

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

L.E. ANDERSON BROTHERS	)	
OIL, 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 13<sup>th</sup> day of October, 2016.

Respectfully submitted,  
L.E. ANDERSON BROTHERS OIL, 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

L.E. ANDERSON BROTHERS OIL, INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB _____
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**PETITION FOR REVIEW OF AGENCY LUST DECISION**

NOW COMES Petitioner, L.E. ANDERSON BROTHERS OIL, 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, refusing to approve a budget for corrective action, stating as follows:

1. Petitioner owns a former service station in Grayville, County of White, Illinois, which has been assigned LPC #1934465015.
2. On July 2, 2007, Petitioner reported releases from the underground storage tanks at the site, which were subsequently removed. Incident Number 2007-0906 was assigned the releases.
3. After performing early action, and stages 1, 2 and 3 site investigation, Petitioner submitted a corrective action plan and budget to the Agency on May 9, 2016. The plan and budget contained a cover letter explaining the consultant’s approach to staffing these jobs, and specific references to previous projects approved by the Agency using this approach.
4. On or about July 27, 2016, the Agency project manager called Robert Stanley, a professional geologist employed by the consultant to ask about the budget.
5. On August 16, 2016, Stanley e-mailed a response to each question raised,

including explaining the budget reflects past experience from similar work and if less costs are incurred performing the work, the reimbursement request will be reduced accordingly. A true and correct copy is attached hereto as Exhibit A.

6. On September 6, 2016, the Agency issued its decision letter, modifying the budget and cutting the budget for consultant's time and materials by a third, and reducing remediation and disposal costs. A true and correct copy of the letter is attached hereto as Exhibit B.

7. Petitioner does not appeal the modification to the plan, other than the rejection on the grounds that "[t]he plan fails to include a [highway authority agreement] that has been included as part of the corrective actions . . . ." The plan proposes a highway authority agreement, albeit the Agency is not willing to fully pay the costs of obtaining the same.

8. Petitioner appeals from the budget cuts for the reasons given in the e-mail from Robert Stanley to the extent the issues were raised with him beforehand, and further Petitioner states:

a. The consultant's budget for remediation and disposal costs was based upon a non-binding estimate over the phone from a local well driller who believed he might be able to do the work for \$2,150, but he would have to visit the property to be sure. The consultant budgeted for \$2,500 in the event that the driller ultimately charges more. This is a reasonable estimate, for which reimbursement would be requested based upon the actual charges of the subcontractor.

b. The Agency reviewer made numerous cuts to personnel time based upon second-guessing the consultant's staffing and job assignments. Many of these issues regarding the same consultant are currently being briefed before the Board in Abel Investments v. IEPA, PCB 2016-108. However, given this is a different consultant, different staffing preferences are claimed to

be legally required.

- i. The Agency improperly cut all costs for designing, preparing, developing and reviewing the corrective action plan. This left only the costs for the licensed professional engineer to certify the plan, and for the secretarial staff to assemble and distribute the plan, but no reimbursement for activities necessary to prepare the plan. Corrective action plans are required by the Act and regulations and their preparation is clearly a reimbursable item, and the Agency's refusal to pay for corrective action plans is unconscionable.
- ii. The Agency improperly eliminated reimbursement for any on-site personnel during corrective action. Under the Agency's modified budget, the subcontractor will perform the work without oversight or direction, and a professional licensed engineer is expected to certify that the work was performed pursuant to the approved plan and applicable laws and regulations without any basis to know if that was true. The presence of a professional geologist to oversee field work is necessary and essential.
- iii. The Agency improperly cut costs for drafting maps, because there were too many, without identifying which maps it found excessive. Maps are an important tool in planning, not merely for Agency review, but for executing the plan. Cutting reimbursement for drafting maps in half because the Agency felt there were one-third too many is arbitrary and unreasonable.

- iv. The Agency improperly cut costs for time to negotiate the highway authority agreement with the Illinois Department of Transportation. This is not the routine matter that the Agency appears to believe, but frequently involves interactions with IDOT's own consultants and may require legal counsel, though legal counsel is not budgeted here.
  - v. The Agency states that "[t]he IEPA Leaking UST regulations allow for a total of 2 hours for a Sen Admin Asst to conduct NFR activities." This is an illegal, unpromulgated rule and a void decision.
  - vi. With respect to all of the cuts to personnel, the time budgeted for was reasonable, documented in the application and the subsequent e-mail, and should not have been eliminated.
- c. With respect to consultant's materials, the Agency improperly cut all copying costs because it believes fifteen cents a page is unreasonable, whereas fifteen cents a page, if not more, is what various state agencies charge. While the budget items for postage were entirely eliminated, the Agency failed to provide a detailed statement of its reason, and in any event, the amounts budgeted were reasonable estimates based upon past experience. With respect to the NFR letter, the amount estimated was reasonable and would be charged based upon the actual fee assessed by the county. Finally, as to mileage, the rate of reimbursement is comparable to rates previously approved in Board decisions, adjusted for cost-of-living. Moreover, the number of miles is estimated from the consultant's central office where most employees are located, and while there is a geologist in Marion,

the Agency cut his tasks from the budget. In any event, if the geologist is restored to the budget by the Board and if the geologist in Marion performs the work, the actual reimbursement request will reflect this.

9. In all cases, 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.

10. The subject Illinois EPA letter was received by certified mail on September 9, 2016, which is less than 35 days from the date this appeal is being filed, and therefore timely.

WHEREFORE, Petitioner, L.E. ANDERSON BROTHERS OIL, 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.

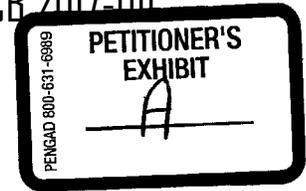
L.E. ANDERSON BROTHERS OIL, INC.,  
Petitioner

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

Subject: Anderson Grayville Interstate  
From: <rob@cwmcompany.com>  
Date: Tue, August 16, 2016 9:31 am  
To: "Melinda Weller" <Melinda.Weller@Illinois.gov>



Hi Mindy,

Thank you for the call to our Marion office on July 27, 2016 regarding the budget for the Corrective Action activities at the Anderson - Grayville Interstate location (20070906). Several questions were presented during that telephone call. I have discussed the questions with our Springfield office and we offer the following explanations.

As requested, we have reviewed the number of photocopies for each line item. If the Agency is counting the number of photocopies based on only the plan in their hand then they are missing the total number of photocopies that are potentially generated. On the surface, it appears that only one copy stays at our office and two copies at the Agency. In actuality, portions of the drafts of the report and final versions are sent to the client for review and their record, respectively, to initiate signing of forms. Also, a final copy goes to the Marion office and the client. Interim copies required to generate the drafts and reports are counted in these estimates. The original is generated by printers and, upon review, we feel that the estimated number of photocopies listed in the budget is appropriate as an estimate only. Only the number of actual copies generated / logged is charged. This also includes copies of corresponding Agency correspondences and maps drawings and many other components of the report. Other pieces are copies of field generated documented such as analytical reports.

Based on past examples of approved budgets for similar work to complete the corrective action activities through the No Further Action (NFR) letter, we do not feel that the budget is too costly. Again, on a line by line, task by task basic, we feel the budget is typical and reasonable for the expertise and environmental professionals utilized to complete the project. We are estimating activities that, from past experiences, have taken from six months to 2 years to complete. For instance, negotiations with the county may take many correspondences and discussions to take them to completion, as we have never worked with this county before.

The Corrective Action Plan (CAP) and budget has evolved for this project over the past several years as conditions have changed regarding the clean-up options. A potable water well was in use at the site and supplied water to the subject and neighboring properties. Initially, we began exploring a full scale groundwater remediation in order to protect the rural drinking water source. In addition, we also explored moving the well in order to preserve the rural drinking water source. Later, we explored the option of installing "city" water which would be provided by the Crossville Water Department. Difficulty arose when it was determined that multiple residences were present on the neighboring property and all would require a separate connection. While investigating moving the potable water well, the well driller stated that the neighboring property was now utilizing their own potable water well on their own property. He also confirmed that the well was well over 200 feet from the area we described as being affected by the release of petroleum. In the mean time of the on-set on the project, the station property has converted to "city" water. The option of abandoning the potable water well has currently been determined to be the most cost effective option and has been presented in this CAP.

The local well driller provided a cost estimate, orally, during a telephone call on or about April 27, 2016. The well is 300 feet deep. He estimated that it would cost about \$650 to remove the pump from the well and another \$1500 to seal the well. Since this was an estimate, we set the line item at \$2500 to cover any incidentals that arose while he was conducting the actual abandonment activities.

A question arose about a variety of personnel assisting in the preparation of the CAP. Just like the Agency, various personnel are involved with various components of the process. In this case, the Professional Geologist prepared the bulk of the plan. Assistance was provided for options and consultation on various aspects of the planning by an Engineer 3. It is important to understand that the individuals that prepare the plan are not necessarily the overall project manager and are not considered the project manager of the project any more than the Administrative Assistant is considered an Engineer 3. The Project Manager has to manage these portions of the project and keep it moving and running smoothly.

Line items regarding the Professional Geologist in the field category were questioned. Line items were listed in three separate line items for clarity. The first line item is for activities that are proposed to take care of scheduling and preparation between contractors and CW<sup>3</sup>M once the plan is approved but have yet to take place. This is an estimate. The second line item is for activities and discussions that have already taken place with the water department, well drillers and well abandonment contractors to determine what options are available to remove the well but still provide water to the station and neighboring property. Since this item has been completed and the hours have been logged, it is more accurate that 16 hours have been accrued rather than the original budgeted 20 hours. The last line item describes that on-site activities while the well is being abandoned and any site visits required to meet with the contractor for planning purposes. The activities in this line item have yet to be completed and are an estimate.

If the Agency feels that a Professional Geologist's expertise is not appropriate to prepare a Highway Authority Agreement (HAA) and it is more the ability of the Engineer 3; then, that is the Agency's prerogative. One error was found in the HAA section, the Senior Professional Engineer was incorrectly listed when it should have been the Senior Project Manager.

A Professional Geologist will be required to complete the contaminant transport modeling calculations. Although it is prudent for another professional to review the calculations, if the Agency feels that a Senior Project Manager is not needed to review the calculations, then that is the Agency's prerogative.

We cannot decrease the pay of our professionals for a line item of a task based upon this level of review. We have already separated technical and clerical staff and final review and certification time. People are not paid in this way in any organization, State, Federal or private.

We are aware that the Agency considers the budget to be a clerical task. In our opinion, the judgment of acceptable estimated costs by the Agency could no more be completed by clerical staff than preparing the estimated above costs can be done by clerical staff. Clerical staff is for typing and data entry, not full scale budgeting. In no way is a clerical

person qualified to develop a budget that coincides with a plan. The professional personnel will make budget estimations as the technical plan is developed. The numbers to be entered into a budget are not found anywhere for clerical staff to just enter. They are developed. Once the CAP and budget are drafted in its final stage and final considerations are determined, they can easily be substituted into the budget associated with the plan. However, getting to that stage is not as easy as merely entering numbers into blanks.

With regards to the No Further Remediation (NFR) recording being "only 2 hours, maximum, for a Senior Administrative Assistant" acceptable by the Agency. In the past, the Senior Project Manager has found errors in the NFR letters from the Agency while reviewing the conditions of the letter prior to its permanent recording with the property at the county courthouse. In addition, it is still part of the project management to manage and record the final submittal and confirmation of the Agency's receipt of the recorded document.

Our goal is to come under budget by the time all activities are completed. As this is a budget of anticipated or estimated costs, our experience on other budgets is our best guide. If time is not utilized, it is not billed. Again, we are looking at up to 2 or more years for project management, so that has to be accounted for. As requested, we respectfully submit the above comments for your consideration.

Rob Stanley



**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**

7014 2320 0002 3289 7217

SEP 06 2016

L.E. Anderson Brothers Oil, Inc.  
Attention: Rick Anderson  
P.O. Box 67  
Mt. Carmel, Illinois 62863

Re: LPC #1934465015 -- White County  
Grayville/L.E. Anderson Brothers Oil, Inc.  
2038 County Road 2400 North  
Leaking UST Incident No. 20070906  
Leaking UST Technical File

Dear Mr. Anderson:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated May 9, 2016, was received by the Illinois EPA on May 9, 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).

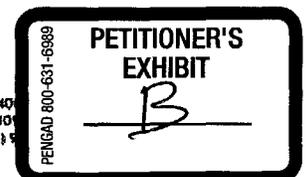
The Illinois EPA requires modification of the plan; therefore, the plan is conditionally approved with the Illinois EPA's modifications. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act (Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)):

1. On May 16, 2013, the Illinois Pollution Control Board added the indoor inhalation exposure route to its tiered approach to corrective action objectives regulations at 35 Ill. Adm. Code 742. These amendments were effective on July 15, 2013. For information on the exposure route, please see the fact sheets at [www.epa.state.il.us/land/taco/indoor-inhalation-amendments.html](http://www.epa.state.il.us/land/taco/indoor-inhalation-amendments.html), especially the one entitled *Petroleum Vapor Intrusion Assessment for Leaking UST Program Sites*.

Results of investigation of the release and the site characterization for the above-referenced incident indicate there is not an interval of at least five feet of uncontaminated soil between contaminated groundwater and the lowest point of an overlying receptor (or ground surface if there is no overlying receptor). Therefore, an evaluation of the indoor inhalation exposure route in accordance with 35 Ill. Adm. Code 742 is required.

4302 N. Main St., Rockford, IL 61103 (815) 987-7760  
395 S. State, Elgin, IL 60123 (847) 408-3131  
2125 S. First St., Champaign, IL 61820 (217) 278-5800  
2009 Mac St., Collinsville, IL 62234 (618) 346-4120

9611 Harrison St., Des Plaines, IL 60016 (847) 294-4000  
412 SW Washington St., Suite D, Peoria, IL 61602 (309) 691-1111  
2309 W. Main St., Suite 116, Marion, IL 62959 (618) 992-1111  
100 W. Randolph, Suite 10-300, Chicago, IL 60601



Page 2

2. If any of the applicable indicator contaminants exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants, within 30 days after the Illinois EPA approves the site investigation completion report, the owner or operator shall submit to the Illinois EPA for approval a corrective action plan designed to mitigate any threat to human health, human safety, or the environment resulting from the underground storage tank release. The corrective action plan must address all media impacted by the UST release and must contain, at a minimum, the following information:
  - a. An executive summary that identifies the objectives of the corrective action plan and the technical approach to be utilized to meet such objectives. At a minimum, the summary must include the following information:
    - i. The major components (e.g., treatment, containment, removal) of the corrective action plan;
    - ii. The scope of the problems to be addressed by the proposed corrective action, including but not limited to the specific indicator contaminants and the physical area; and
    - iii. A schedule for implementation and completion of the plan;
  - b. A statement of the remediation objectives proposed for the site;
  - c. A description of the remedial technologies selected and how each fits into the overall corrective action strategy, including but not limited to the following:
    - i. The feasibility of implementing the remedial technologies;
    - ii. Whether the remedial technologies will perform satisfactorily and reliably until the remediation objectives are achieved;
    - iii. A schedule of when the remedial technologies are expected to achieve the applicable remediation objectives and a rationale for the schedule; and
    - iv. For alternative technologies, the information required under 35 Ill. Adm. Code 734.340;
  - d. A confirmation sampling plan that describes how the effectiveness of the corrective action activities will be monitored or measured during their implementation and after their completion;
  - e. A description of the current and projected future uses of the site;

Page 3

- f. A description of any engineered barriers or institutional controls proposed for the site that will be relied upon to achieve remediation objectives. The description must include, but not be limited to, an assessment of their long-term reliability and operating and maintenance plans;
- g. A description of water supply well survey activities required pursuant to 35 Ill. Adm. Code 734.445(b) and (c) that were conducted as part of site investigation; and
- h. Appendices containing references and data sources relied upon in the report that are organized and presented logically, including but not limited to field logs, well logs, and reports of laboratory analyses.

(Sections 57.1(a) and 57.7(b)(2) of the Act and 35 Ill. Adm. Code 734.335(a))

The plan fails to include a HAA that has been included as part of the corrective actions in order to achieve closure of the Leaking UST incident. The HAA must meet all requirements of 35 Ill. Adm. Code Sections 742.1020 and 742.APPENDIX D.

In addition, the Tier II CUOs/modeling was not completed accurately. The IEPA is requiring the construction worker caution area to be extended to the east to soil sample S2 as opposed to ending at SB-4 as indicated in the Construction Worker Caution Area Map.

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

Page 4

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 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. Besides providing at least two weeks' notice to the Leaking UST Section staff in Springfield, notification must be provided to Ron Mileur either by telephone at (618) 993-7223 or by email at robert.mileur@illinois.gov.**

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.

Page 5

If you have any questions or need further assistance, please contact Mindy Weller at 217/524-4647.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Lowder". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael T. Lowder  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

MTL:MW\20070906-3.dot

Attachment: Attachment A

cc: Rob Stanley, CWM Company  
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:

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

Attachment A

Re: LPC #1934465015 -- White County  
Grayville/L.E. Anderson Brothers Oil, Inc.  
2038 County Road 2400 North  
Leaking UST Incident No. 20070906  
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:

\$0.00	Drilling and Monitoring Well Costs
\$0.00	Analytical Costs
\$2,150.00	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$3,221.40	Paving, Demolition, and Well Abandonment Costs
\$24,426.39	Consulting Personnel Costs
\$201.20	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**

- I. \$350.00 for costs for Remediation and Disposal 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, those 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).

Page 2

The IEPA requested justification for the charges of the potable well abandonment provided in the budget. CWM provided an email to the IEPA from Rob Stanley on August 16, 2016 which indicated the contractor gave an estimate via phone conversation of \$650.00 to remove the pump and \$1500.00 to seal the well. Therefore, the IEPA has modified the budget to include a potable water well abandonment cost of 2,150.00

2. \$13,858.83 for costs for Consulting Personnel 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, those 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).

The IEPA requested justification for the multiple charges of personnel listed in CCAP, CCAP-Budget, CCA-Field, HAA, CACR and CA-Pay categories. CWM provided an email to the IEPA from Rob Stanley on August 16, 2016 which failed to provide justification for amount of hours/number of personnel conducting similar tasks for each category. Therefore, the IEPA has modified the following Consulting Personnel Costs to not be included in the budget since there is no supporting documentation or explanation of reasonableness of such hours/tasks to be performed:

- a. CCAP category- 61 hours for Senior Project Manager, Professional Geologist, and Engineer III to develop/design/prepare/technical compliance/review the corrective action plan. The IEPA does not understand the necessity for 61 hours for a CAP design/develop/tech compliance/review that proposes to close a potable water supply well (charges are separate for personnel hours for well abandonment activities in budget), impose an on-site gw use restriction, and complete a HAA (charges are separate for personnel hours for HAA activities in budget) in order to achieve a "No Further Remediation" letter for this Leaking UST site.
- b. CCAP category- 12 hours for Senior Draftsperson/CAD to draft CAP. The plan includes 23 site maps. The email provided (mentioned above) did not include justification/reasonableness of why so many extra maps were completed. The IEPA has determined a total of 15 of those maps are not necessary or useful for the proposed corrective actions in this CAP. Therefore, the IEPA is modifying the number of hours to complete the site maps for Sen Draft/CAD to a total of 6 hours.
- c. CCAP-Budget category- 12 hours for Senior Project Manager and Eng III to conduct CAP Budget development/technical compliance/review in addition to the Prof Geologist and Sen Prof Eng to conduct similar tasks. The IEPA does not understand

Page 3

the necessity for a total of 32 hours to develop/design/calculate/input/technical compliance/review of a CAP Budget that is a total of 16 pages that are provided and available on the IEPA website in the Budget and Billing Forms section for use. Therefore, the IEPA is modifying the the CCAP-Budget category to not include the charges for the Sen Proj Manager and Engineer III.

- d. CCA-Field category- 4 hours for Prof Geologist to conduct field prep/contractor discussions & specs for potable water well abandonment since the email provided indicated the hours were actually 16 and not 20 as indicated in the budget. Therefore, the IEPA has modified the hours for the Prof Geologist for such activities.
- e. CCA-Field category- 20 hours for Prof Geologist to conduct onsite field oversight of potable water well abandonment. The budget includes 8 hours for Sen Proj Manager for similar activities. The IEPA does not understand the necessity to have a Prof. Geologist and a Sen Proj Manager to conduct oversight of closure of one onsite potable water supply well. Therefore, the IEPA has modified the budget to not include the 20 hours for the Prof. Geologist to conduct onsite field oversight of potable water well abandonment.
- f. HAA category- 4 hours for Sen Prof Eng to conduct HAA negotiations/coord/execution. The activities appear to be unreasonable since a Prof Geologist also has 14 hours for HAA prep/inputs/agreements. Only one HAA is required, therefore, the IEPA has modified the budget to not include the costs for the Sen. Prof Eng to conduct HAA negotiations/coord/execution.
- g. CACR category- 2 hours for Sen Proj Manager to conduct IEPA correspondence/NFR submittal in addition to 3 hours for a Sen Admin Asst to conduct correspondence/NFR recording. The IEPA Leaking UST regulations allow for a total of 2 hours for a Sen Admin Asst to conduct NFR activities. Therefore, the IEPA has modified the budget to not include the 2 hours for Sen Proj Manager to conduct IEPA correspondence/NFR submittal and has deducted the hours back to 2 hours for the Sen Admin Asst from 3 hours for such activities.
- h. CA-Pay category- 14 hours for Sen Proj Manager to conduct development/review/coordin/oversight of CA reimbursement since the budget also includes 30 hours and Sen Acct Tech to prepare/calculate/input and 6 hours for Sen Prof Eng to certify the CA reimbursement. The IEPA does not understand the necessity to have a Sen Proj Manager to conduct development/review/coordin/oversight of CA reimbursement Therefore, the IEPA has modified the budget to not include the 14 hours for the Sen Proj Manager to conduct development/review/coordin/oversight of CA reimbursement.

Page 4

3. \$975.80 for costs for Consult's Materials 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, those 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).

The IEPA requested justification for the rate of NFR recording fee and the number of copies, postages estimated, and rate per copy/distribution for each category. CWM provided an email to the IEPA from Rob Stanley on August 16, 2016 which failed to provide justification for such charges. Therefore, the IEPA has modified the following Consult's Materials Costs to not be included in the budget since there is no supporting documentation or explanation of reasonableness of such hours/tasks to be performed:

- a. Copies for CCA-Field, CCAP, CCAP-Budget, HAA, CACR(2), and CA-Pay since at \$.15 per copy, however, the email fails to include justification/reasonableness of why so many copies and cost per copy for each category. The budget includes costs for 200 copies of CCA-Field, 800 copies of CCAP, 200 copies of CCAP-Budget, 150 copies of HAA, 800 copies of CACR, 1,000 copies of CA-Pay, and 50 copies of CACR-NFR doc/recording corrsp/IEPA submittals. This CCAP has a total 49 pages. That equals 16 copies of the CCAP. The budget has a total of 16 pages. That equals 12.5 copies of the Budget. The budget includes 150 copies of the HAA, but an example of the HAA was not included with the CCAP, so the IEPA cannot determine those costs are reasonable. In addition, The CCA-Field and HAA is not separate from the CCAP. The IEPA only requires 2 copies of each submittal- without separating out the budget, CCA-Field, or HAA from the CCAP (the budget and HAA are in the same submittal as the CCAP so there should not be a separate distribution charge for the budget or the HAA).

The IEPA would agree to a total of 4 copies of the CCAP, CACR, and CA-Pay with a reasonable estimation of copies. The CCAP can be considered at 65 pages, the CACR at 75 pages and the Pay at 150 pages total since the Pay will have supporting documentation such as receipts, personnel sheets, etc. Therefore, the IEPA would consider a total of 260 copies for CCAP, 300 copies for CACR, and 600 copies for CA-Pay. The budget also includes costs for CACR copies of NFR doc/recording corr/IEPA submittals at 50 copies for \$0.15 each. The IEPA does not understand those costs as charged. The email did not provide reasonable justification for the number of copies in the budget or for the \$0.15 charge per copy. Therefore, the IEPA is modifying the budget to not include those costs.

Page 5

- b. Rate for NFR recording fee. The IEPA contacted the White County Recorder's Office to inquire as to the cost for recording the NFR onto the deed. The office indicated the recording fee would be \$48/first 4 pages, then a \$1.00 per page after. The IEPA NFR form is a minimum of 6 pages. If attachments must be included that will cause the NFR to be more than 6 pages. This site will not require additional pages to be added to the original form. Therefore, the IEPA has modified the budget to include \$50.00 NFR recording cost.
- c. Mileage for CCA-Field- are 760 miles at \$0.65 per mile for round-trip for well abandonment meeting and oversight. However, the IEPA has used MapQuest to calculate the mileage round-trip from the CWM office in Marion, IL to the site. The total round-trip miles calculated are 140 miles and should be at the federal rate of \$0.54 per mile. Therefore, the IEPA has modified the amount of miles and cost per mile for the well abandonment meeting/oversight CCA-Field mileage activities.

Please note, 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 corrective action budget as proposed pursuant to 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.

MTL:MW\20070906-3Attachment A.dot