

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

DERSCHE ENERGIES, INC.,	)	
Petitioner,	)	
v.	)	PCB _____
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**NOTICE OF FILING AND PROOF OF SERVICE**

To:	John T. Therriault, Acting Clerk	Division of Legal Counsel
	Illinois Pollution Control Board	Illinois Environmental Protection Agency
	100 West Randolph Street	1021 North Grand Avenue East
	State of Illinois Building, Suite 11-500	P.O. Box 19276
	Chicago, IL 60601	Springfield, IL 62794-9276

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, pursuant to Board Procedural Rule 101.302 (d), a PETITION FOR REVIEW OF THE AGENCY LUST DECISION, a copy of which is herewith served upon the attorneys of record in this cause.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon counsel of record of all parties to this cause by enclosing same in envelopes addressed to such attorneys with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office Mailbox in Springfield, Illinois on the 18<sup>th</sup> day of August, 2016.

Respectfully submitted,  
DERSCHE ENERGIES, INC., Petitioner

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw  
LAW OFFICE OF PATRICK D. SHAW  
80 Bellerive Road  
Springfield, IL 62704  
217-299-8484  
pdshaw1law@gmail.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DERSCH ENERGIES, INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB _____
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**PETITION FOR REVIEW OF AGENCY LUST DECISION**

NOW COMES Petitioner, DERSCH ENERGIES, INC., pursuant to Section 57.7(c)(4) of the Illinois Environmental Protection Act, 415 ILCS 5/57.7(c)(4), and hereby appeals the Agency’s final decision, modifying a budget, and in support thereof states as follows:

1. This appeal arises from a release from underground storage tanks at a former service station commonly known as Croslow’s Shell in Lawrenceville, County of Lawrence, Illinois, owned and operated by DERSCH ENERGIES, INC., and assigned LPC #1010155024.

2. In 2005, releases were reported from underground storage tanks at the site, for which remediation continues, and the related incident was assigned Incident Number 20050374.

3. On March 23, 2016, a corrective plan and budget was submitted by Petitioner’s consultant for the above-related incident.

4. On June 14, 2016, the Agency project manager assigned to review the plan and budget, e-mailed Petitioner’s consultant regarding amounts budgeted for consultant’s material costs. Specifically, he asked for justification for the use and cost of a PID (\$148.00 per day), a box of gloves (\$16.00), a water-level indicator (\$28.00), the use of a slug (\$36.00 per day), and copying charges (\$0.15 per page).

5. Also, the Agency stated in the e-mail that “Cameras and measuring wheels are

now considered indirect costs and are not being approved as Consultant's Materials Costs.”

6. On June 28, 2016, the Petitioner’s consultant responded to the query, explaining inter alia (i) that the PID charge is less than the total cost of renting, particularly once shipping and handling, taxes, and the calibration kit are included, (ii) the charges for the water-level indicator and slug were based upon charges that have historically been approved by the IEPA and are less than the total cost of renting, (iii) the cost of a box of gloves is less than the cost of treating individual gloves as field purchases, and (iv) the copying charge of fifteen cents a page is what the IEPA itself charges.

7. In a subsequent e-mail, the Agency stated the mileage has to be approved at the Federal mileage rate of \$0.54 per mile

8. On July 12, 2016, and after further e-mail exchanges, the Agency approved the plan, and cut the following costs from the budget:

- a. Consulting Personnel Costs of \$6,650.99, because the project manager believes the work can be done in less time than budgeted;
- b. Consulting Material Costs for a measuring wheel (\$21.00), because the Agency no longer treats this as a direct cost;
- c. Consulting Material Costs of \$577.10, for the cost of a PID, gloves, water-level indicator, a slug, mileage, and copying costs, for want of supporting documentation as to their costs.

9. The Illinois EPA’s decision should be reversed for the following reasons:

- a. The application was complete, containing all of the information required pursuant to Section 57.7(a)(2) of the Illinois Environmental Protection Act (415 ILCS

5/57.7(a)(2)), pursuant to Section 734.135 of the Board's regulations (35 Ill. Adm. Code § 734.135), and in accordance with Illinois EPA forms and instructions existing at the time of the submittal;

- b. This is a budget, the purpose of which is to account for all costs, including materials, equipment, or field purchases, that may be required to implement the corrective action plan, and unless the Illinois EPA believes such costs cannot be incurred or would necessarily be unreasonable, their removal is not authorized by any statute or regulation;
- c. The rates proposed are reasonable, having been traditionally approved by the Agency for decades, being less than comparable costs for the consultant to lease the equipment, and being comparable to what the IEPA itself charges;
- d. The Internal Revenue Service mileage reimbursement rate does not reflect the actual costs of using a truck;
- e. The costs associated with a measuring wheel is a direct cost to be incurred in the field, and the new Agency policy that a measuring wheel is no longer a reimbursable cost is contrary to its own application instructions and is an illegal unpromulgated rule;
- f. By directing consultants to apply a formula for calculating reasonable rates to be charged for equipment, the Agency is engaged in additional, illegal unpromulgated rulemaking; and
- g. No statutory or regulatory provision would be violated by approving a budget containing the four contested items.

10. A true and correct copy of the Agency decision appealed from is attached hereto as Exhibit A.

11. The subject Illinois EPA letter was received by certified mail on July 14, 2016, which is 35 days from the date this appeal is being filed, and therefore timely.

WHEREFORE, Petitioner, DERSCH ENERGIES, INC., prays that: (a) the Agency produce the Record; (b) a hearing be held; (c) the Board find the Agency erred in its decision, (d) the Board direct the Agency to approve the budget as submitted, (e) the Board award payment of attorney's fees; and (f) the Board grant Petitioner such other and further relief as it deems meet and just.

DERSCH ENERGIES, INC.,  
Petitioner

By its attorneys,  
LAW OFFICE OF PATRICK D. SHAW

By: /s/ Patrick D. Shaw

Patrick D. Shaw  
LAW OFFICE OF PATRICK D. SHAW  
80 Bellerive Road  
Springfield, IL 62704  
217-299-8484  
pdshaw1law@gmail.com

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  
BRUCE RAUNER, GOVERNOR ALEC MESSINA, ACTING DIRECTOR

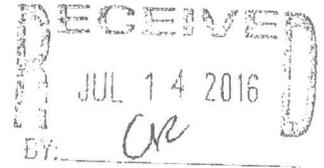
217/524-3300

CERTIFIED MAIL

JUL 12 2016

7014 2120 0002 3289 1369

Dersch Energies, Inc.  
Mr. Tom Dersch  
620 Oak Street  
Mt. Carmel, Illinois 62863



Re: LPC #1010155024—Lawrence County  
Lawrenceville/ Dersch Croslow's Shell  
1421 Lexington Avenue  
Leaking UST Incident No. 20050374  
Leaking UST Technical File

Dear Mr. Dersch:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated March 23, 2016, was received by the Illinois EPA on March 25, 2016. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

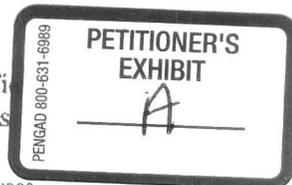
Pursuant to Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a), the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with Title XVI of the Act. Please note that all activities associated with the remediation of this 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 is modified pursuant to Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A have been 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 57.7(c), 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

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).

NOTE: Pursuant to Section 57.8(a)(5) of the Act, 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. 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 from the Fund.

Further, pursuant to 35 Ill. Adm. Code 734.145, it is required that the Illinois EPA be notified of field activities prior to the date the field activities take place. This notice must include a description of the field activities.



Page 2

of the field activities to be conducted; the name of the person conducting the activities; and the date, time, and place the activities will be conducted. This notification of field activities may be done by telephone, facsimile, or electronic mail—and must be provided at least two weeks prior to the scheduled field activities.

Pursuant to Sections 57.7(b)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires that a Corrective Action Completion Report that achieves compliance with applicable remediation objectives be submitted within 30 days after completion of the plan 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

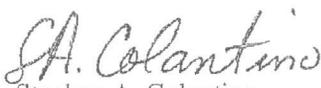
Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

If within four years after the approval of this plan, compliance with the applicable remediation objectives has not been achieved and a Corrective Action Completion Report has not been submitted, the Illinois EPA requires the submission of a status report pursuant to Section 57.7(b)(6) of the Act.

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 Brad Dilbaitis at (217) 785-8378 or [Bradley.Dilbaitis@illinois.gov](mailto:Bradley.Dilbaitis@illinois.gov).

Sincerely,



Stephen A. Colantino  
Acting Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

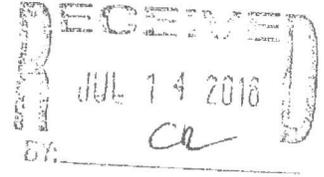
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Attachment: Attachment A  
Appeal Rights

c: CWM Company, Inc.  
BOL File

Attachment A

Re: LPC #1010155024—Lawrence County  
Lawrenceville/ Dersch Croslow's Shell  
1421 Lexington Avenue  
Leaking UST Incident No. 20050374  
Leaking UST Technical File



SECTION 1

As a result of Illinois EPA's modification(s) in Section 2 of this Attachment A, the following amounts are approved:

\$1,486.97	Drilling and Monitoring Well Costs
\$430.85	Analytical Costs
\$0.00	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$13,793.44	Consulting Personnel Costs
\$227.40	Consultant's Materials 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 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

SECTION 2

1. \$3,352.80 for Consulting Personnel Costs associated with Corrective Action Plan design and preparation by a Professional Geologist which 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. In addition, this request is 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).

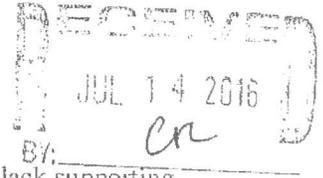
The Consulting Personnel Costs requests 30 hours for a Professional Geologist at a rate of \$111.76 per hour for a total of \$3,352.80 for Corrective Action Plan Design and Preparation. In addition, the budget also requests 6 hours for a Senior Project Manager and 4 hours for an Engineer III for Corrective Action Plan development and technical compliance. The plan is for the advancement of one soil boring to determine the parameters required for proposing on-site corrective action in accordance with Tier 2 remediation objectives as required in 734.410 and calculating the Tier 2 remediation objectives and groundwater modeling. The soil boring was requested by the IEPA Project Manager and the location of the soil boring and at what depth the soil sample needs to be collected for analysis was also communicated to the consultant in an email by the IEPA Project Manager. The time spent on Corrective Action Plan development by the consultant should be minimal, if any.

2. \$334.05 for Consulting Personnel Costs associated with drafting for the Corrective Action Plan which 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. In addition, these costs exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

The Consulting Personnel Costs requests 6 hours for a Draftsperson/CAD IV at a rate of \$66.81 per hour for a total of \$400.86 for the drafting of the Corrective Action Plan. This Corrective Action Plan requires one map, the proposed soil boring location map. The additional 11 maps that were submitted are not needed and exceed the minimum requirements necessary to comply with the Act. 35 Ill. Adm. Code 734.335 does not require that a map be submitted with the Corrective Action Plan. In this instance, a site map noting the location of the proposed soil boring is approved, but the other 11 maps are not useful. One hour is approved at a rate of \$66.81 for updating the Soil Boring Location Map (Drawing 0004) to the Proposed Soil Boring Location Map (Drawing 0004A).

3. \$2,964.14 for Consulting Personnel Costs associated with preliminary contaminant transport modeling and TAC calculations which 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.

The Consulting Personnel Costs requests 6 hours for a Senior Project Manager at a rate of \$121.49 per hour for a total of \$728.94 for contaminant transport modeling/oversight/technical compliance and 20 hours for a Professional Geologist for preliminary contaminant transport modeling and TACO calculations at a rate of \$111.76 per hour for a total of \$2,235.20. This is only an estimate on how long it will take the consultant to perform the modeling. The costs associated with the modeling and the determination of the site-specific Tier 2 soil remediation objectives should be submitted in the amended Corrective Action Plan that will be submitted to apply the modeling calculations. If the Consulting Personnel Costs associated with the Tier 2 calculations are submitted in the amended plan to address the results of this plan, the costs will be known and it will not be necessary to approve costs in excess of what is needed for the task or to approve additional costs if the original estimate did not include enough hours to complete the tasks. It should be noted that the Consulting Personnel Costs associated with the calculation of the site-specific Tier 2 soil remediation objectives are usually approved in a Corrective Action Budget after the calculations have been performed and the hours required to perform the tasks are known. An additional preliminary Corrective Action Plan is required in this case to collect the geotechnical soil sample used to determine the site-specific parameters for the TACO Tier 2 calculations but that should not change when the Consulting Personnel Costs associated with the TACO Tier 2 calculations are submitted and approved.



4. \$148.00 for Consultant's Materials Costs associated with the use of a PID, which 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.

Pursuant to 35 Ill. Adm. Code 734.850(b) for costs associated with activities that do not have a maximum payment amount set forth in pursuant to 35 Ill. Adm. Code 734 Subpart H must be determined on a site specific basis and the owner/operator must demonstrate to the Agency the amounts sought for reimbursement are reasonable. The Agency has requested additional documentation to support the rate requested for a PID pursuant 35 Ill. Adm. Code 734.505(a). The documentation was either not provided or fails to provide sufficient information for the Agency to make a site specific reasonableness determination.

In addition, without supporting documentation for the rate requested the PID costs 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).

5. \$21.00 for indirect corrective action costs for a measuring wheel charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to 35 Ill. Adm. Code 734.630(dd) and Section 57.7(c)(3) of the Act because they are not reasonable

6. \$16.00 for Consultant's Materials Costs associated with gloves which 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.

Pursuant to 35 Ill. Adm. Code 734.850(b) for costs associated with activities that do not have a maximum payment amount set forth in pursuant to 35 Ill. Adm. Code 734 Subpart H must be determined on a site specific basis and the owner/operator must demonstrate to the Agency the amounts sought for reimbursement are reasonable. The Agency has requested additional documentation to support the rate requested for gloves pursuant 35 Ill. Adm. Code 734.505(a). The documentation was either not provided or fails to provide sufficient information for the Agency to make a site specific reasonableness determination.

In addition, without supporting documentation for the rate requested the gloves 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).

7. \$28.00 for Consultant's Materials Costs associated with a water level indicator which 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.

Pursuant to 35 Ill. Adm. Code 734.850(b) for costs associated with activities that do not have a maximum payment amount set forth in pursuant to 35 Ill. Adm. Code 734 Subpart H must be determined on a site specific basis and the owner/operator must demonstrate to the Agency the amounts sought for reimbursement are reasonable. The Agency has requested additional documentation to support the rate requested for the water level indicator pursuant 35 Ill. Adm. Code 734.505(a). The documentation was either not provided or fails to provide sufficient information for the Agency to make a site specific reasonableness determination.

In addition, without supporting documentation for the rate requested the water level indicator is 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).

8. \$36.00 for Consultant's Materials Costs associated with a slug used in hydraulic conductivity determination which 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.

Pursuant to 35 Ill. Adm. Code 734.850(b) for costs associated with activities that do not have a maximum payment amount set forth in pursuant to 35 Ill. Adm. Code 734 Subpart H must be determined on a site specific basis and the owner/operator must demonstrate to the Agency the amounts sought for reimbursement are reasonable. The Agency has requested additional documentation to support the rate requested for the slug pursuant 35 Ill. Adm. Code 734.505(a). The documentation was either not provided or fails to provide sufficient information for the Agency to make a site specific reasonableness determination.

In addition, without supporting documentation for the rate requested the slug 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).

9. \$34.10 for Consultant's Materials Costs associated with mileage costs which 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. In addition, this request is 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).

The Consultant's Materials Costs requests 310 miles at \$0.65 per mile for a total of \$201.50 for a round trip from Springfield to the site in Lawrenceville to drill the TACO boring. The federal



mileage rate of \$0.54 per mile for a total of \$167.40 is what is approved by the Agency for  
mileage costs.

10. \$127.80 for Consultant's Materials Costs associated with copies which 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. In addition, this request is 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).

The Consultant's Materials Costs requests a total of 1,100 copies, including 800 for the plan, 200 for the budget, and 100 for field/plan/maps/bore logs at a rate of \$0.15 per copy. The Corrective Action Plan and Budget that was submitted is 62 pages long (48 for the plan and 14 for the budget). The 1,100 copies represent almost 18 copies of the plan and budget. The IEPA received 2 copies, or 124 pages. The deduction is for 976 copies at \$0.15 per copy.

11. \$37.20 for Consultant's Materials Costs associated with copies for the Corrective Action Plan and Budget which 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.

Pursuant to 35 Ill. Adm. Code 734.850(b) for costs associated with activities that do not have a maximum payment amount set forth in pursuant to 35 Ill. Adm. Code 734 Subpart H must be determined on a site specific basis and the owner/operator must demonstrate to the Agency the amounts sought for reimbursement are reasonable. The Agency has requested additional documentation to support the rate requested for copies pursuant 35 Ill. Adm. Code 734.505(a). The documentation was either not provided or fails to provide sufficient information for the Agency to make a site specific reasonableness determination.

In addition, without supporting documentation for the rate requested the copies 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).

12. \$150.00 for Consultant's Materials Costs associated with copies for the reimbursement claim which 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.

Pursuant to 35 Ill. Adm. Code 734.850(b) for costs associated with activities that do not have a maximum payment amount set forth in pursuant to 35 Ill. Adm. Code 734 Subpart H must be determined on a site specific basis and the owner/operator must demonstrate to the Agency the amounts sought for reimbursement are reasonable. The Agency has requested additional documentation to support the rate requested for copies pursuant 35 Ill. Adm. Code 734.505(a). The documentation was either not provided or fails to provide sufficient information for the Agency to make a site specific reasonableness determination.

In addition, without supporting documentation for the rate requested the copies 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).

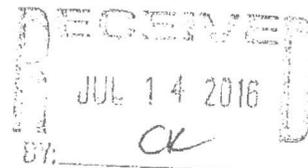
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Appeal Rights

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:

John Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson 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