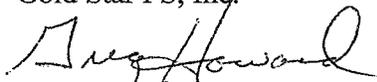
Dear Mr. Ingersoll:

Please accept this letter as a request for a 90-day extension for the opportunity to file an appeal for the above-referenced claim decision letter. This letter was received by my office on May 14, 2009. Accordingly we will have until August 12, 2009 to file for an appeal to the Illinois Pollution Control Board, should we choose to pursue that option.

We are currently undergoing negotiations with the IEPA LUST Department for disallowed costs documented in the May 12, 2009 letter. Substantial documentation has been requested by the LUST department in regard to the reimbursement application associated with the claim. Additionally, there is an issue regarding an orphan tank that was observed and removed that was at the edge of the soil contamination area and in a downgradient groundwater flow direction from the contaminant source location. While we are attempting to resolve these issues it may require more time than the current 35-day period.

Thank you for your consideration of this submittal. Please confirm to me and our consultant, Seneca Environmental Services, receipt of this letter. Should you have any questions regarding this letter, please call me at (309) 937-5864

Sincerely,  
Gold Star FS, Inc.

  
Greg Howard

cc: Seneca Environmental Services

**RECEIVED**  
Division of Legal Counsel

JUN 05 2009

Environmental Protection  
Agency



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-2829  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

**MAY 12 2009**

CERTIFIED MAIL #

7008 1140 0004 7344 3064

Goldstar FS  
Attn: Greg Howard  
101 N. East Street  
Cambridge, Illinois 61238

Re: LPC #0738175002 -- Henry County  
Osco/Henry Service  
East Main Street  
Incident-Claim No.: 971741 -- 56021  
Queue Date: January 20, 2009  
Leaking UST FISCAL FILE

Dear Mr. Howard:

The Illinois Environmental Protection Agency has completed the review of your application for payment from the Underground Storage Tank Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Illinois Environmental Protection Act (Act), and 35 Ill. Adm. Code 732, Subpart F. This information is dated January 6, 2009 and was received by the Agency on January 20, 2009. The application for payment covers the period from October 1, 2008 to November 25, 2008. The amount requested is \$302,622.79.

The deductible amount for this claim is \$10,000.00, which was previously deducted from the billing submittal received by the Agency on November 5, 2001 for \$138,724.55. There are costs from this claim that are not being paid. Listed in Attachment A are the costs that are not being paid and the reasons these costs are not being paid.

On January 20, 2009, the Agency received your application for payment for this claim. As a result of the Agency's review of this application for payment, a voucher for \$20,539.22 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Agency received your complete request for payment of this application for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date complete subsequent application for payment requests are received by the Agency. This constitutes the Agency's final action with regard to the above application(s) for payment.

Attachment A  
Accounting Deductions

Re: LPC #0738175002 -- Henry County  
Osco/Henry Service  
East Main Street  
Incident-Claim No.: 971741 -- 56021  
Queue Date: January 20, 2009  
Leaking UST FISCAL FILE

Citations in this attachment are from the Environmental Protection Act (Act) in effect prior to June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item #      Description of Deductions

1.      \$6,846.41, deduction for costs associated with any corrective action activities, services, or materials that were not accompanied by a copy of the eligibility and deductibility decision(s) made for the above-referenced occurrence(s) for accessing the Fund pursuant to Section 57.8 of the Act and 35 Ill. Adm. Code 732.110(a), 732.601(b)(3), and 732.606(s).

No Office of State Marshal eligibility for the 2,000 gallon fuel oil tank (No. 4) (#20081612).

An apportionment of costs eligible for reimbursement from the UST Fund is being made based upon the number of tanks, which is most favorable to the owner or operator.

Seventy-five percent of the eligible costs will be reimbursable; while 25% of the costs will be ineligible due to the ineligible tank.

Ineligible costs are listed below:

Personnel	\$2,284.69
Field Purchases & Other Costs	\$1,765.90
Equipment	\$ 223.75
Analysis	\$2,160.00
Handling Charges	\$ 412.07

2.      \$98,730.00, deduction for costs that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 732.606(gg). 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)(4)(C) of the Act because they may be used for corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

Seneca Companies Invoice No. 633966 dated November 25, 2008:

Disposal 3,291 cubic yards: No disposal invoices from the land farm indicating the quantities, dates and cost of disposal.

3. \$99,881.85, deduction for costs that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 732.606(gg). 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)(4)(C) of the Act because they may be used for corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

American Backhoe Co., Inc. Invoice No. 2561 dated November 10, 2008:

Excavate and transport 3,291 cubic yards soil to land farm: No manifest or trucking tickets indicating the hauler, quantities, dates and costs.

4. \$69,670.47, deduction for costs that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 732.606(gg). 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)(4)(C) of the Act because they may be used for corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

American Backhoe Co., Inc. Invoice No. 2561 dated November 10, 2008

Purchase, haul and place 3,291 cubic yards backfill. No invoices for backfill indicating quantities, dates and cost. No trucking tickets indicating the hauler, dates and cost.

5. \$6,954.84, adjustment in the handling charges due to the deduction(s) of ineligible costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.8(f) of the Act and 35 Ill. Adm. Code 732.607.

A complete application for payment shall consist of an accounting of all costs, including but not limited to invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed. Backup documentation needs to be provided for all subcontractors performing work.

\$282,083.57 Total Accounting Deductions

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 57.8(i) and Section 40 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 applicant 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 request for an extension, please contact:

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276  
217/782-5544

For information regarding the filing of an appeal, please contact:

Illinois Pollution Control Board, Clerk  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-3620

**If you have any questions or require further assistance, please contact Susan Brock of my staff at 217/782-6762.**

Sincerely,



John Sherrill, Manager  
Financial Management Unit  
Bureau of Land

JS:SB:m\092442.doc

Attachment

cc: **Seneca Companies**  
LCU File  
Susan Brock  
Scott McGill -- Technical