

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

SANGAMON VALLEY CUSD #9,)	
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 21st day of April, 2017.

Respectfully submitted,
SANGAMON VALLEY CUSD #9,
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
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Springfield, IL 62704
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SANGAMON VALLEY CUSD #9,)	
Petitioner,)	
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v.)	PCB _____
)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

PETITION FOR REVIEW OF AGENCY LUST DECISION

NOW COMES Petitioner, SANGAMON VALLEY CUSD #9, pursuant to Section 57.8(i) of the Illinois Environmental Protection Act, 415 ILCS 5/57.8(i), and hereby appeals the Agency's final decision, authorizing partial payment for early action activities, stating as follows:

1. Petitioner is the owner or operator of an underground storage tank formerly located at the Sangamon Valley High School in Niantic, County of Mason, Illinois, which had been assigned LPC #1150405004.
2. On July 21, 2016, a release from a 10,000 gallon heating oil tank, used for consumptive purposes, was reported and Incident Number 2016-0640 was assigned to the release.
3. On August 9, 2016, the underground storage tank was removed, and the excavation pit in front of the school was filled with soil, leveled and seeded.
4. On September 14, 2016, early action activities were described and submitted by Petitioner's consultant in the 45-day report, which was approved on October 6, 2016.
5. On November 7, 2016, Petitioner's consultant submitted its early action reimbursement claim by hand-delivery to the Illinois Environmental Protection Agency, Bureau of Land, a true and correct copy of the signed receipt is attached hereto as Exhibit A.

6. On March 8, 2017, which is 121 days from when the reimbursement claim was submitted, the Agency issued its decision authorizing only partial payment by making \$4,010.22 in deductions. A true and correct copy of the decision is attached hereto as Exhibit B.

7. Pursuant to Section 57.8(a)(1) of the Act, the Agency was required to approve the amount requested:

If the Agency fails to approve the payment application within 120 days, such application shall be deemed approved by operation of law and the Agency shall proceed to reimburse the owner or operator the amount requested in the payment application.

(415 ILCS 5/57.8(a)(1))

8. Alternatively, the deductions are without merit:

a. Reimbursement was not sought for landscaping. The excavation area in the school yard was backfilled with soil, leveled and seeded for grass.

b. The Senior Project Manager performed oversight, coordination and development of the payment application, and did not perform an extra layer of review.

c. The water level indicator is used in early action to measure groundwater in the excavation.

d. The PID is used to identify contaminated soils for removal during early action, the daily rate is reasonable, and the application was complete as a matter of law.

e. The Agency states that “[t]he use of a camera and a measuring wheel are considered indirect costs and their use is not eligible for payment.” Unfortunately it appears that the Leaking Underground Storage Tank division has ordered its staff to disregard the Board’s decisions in Abel Investments v. IEPA, PCB 16-108, slip op. at 10-11 (Dec. 15, 2016) (measuring wheel is a direct cost); Knapp Oil Company v. IEPA, PCB

16-103, slip op. at 6-7 (Sept. 22, 2016) (camera is a direct cost). Furthermore the application submitted was complete as a matter of law.

f. The disposable glove costs were reasonable and the application submitted was complete as a matter of law.

g. The copying charges for early action were reasonable, and the application submitted was complete as a matter of law.

h. The mileage costs were reasonable, and the application submitted was complete as a matter of law.

i. The LEL meter should be reimbursed as the application is complete as a matter of law.

j. The reduction in handling charges due to the erroneous reduction in other costs should be reversed.

9. Furthermore, these cuts are claimed to be pursuant to Section 57.7(c)(3) of the Act, which by its express terms only applies to plans and budgets “submitted pursuant to subsection (a) or (b) of this Section,” i.e. site investigation and corrective action, not applications for payment for early action. (415 ILCS 5/57.7(c)(3))

10. The subject Illinois EPA letter was received by certified mail on March 17, 2017, which is 35 days from the date this appeal is being filed, and therefore timely.

WHEREFORE, Petitioner, SANGAMON VALLEY CUSD #9, 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.

SANGAMON VALLEY CUSD #9,
Petitioner

By its attorneys,
LAW OFFICE OF PATRICK D. SHAW

By: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
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ACKNOWLEDGEMENT OF RECEIPT

The undersigned hereby acknowledges that the document(s) listed below were received by the Illinois Environmental Protection Agency, Bureau of Land.

Early Action Reimbursement Claim (07/16-10/16)

Name of Document

Sangamon Valley CUSD #9 / Niantic / Macon County
LPC# 1150405004 / Incident # 2016-0640

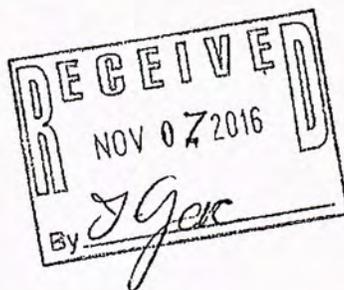
Document Reference Number

Gregory W. Dunn, Acting Manager, LUST Section

Document Addressee

Signature

Date Received





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, DIRECTOR

217/524-3300

CERTIFIED MAIL #

7014 2120 0002 3285 0922

MAR 08 2017

Sangamon Valley CUSD #9
c/o CWM Company, Inc.
P.O. Box 571
Carlinville, IL 62626

Re: LPC #1150405004—Macon County
Niantic/ Sangamon Valley CUSD #9
398 North Illinois Street
Incident-Claim No.: 20160640—67872
Queue Date: November 9, 2016
Leaking UST Fiscal File

Dear Sir or Madam:

The Illinois Environmental Protection Agency (Illinois EPA) has completed the review of your application for payment from the Underground Storage Tank (UST) Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.Subpart F.

This information is dated October 25, 2016 and was received by the Illinois EPA on November 9, 2016. The application for payment covers the period from July 1, 2016 to October 31, 2016. The amount requested is \$64,609.88.

On November 9, 2016, the Illinois EPA received your application for payment for this claim. As a result of Illinois EPA's review of this application for payment, a voucher for \$55,599.66 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Illinois EPA 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 Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

The deductible amount of \$5,000 was withheld from your payment. Pursuant to Section 57.8(a)(4) of the Act, any deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted from any payment invoice paid to an eligible owner or operator.

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.

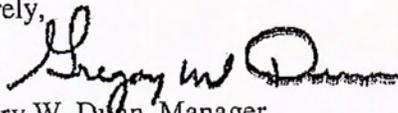
An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.



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If you have any questions or require further assistance, please contact Brad Dilbaitis of my staff at (217) 785-8378 or Bradley.Dilbaitis@illinois.gov.

Sincerely,



Gregory W. Dunn, Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

GWD:BD 

Attachment: Attachment A
Appeal Rights

c: Sangamon Valley CUSD #9
Leaking UST Claims Unit

Attachment A
Accounting Deductions

Re: LPC #1150405004—Macon County
Niantic/ Sangamon Valley CUSD #9
398 North Illinois Street
Incident-Claim No.: 20160640—67872
Queue Date: November 9, 2016
Leaking UST FISCAL FILE

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$850.00, deduction for Remediation and Disposal Costs associated with landscaping which 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).

2. \$1,720.40, deduction for Consulting Personnel Costs for oversight which 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). In addition, the request lacks 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. Furthermore, the 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 application for payment requests 23.25 hours for a Senior Account Technician to prepare the early action application for payment and 4.25 hours for a Senior Professional Engineer to review and provide oversight for the application for payment. These hours are approved for the preparation and review of the reimbursement claim. The application for payment also requests an additional 13.75 hours for oversight/coordination/development by a Senior Project Manager for the application for payment. This extra layer of review by the Senior Project Manager is not eligible for payment.

3. \$126.00, deduction for Consultant's Materials Costs associated with the use of a water level indicator which 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). In addition, the request lacks 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. Furthermore, the 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 the use of a water level indicator for 4.5 days at a rate of \$28.00 per day for a total of \$126.00 to "test for groundwater during drilling and sampling activities and groundwater sample/survey." There is nothing included in the 45-Day Report that would indicate that a water level indicator was either necessary or used in the completion of the early action activities.

4. \$666.00, deduction 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. In addition, the request exceeds 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). Furthermore, the 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 the use of a PID for 4.5 days at a rate of \$148.00 per day for a total of \$666.00 to "test for groundwater during drilling and sampling activities and groundwater sample/survey." There is nothing in the 45-Day Report that would indicate that a PID was used to collect any of the soil samples, with the exception of the waste characterization sample. The 45-Day Report indicates that all six of the wall excavation confirmation soil samples were collected at 7 feet below the ground surface as prescribed in 35 Ill. Adm. Code 734.210(h)(1)(a). None of these wall soil samples exhibited any soil contamination above laboratory detection limits for BETX, MTBE or PNAs. The two floor excavation soil samples were collected below each end of the UST as prescribed in 35 Ill. Adm. Code 734.210(h)(1)(b) and were aligned with the wall excavation samples. The piping run excavation soil samples were collected every 20 feet in accordance with 35 Ill. Adm. Code 734.210(h)(1)(c). No PID

results were presented for any of these soil samples. In addition, no documentation has been provided to substantiate the requested \$148.00 daily rate for the use of the PID.

5. \$138.50, deduction for indirect corrective action costs for personnel, materials, service, or equipment 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 Section 57.7(c)(3) of the Act because they are not reasonable. In addition, the request lacks 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. Furthermore, the request is 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 the use of a measuring wheel for 4.5 days at a rate of \$21.00 per day for a total of \$94.50 and the use of a digital camera for 4 days at a rate of \$11.00 per day for a total of \$44.00. The use of a camera and a measuring wheel are considered indirect costs and their use is not eligible for payment. In addition, no documentation was provided to substantiate the requested rates. Furthermore, the 45-Day Report includes a total of 4 photographs: one of the UST prior to removal, two documenting the corrosion holes in the UST, and one documenting the contaminated area in the excavation. These four photographs do not indicate that a camera was used on four separate days.

6. \$40.00, deduction for Consultant's Materials Costs associated with disposable 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. In addition, the request 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). Furthermore, the request exceeds 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 Consultant's Materials Costs requests a total of 2.5 boxes of disposable gloves at a rate of \$16.00 per box for a total of \$40.00 for soil and groundwater sampling. If one is to assume each box of gloves contains 50 pairs of disposable gloves then the request is for a total of 125 pairs of disposable gloves for the collection of 15 soil samples, or 8 pairs of gloves used for each soil sample collected. In addition, it appears as though the request is for one-half of a box of gloves, or 25 pairs, for the collection of the waste

characterization sample, a full box of gloves, or 50 pairs, for the 8 excavation soil samples collected on August 10, 2016, and a full box of gloves, or 50 pairs, for the 6 excavation soil samples collected on August 12, 2016. In addition, there was no documentation provided to substantiate the requested \$16.00 cost for the box of gloves.

7. \$41.55, deduction for Consultant's Materials Costs associated with copies which 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). In addition, the request lacks 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. Furthermore, the 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 677 copies at a rate of \$0.15 per page for a total of \$101.55 for copy costs associated with the preparation of the 20-Day Certification and the 45-Day Report. These two documents were a combined total of 91 pages (3 + 88). The 677 pages represent over 7 copies of the 20-Day Certification and the 45-Day Report. A total of 4 copies of the 20-Day Certification and the 45-Day Report are approved, rounded up to 100 pages.

8. \$112.65, deduction for Consultant's Materials Costs associated with copies which 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). In addition, the request lacks 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. Furthermore, the 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 976 copies at a rate of \$0.15 per page for a total of \$146.40 for the preparation of the early action application for payment. The application for payment totals 113 pages. However, 38 of the pages included in the early action application for payment are laboratory results that were submitted in the 45-Day Report. **The re-submittal of the laboratory documentation in the early action**

application for payment is not required or recommended. The information has already been submitted in the 45-Day Report. With the unnecessary laboratory documentation subtracted, the early action application for payment totals 75 pages. A total of 3 copies of the early action application for payment are approved, totaling 225 copies.

9. \$93.75, deduction for Consultant's Materials Costs associated with copies which 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). In addition, the request lacks 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. Furthermore, the 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 \$0.15 per page for copy costs. There has been no documentation provided to substantiate the requested \$0.15 per page copy request.

10. \$53.37, deduction for Consultant's Materials Costs associated with mileage costs which 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). In addition, the request lacks 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. Furthermore, the 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 487 miles at a rate of \$0.65 per mile for a total mileage cost of \$316.55. No documentation has been provided to justify an increase over the applicable federal mileage rate of \$0.54 per mile. A total of 487 miles are approved at a rate of \$0.54 per mile.

11. \$100.00, deduction for Consultant's Materials Costs associated with the use of a LEL meter which 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). In addition, the request lacks 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. Furthermore, the 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 \$100.00 for the use of a LEL meter for one day. No documentation was provided to substantiate the requested \$100.00 rate.

12. \$68.00, 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 57.1(a) of the Act and 35 Ill. Adm. Code 734.635.

The Handling Charges were adjusted to reflect the deduction in Remediation and Disposal Costs associated with landscaping.

BD

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