

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

EAST-WEST PROPERTIES, LLC)	
)	
Petitioner,)	
v.)	PCB 2024-072
)	(LUST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

NOTICE

Don Brown, Clerk
Illinois Pollution Control Board
60 E. Van Buren Street
Suite 630
Chicago, IL 60605
don.brown@illinois.gov

Bradley P. Halloran, Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren Street
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Chicago, IL 60605
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Stephen F. Hedinger, of Counsel
Sorling Northrup
1 North Old State Capitol Plaza, Suite 200
P.O. Box 5131
Springfield, IL 62705
sfhedinger@sorlinglaw.com

PLEASE TAKE NOTICE that on **April 24, 2025**, I filed with the office of the Clerk of the Pollution Control Board a **RESPONSE TO PETITIONER'S FIRST SET OF INTERROGATORIES**, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



Rich Kim
Assistant Counsel - Division of Legal Counsel
Special Assistant Attorney General
2520 West Iles Avenue
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
Date: April 24, 2025

Electronic Filing: Received, Clerk's Office 04/24/2025
CERTIFICATE OF SERVICE

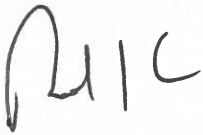
I, the undersigned attorney at law, hereby certify that on **April 24, 2025**, I served true and correct copies of a **RESPONSE TO PETITIONER'S FIRST SET OF INTERROGATORIES**, via the Board's COOL system and email, upon the following named persons:

Don Brown, Clerk
Illinois Pollution Control Board
60 E. Van Buren Street
Suite 630
Chicago, IL 60605
don.brown@illinois.gov

Bradley P. Halloran, Hearing Officer
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



Rich Kim
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BEFORE THE POLLUTION CONTROL BOARD
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EAST-WEST PROPERTIES, LLC,)	
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)	(LUST Appeal)
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PROTECTION AGENCY,)	
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**RESPONDENT, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S
RESPONSE TO PETITIONER'S FIRST SET OF INTERROGATORIES**

NOW COMES Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by one of its attorneys, Rich Kim, Assistant Counsel and Special Assistant Attorney General, and hereby submits its responses to Petitioner's First Set of Interrogatories, as follows:

1. Identify all persons providing information responsive to these interrogatories, including the name and title of the person and the interrogatories for which information was provided.

Answer:

1. Becky Fiedler, Environmental Protection Specialist IV
2. Brian Bauer, Senior Public Service Administrator – Interrogatories #3, #4, #8

2. Identify by date, amount billed and approved, and person or persons who performed the work on behalf of East-West Properties, LLC, all amounts requested in the Reimbursement Request for labor that You believe to have been performed and/or documented in accordance with statutory and regulatory requirements and eligible for reimbursement, and for each such identification, state the reasons for Your belief.

Answer:

As are identifiable in the record, the following Consulting Personnel Costs were approved and reimbursed from the Leaking UST Fund, and were performed and/or documented in accordance with statutory and regulatory requirements and eligible for reimbursement, along with the reasons why:

- Seven hours for the Sr PM (M. Keebler) at a rate of \$147.95 per hour for “UST Removal Coordination, Management, Preparation, and Scheduling” for a total of \$1,035.65 were billed and reimbursed. Based on the submittal, these costs are comprised of 5 hours on August 28, 2023 (1:00 pm to 6:00 pm) and two hours on August 29, 2023 (10:00 am to 12:00 pm). These costs were reimbursed because based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.
- 68 hours for the Sr PM (M. Keebler) at a rate of \$147.95 per hour for “Travel Time, Job Preparation, UST Removal & Backfill Activity coordination, oversight, mapping, and soil sampling” were reimbursed for a total of \$10,060.60. A total of 129.25 hours were requested. The 68 hours and associated costs are comprised of the following:
 - 10 hours on September 5, 2023 (7:00 am to 5:00 pm) for “UST Removal Activities”. Ten hours were requested, and all were reimbursed.
 - 8.5 hours on September 6, 2023 (7:00 am to 3:30pm) for “UST Removal Activities.” 8.5 hours were requested, and all were reimbursed.
 - 11 hours on September 7, 2023 (7:00 am to 6:00 pm) for “UST & Soil Removal Activities.” Eleven hours were requested, and all were reimbursed.
 - 11.5 hours on September 8, 2023 (6:30 am to 6:00 pm) for “Soil Removal Activities.” 11.5 hours were requested, and all were reimbursed.
 - 3.5 hours on September 10, 2023 (4:00 pm to 7:30 pm) for “Job Preparation & Drive to site.” 3.5 hours were requested, and all were reimbursed.
 - 4.5 hours on September 12, 2023 (6:30 am to 11:00 am) for “Soil Removal & Backfill Activities.” 9.5 hours were requested, and 4.5 hours were reimbursed.
 - 7.5 hours on September 14, 2023 (6:30 am to 2:00 pm) for “Soil Removal & Backfill Activities.” Eleven hours were requested, and 7.5 hours were reimbursed.
 - 3.5 hours on September 15, 2023 (6:30 to 10:00) for “Soil Removal & Backfill Activities.” 15 hours were requested, and 3.5 hours were reimbursed.
 - 8 hours on September 25, 2023 (10:30 am to 6:30 pm) for “Backfill Activities”. Eight hours were requested and all were reimbursed.

These above costs for the Senior Project Manager were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

- 76.75 hours for the Scientist IV (D. Lacey) at a rate of \$110.95 per hour for “Travel Time, Job Preparation, UST Removal & Backfill Activity coordination, oversight, mapping, and soil sampling assistance” were reimbursed, for a total of \$8,515.41. There were 76.75 hours requested and 76.75 hours reimbursed for the aforementioned task and employee. The 76.75 hours are comprised of the following:
 - 3 hours on September 5, 2023 (2:30 pm am to 5:30 pm) for “UST Removal Activities”. Three hours were requested and all were reimbursed.

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- 9 hours on September 6, 2023 (6:30 am to 3:30 pm) for "UST Removal Activities." Nine hours were requested and all were reimbursed.
- 11.50 hours on September 7, 2023 (6:30 am to 6:00 pm) for "UST & Soil Removal Activities." 11.50 hours were requested and all were reimbursed.
- 10 hours on September 8, 2023 (7:00 am to 5:00 pm) for "Soil Removal Activities." Ten hours were requested and all were reimbursed.
- 8 hours on September 11, 2023 (8:00 am to 4:00 pm) for "Soil Removal & Backfill Activities." Eight hours were requested and all were reimbursed.
- 9 hours on September 12, 2023 (7:00 am to 4:00 pm) for "Soil Removal & Backfill Activities." Nine hours were requested and all were reimbursed.
- 5.25 hours on September 25, 2023 (1:45 pm to 7:00 pm) for "Job Preparation & Drive to site." 5.25 hours were requested and all were reimbursed.
- 11 hours on September 26, 2023 (6:30 am to 5:30 pm) for "Backfill Activities." 11 hours were requested and all were reimbursed.
- 10 hours on September 27, 2023 (6:30 am to 4:30 pm) for "Backfill Activities." Ten hours were requested and all were reimbursed.

These above costs for the Scientist IV were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

- 36.75 hours for the Technician II (Eckhoff) at a rate of \$73.97 per hour for a total of \$2,718.4 for "Travel Time, Job Preparation, UST Removal & Backfill Activity coordination, oversight, mapping, and soil sampling assistance" were reimbursed. There were 36.75 hours requested and 36.75 hours reimbursed for the aforementioned task and employee. This includes the following:

- 10.75 hours (6:30 am to 5:45 pm) on September 13, 2023 for "Soil Removal & Backfill Activities." 10.75 hours were requested and all were reimbursed.
- 11 hours (6:30 am to 5:30 pm) on September 14, 2023 for "Soil Removal & Backfill Activities." 11 hours were requested and all were reimbursed.
- 15 hours (6:30 am to 9:30pm) on September 15, 2023 for "Soil Removal & Backfill Activities." 15 hours were requested and 15 hours were reimbursed.

These above costs for the Technician II were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

- 2.75 hours for the Project Manager (D. Lacey) at a rate of \$133.15 per hour, for a total of \$366.16 for "Laboratory Certifications/Chain of Custody, PID Reading Table, and Photographic Documentation of UST Removal Activity Preparation" were reimbursed. There were 3.75 hours originally requested for this employee to complete the described tasks; 2.75 of these hours were reimbursed. Time requested and reimbursed includes:

- 0.25 hours on September 11, 2023.
- 2.50 hours on September 20, 2023.

These above costs for the Project Manager were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

- 0.5 hours for the Project Manager (J. Fortado) at a rate of \$133.15 per hour, for a total of \$66.58 per hour, for “Soil Sample Shipment Preparations” were reimbursed. There were 0.5 hours requested for J. Fortado to complete this task and all this requested time was reimbursed. Time requested and reimbursed includes:
 - 0.25 hours on September 11, 2023.
 - 0.25 hours on September 15, 2023.

These above costs for the Project Manager were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

- 1.0 hour for the Technician II (G. Keebler) on September 27, 2023 at a rate of \$133.15 per hour, for a total of \$73.97, for “Analytical Table Preparation” was requested and reimbursed. These costs for the Technician II were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.
- 1.50 hours for the Senior Technician (L. Curtis) on September 22, 2023 at a rate of \$96.16 per hour, for a total of \$144.24, for “Analytical Table Preparation” were requested and reimbursed. These costs for the Senior Technician were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.
- 2.0 hours for the Senior Project Manager (M. Keebler) on August 23, 2023 at a rate of \$147.95 per hour, for a total of \$295.90, for “Prepare and assemble 45-Day Report” were requested and reimbursed. These costs for the Senior Project Manager were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.
- 24 hours for the Senior Project Manager (C. Rochford) at a rate of \$147.95 per hour, for a total of \$3,550.80, for “Prepare and assemble 45-Day Report” were reimbursed. The claim originally requested 25 hours. Costs reimbursed are for work performed on:
 - August 11, 2023 (2.5 hours).
 - September 19, 2023 (3.5 hours).
 - September 21, 2023 (1.5 hours).
 - September 26, 2023 (0.50 hours).
 - September 28, 2023 (8 hours).
 - September 29, 2023 (8 hours).

These above costs for the Senior Project Manager were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

- 3.75 hours for the Senior Project Manager (M. Keebler) at a rate of \$147.95 per hour, for a total of \$554.81 for “Prepare OSFM Eligibility and Deductibility Application” were requested and reimbursed. Costs were incurred on:
 - September 20, 2023 (3.0 hours).
 - October 6, 2023 (0.75 hours).

These above costs for the Senior Project Manager were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

- 5.0 hours for the Senior Draftsperson (M. Keebler) at a rate of \$88.76 per hour, for a total of \$443.80, for “Site Map and drawing Preparations” were requested and reimbursed. These costs are associated with 5.0 hours that occurred on September 19, 2023. These costs for the Senior Draftsperson were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.
- 1.0 hour for the Senior Admin. Assistant (M. Keebler) at a rate of \$66.58, for a total of \$66.58, per hour for “Copying & Submitting Report to Client” was requested and reimbursed. This hour occurred on October 6, 2023. These costs for the Senior Admin. Assistant were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.
- 15.0 hours for the Senior Account Technician (J. Fortado) at a rate of \$81.36 per hour, for a total of \$1,220.40 for “Billing Package Preparation” were requested and reimbursed. Costs were incurred on:
 - October 9, 2023 (2.50 hours).
 - October 10, 2023 (4.25 hours).
 - October 11, 2023 (4.0 hours).
 - October 12, 2023 (4.25 hours).

These above costs for the Senior Account Technician were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

- 4.0 hours for the Senior Professional Engineer (M. Keebler) at a rate of \$192.33 per hour, for a total of \$769.32, for “Billing Package Review and Certification” were requested and reimbursed. This task occurred on October 13, 2023 for 4 hours. These costs for the Senior Professional Engineer were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

- 2.0 hours for the Senior Admin. Assistant (J. Fortado) at a rate of \$66.58 per hour, for a total of \$133.16, for “Copying & Submitting Billing Package to P.E. and Client” were requested and reimbursed. These tasks were performed on:

- October 12, 023 (1.0 hour).
- October 16, 2023 (1.0 hour).

These above costs for the Senior Admin. Assistant were reimbursed because, based on the documentation provided, they appeared reasonable and to be directly associated with the tasks required to address the Leaking UST Incident 20230615.

3. Identify by date, amount billed, and the person or persons who performed the work on behalf of East-West Properties, LLC, all amounts requested in the Reimbursement Request for labor that you believe not to have been performed and/or documented in accordance with statutory and regulatory requirements and not eligible for reimbursement, and for each such identification, state the amount that You believe not to be eligible for reimbursement, and the reasons for Your belief.

Answer:

- 60.25 hours for the Sr Project Manager (M. Keebler) at a rate of \$147.95 per hour for “Travel Time, Job Preparation, UST Removal & Backfill Activity coordination, oversight, mapping, and soil sampling” were not reimbursed, for a total of deduction of \$9,061.94. The deductions were as follows:
 - One hour for which the submitted timesheet did not support. The request was for a total of 129.25 hours for M. Keebler to perform the aforementioned tasks; however, the submitted timesheet only supported 128.25 hours. Because this cost was not on the timesheet submitted, the Illinois EPA believes this request is not documented or justified.
 - 9.5 hours for “Soil Removal & Backfill Activities” on September 11, 2023. Based on the OFSM Certificate of Removal, Tank #4 was removed on September 6, 2023, and Tanks #8 and 9 (a single, compartmentalized tank), was removed on September 7, 2023. Based on the 45-Day Report, there were NO samples collected on September 11, 2023. The Illinois EPA determined that this cost was not justified or reasonable, and lacked supporting documentation based on the work performed and the documentation submitted to the Illinois EPA.

- 5.0 hours for “Soil Removal & Backfill Activities” on September 12, 2023. Based on the 45-Day Report and the chain-of-custody samples W-7 through W-16 were collected on this day between 8:00 AM and 10:30 AM. Based on additional information provided by PEI, time spent after 10:30 was to *“test the soils in the baggies using the PID meter, document the PID readings, kit up all the samples into the lab provided vials and jars, place the samples on ice, etc. The remaining time onsite was to oversee and observe the soil excavation while still taking samples to verify if the soils were contaminated using the PID meter, oversee the backfill materials stockpiling, and traffic control.”*

The Illinois EPA views the “TIME COLLECTED” column on the chain-of-custody as being the time the sample was actually collected and placed into the appropriate container or jar. The PID screening should be completed prior to “kitting up” the soil into the jars or vials. There is also no indication or documentation that a PID was used to screen the soil samples. There is also no documentation to support the additional time that PEI is asserting it took to place the soil into the jars and subsequently into a cooler with ice.

Furthermore, there is clear evidence that work associated with the installation of the new tanks was performed on September 12, 2023, as indicated on the track hoe operator’s time sheet, documenting 10.50 hours for the task “unload shoring.” Shoring is used to provide support to the excavation to allow the excavated area to be further expanded so that the new, larger tanks could be installed where the removed tanks were previously located. This is further supported by Figure 3 of the 45-Day Report, pointing to the “14’ x 70’ shore box excavation” at the end of the Tank 10, which was installed on September 26, 2023. This is also further supported by Perry Environmental Inc.’s invoice which shows the charge for “Labor and Equipment to install and deliver shore box panels for installing new tanks safely and remove and haul back off.” Additionally, PEI’s invoice to AMPSCO Petroleum Equipment Services (Invoice #2963) explicitly says that “Per proposal #P23-191, Perry Environmental Inc. will provide equipment, materials, and labor to install new tanks at the Marathon Gas Station site at 8100 S. Ashland in Chicago, IL.” Oversight of activities related to the installation of new tanks is not eligible for reimbursement from the UST Fund.

Based on the above information, it is the Illinois EPA’s opinion that that the costs deducted on this day for the Senior Project Manager were not directly associated with activities related to tank removal or the requirements to address the above referenced LUST Incident, are unreasonable, exceed the requirements of the statutory and regulatory requirements to address the LUST Incident, and lacked supporting documentation based on the work performed and the documentation submitted to the Illinois EPA. There was insufficient documentation submitted to document that the Senior Project Manager’s time was not associated with overseeing tank install requirements.

- 10.75 hours for “Soil Removal & Backfill Activities” on September 13, 2023. There was no Early Action sampling performed on September 13, 2023. When asked for additional information, PEI stated time on this date for consulting personnel was to “*verify if the soils were contaminated using the PID meter, oversee the backfill materials stockpiling, hand out landfill waste manifests to truckers for hauling contaminated soils to landfill, collect landfill weight tickets from truckers, collect quarry weight tickets from truckers delivering backfill materials, tracking quantities of contaminated soils excavated, tracking quantities of backfill materials delivered, taking photographs, and traffic control, observe cleaning up the streets and sidewalks, securing the site for safety, drive back to our rental.*”

PEI served as the UST removal contractor; the environmental consultant for the above referenced incident; and was subcontracted to provide equipment, materials, and labor for new UST installation. Based on provided information and documentation, the Illinois EPA determined that the time spent onsite was primarily for work related to expanding the excavation limits for the purpose of installing new tanks. Note that two new 12,000-gallon tanks, one of which is comprised of three compartments, was placed in the same pit that Tanks 8 and 9 were removed from. Over excavation occurred to fit the new, larger tanks into the existing tank pit. There is no indication that the work performed was for the purpose of meeting Illinois EPA’s early action regulations, especially since no soil sampling was performed this day. Additionally, having two senior, experienced personnel onsite to complete the tasks mentioned above is unreasonable. There is also no documentation to support that the PID meter was used, and it exceeds requirements to continually screen soils intended for landfilling. Furthermore, the PID is a screening tool that can indicate the presence of volatile compounds but does not provide concrete data nor does the landfill require PID readings for acceptance of materials.

Based on the above information, the Illinois EPA determined that the costs deducted on this day for the Senior Project Manager were not directly associated with activities related to tank removal or the requirements to address the above referenced LUST Incident, are unreasonable, and exceed the requirements of the statutory and regulatory requirements to address the LUST Incident, lacked supporting documentation based on the work performed and the documentation submitted to the Illinois EPA, and the costs are associated with oversight of tank installation work. There was insufficient documentation submitted to document that the Senior Project Manager’s time was not associated with overseeing tank installation work.

- 3.5 hours for “Soil Removal & Backfill Activities” on September 14, 2023. Based on the 45-Day Report and the chain-of-custody samples, three samples were collected for meeting the requirements of 35 Ill. Adm. Code 734.210(h). These were samples F-3 through F-5, which were collected at 10:15 AM, 10:30 AM, and 1:30 PM, respectively. Additional information provided by PEI states that time on this day is for *“The two personnel were oversee and observe the soil excavation while still taking samples to verify if the soils were contaminated using the PID meter, oversee the backfill materials stockpiling, hand out landfill waste manifests to truckers for haul contaminated soils to landfill, collect landfill weight tickets from truckers, tracking quantities of contaminated soils excavated, traffic control, observe cleaning up the streets and sidewalks, securing the site for safety, drive back to our rental.”*

The Illinois EPA views the “TIME COLLECTED” column on the chain-of-custody as being the time the sample was actually collected and placed into the appropriate container or jar. The PID screening should be completed prior to “kitting up” the soil into the jars or vials. There is also no indication or documentation that a PID was used to screen the soil samples. There is also no documentation to support the additional time that PEI is asserting it took to place the soil into the jars and subsequently into a cooler with ice.

PEI served as the UST removal contractor; the environmental consultant for the above referenced incident; and was subcontracted to provide equipment, materials, and labor for new UST installation. Based on provided information and documentation, the Illinois EPA determined that time spent onsite was primarily for work related to expanding the excavation limits for the purpose of installing new tanks. Note that two new 12,000-gallon tanks, one of which is comprised of three compartments, was placed in the same pit that Tanks 8 and 9 were removed from. Over excavation occurred to fit the new, larger tanks into the existing tank pit. There is no indication that the work performed was solely for the purpose of meeting Illinois EPA’s early action regulations.

Furthermore, based on weight tickets, the maximum amount of backfill volume within four feet of the USTs was disposed of at the landfill by the second load on this date (September 14, 2023) for a total of 546 cubic yards (under ticket number 1702693). This load was received at the landfill at approximately 8:12 am. Time to oversee excavation of materials beyond the four-foot limitation exceeds Illinois EPA’s requirements, is unreasonable, and appears to be associated with the installation of new USTs.

Based on the above information, the Illinois EPA determined that the costs deducted on this day for the Senior Project Manager were not directly associated with activities related to tank removal or the requirements to address the above referenced LUST Incident, are unreasonable, exceed the requirements of the statutory and regulatory requirements to address the LUST Incident, lacked supporting documentation based on the work performed and the documentation submitted to the Illinois EPA, and that the

costs are associated with oversight of tank installation work. There was insufficient documentation submitted to prove that the Senior Project Manager's time was not associated with overseeing tank install requirements.

- 11.5 hours for "Soil Removal & Backfill Activities" on September 15, 2023. Based on the 45-Day Report and the chain-of-custody, only one confirmation sample for the purpose of meeting 35 Ill. Adm. Code 734.210(h) sampling requirements was collected, sample F6 at 9:00 am. Additional information provided by PEI states that on September 15, 2023, *"personnel were there overseeing and observing the remaining soil excavation while still taking samples to verify if the soils were contaminated using the PID meter, oversee the backfill materials being moved around the site, hand out landfill waste manifests to truckers for haul contaminated soils to landfill, weight for the trucker to come back to collect landfill weight tickets from trucker, tracking quantities of contaminated soils excavated, taking photographs, traffic control, discussing project with owner and manager, and drive back to Springfield, IL, unload soil samples and put in refrigerator."* It should be noted that only two loads of soil were documented as being removed on this day, and these were the last two loads of soil removed from this site, for a total of 55.15 tons, or approximately 36.77 cubic yards using a conversion factor of 1.5 tons per cubic yard. This volume far surpasses the maximum amount of ET&D eligible from reimbursement as part of Early Action Activities. Note that two new 12,000-gallon tanks, one of which is comprised of three compartments, was placed in the same pit that Tanks 8 and 9 were removed from. Over excavation occurred to fit the new, larger tanks into the existing tank pit.

PEI served as the UST removal contractor; the environmental consultant for the above referenced incident; and was subcontracted to provide equipment, materials, and labor for new UST installation. Based on provided information and documentation, the Illinois EPA determined that time spent onsite was primarily for work related to expanding the excavation limits for the purpose of installing new tanks. Note that two new 12,000-gallon tanks, one of which is comprised of three compartments, was placed in the same pit that Tanks 8 and 9 were removed from. Over excavation occurred to fit the new, larger tanks into the existing tank pit. There is no indication that the work performed was solely for the purpose of meeting Illinois EPA's early action regulations.

Based on the above information, the Illinois EPA determined that the costs deducted on this day for the Senior Project Manager were not directly associated with activities related to tank removal or the requirements to address the above referenced LUST Incident, are unreasonable, exceed the requirements of the statutory and regulatory requirements to address the LUST Incident, lacked supporting documentation based on the work performed and the documentation submitted to the Illinois EPA, and that the costs are associated with oversight of tank installation work. There was

insufficient documentation submitted to document that the Senior Project Manager's time was not associated with overseeing tank install requirements.

- 10.5 hours for "Backfill Activities" on September 26, 2023. All four new tanks – note that Tanks #11, 12, and 13 are a singular tank separated into 3 compartments – were installed on this day by Perry Environmental Services. Additional information provided by PEI stated that "the two personnel were overseeing and observing backfilling the tank excavation area with pea gravel, traffic control to allow the skid steer machine to move rock safely from southside of property where the clean backfill materials were stockpiled to the northside of the property, while using the street to haul on, travel from hotel and back." The Illinois EPA reimbursed 11 hours for a Scientist IV for "backfill activities" on this day. Additionally, it is impossible to establish that the time for the Senior Project Manager was not onsite for overseeing installation of the new USTs. Furthermore, all early action sampling activities had been completed for 11 days. Additional documentation provided to the Illinois EPA states that there was a one-week delay with the delivery of the new tanks to this site, which explains why the tank pits were left open for so long following removal of the old tanks, which were associated with the above referenced Incident. Additional time and delays are associated with installation of new tanks, and any costs associated with these activities are ineligible for reimbursement from the Leaking UST Fund per 35 Ill. Adm. Code 734.630(l) and Section 57.7(c)(3) of the Act.

PEI served as the UST removal contractor; the environmental consultant for the above referenced incident; and was subcontracted to provide equipment, materials, and labor for new UST installation. Based on provided information and documentation, the Illinois EPA determined that time spent onsite was primarily for work related to installing new tanks. Note that two new 12,000-gallon tanks, one of which is comprised of three compartments, was placed in the same pit that Tanks 8 and 9 were removed from. There is no indication that the work performed was solely for the purpose of meeting Illinois EPA's early action regulations.

Based on the above information, the Illinois EPA determined that the costs deducted on this day for the Senior Project Manager were not directly associated with activities related to tank removal or the requirements to address the above referenced LUST Incident, are unreasonable, and exceed the requirements of the statutory and regulatory requirements to address the LUST Incident, lack supporting documentation based on the work performed and the documentation submitted to the Illinois EPA, and that the costs are associated with oversight of tank installation work. There was insufficient documentation submitted to prove that the Senior Project Manager's time was not associated with overseeing tank install requirements.

- 9.5 hours for “Backfill Activities” on September 27, 2023. Information from PEI states that *“On 9-27-23, the two personnel drove to the site, then oversaw and observed the final backfilling the tank excavation area with pea gravel, traffic control to allow the skid steer machine to move rock safely from southside of property where the clean backfill materials were stockpiled to the northside of the property, while using the street to haul on, travel back to Springfield, IL.”* By this date, all sampling requirements set forth in 734.210(h) were met, and the new tanks were installed the previous day. The Illinois EPA reimbursed 9 hours for a Scientist IV for “backfill activities” on this day.

PEI served as the UST removal contractor; the environmental consultant for the above referenced incident; and was subcontracted to provide equipment, materials, and labor for new UST installation. Based on provided information and documentation, the Illinois EPA determined that time spent onsite was primarily for work related to installing new tanks. Note that two new 12,000-gallon tanks, one of which is comprised of three compartments, was placed in the same pit that Tanks 8 and 9 were removed from. There is no indication that the work performed was solely for the purpose of meeting Illinois EPA’s early action regulations.

Based on the above information, the Illinois EPA determined that the costs deducted on this day for the Senior Project Manager were not directly associated with activities related to tank removal or the requirements to address the above referenced LUST Incident, are unreasonable, and exceed the requirements of the statutory and regulatory requirements to address the LUST Incident, lacked supporting documentation based on the work performed and the documentation submitted to the Illinois EPA, are associated with oversight of tank installation work. There was insufficient documentation submitted to prove that the Senior Project Manager’s time was not associated with overseeing tank install requirements.

- 1.0 hour was deducted from the requested 3.75 hours for the Project Manager (D. Lacey) for the preparation of the “PID Reading Table.” This was deducted because a PID reading table was not included in the certified and submitted 45-Day Report and was never provided to the Illinois EPA. Based on the submitted timesheet, D. Lacey created a PID reading table on September 25, 2023. The lack of submittal of a PID reading table resulted in a deduction of \$133.15. If a deliverable cannot be provided to the Illinois EPA (e.g. a data table), the Illinois EPA believes there is insufficient documentation to support the requested costs and that such costs are unreasonable.
- One out of the 25 requested hours was deducted from the Senior Project Manager (C. Rochford) for “Prepare and assemble 45-Day Report” because the submitted timesheets only documented 24 hours by C. Rochford for preparing and submitting the 45-Day Report. This resulted in a deduction of \$147.95. Because this cost was not on the timesheet submitted, the Illinois EPA believes this request is not documented or justified based on statutory and regulatory requirements.

- Two hours were deducted for the Project Manager (D. Lacey) for “45-Day Report Attachment Preparation Assistance”, for a deduction of \$266.30. These hours were deducted because they were not documented on the submitted time sheet, and there was no documentation to support what the Senior Project Manager needed help with, why the Senior Project Manager required assistance preparing attachment(s), nor what attachments the Project Manager assisted with. Because this cost was not on the timesheet submitted, the Illinois EPA believes this request is not documented or justified based on statutory and regulatory requirements.
 - Four hours for the Senior Professional Engineer for “45-Day Review and Certification” were deducted because the costs were incurred past the 45 plus 14-day Early Action time frame, resulting in a deduction of \$769.32. This task was performed on October 5, 2023. Excluding costs for preparing reimbursement requests, costs associated with completing Early Action requirements, including reporting, must be completed within 45 plus 15 days of reporting the incident to IEMA.
4. Identify any and all information, including documents included and documents not included in the Record, verbal information, or information of any other type and from any other source, upon which You relied in rejecting and deducting from amounts approved for payment from the Reimbursement Request the following amounts set forth in Attachment A to the Final Action:

Paragraph 6 of Attachment A -- \$8,913.99

Paragraph 8 of Attachment A -- \$450.00

Answer:

Paragraph 6 of Attachment A -- \$8,913.99

- 45-Day Report
- Early Action Billing Package
- Email Correspondence with
PEI
- OSFM facility database and installation records.
- PEI Invoice #2953
- Agency File

Paragraph 8 of Attachment A -- \$450.00

- 45-Day Report
- Informal communications with the assigned LUST Project Manager.
- Early Action Billing Package
- OSFM facility database and installation records.
- PEI Invoice #2953
- Agency File

5. State and explain the basis for the statements included on Bates page 590 of the Record, in the seventh line from the bottom, that:
- "Cut 10.50 hours for Keebler (sr pm) on 9/26 (backfill activities)
-Lacks doc, unreasonable, exceeds req. associated w/tank install"

Answer:

These are review notes. It corresponds to Attachment A of the response letter to claim number 74311, more specifically, deduction 6f. The basis is that the time appears to correspond to the Senior Project Manager to oversee installation of the new tanks. There is insufficient documentation provided to the Illinois EPA showing that the Senior Project Manager was working solely on activities related to the LUST Incident and that his time was not associated with tank installation activities or oversight.

6. State and explain the basis for the statements included on Bates page 590 of the Record, in the fifth line from the bottom, that:
- "Cut 9.5 hours for Keebler (sr pm) on 9/27 (backfill activities)
-Lacks doc, unreasonable, excess req., associated w/tank install"

Answer:

These are review notes. It corresponds to Attachment A of the response letter to claim number 74311, more specifically, deduction 6e. There is insufficient documentation provided to the Illinois EPA showing that the Senior Project Manager was working solely on activities related to the LUST Incident and that his time was not associated with tank installation activities or oversight.

7. State and explain the basis for the statements included on Bates page 590 of the Record, in the second line from the bottom, that:
"Cut 450.00 for PID: Lacks doc, unreasonable"

Answer:

These are review notes. They clearly correspond to Attachment A of the response letter to claim, more specifically, deduction 9. The basis for this comment was the lack of documentation to show that the PID was used for requested number of days.

8. State and explain in detail the bases and reasons supporting the statements included in the second, fifth, and sixth paragraphs of the paragraph number 6 of Attachment A of the Final Action, and identify all information, facts, and sources of information supporting the statements, as well as all assumptions You made to support the statements. Without limiting the scope of this interrogatory, in particular state and explain in detail the bases and reasons supporting the assertions that identified activities "are associated with the installation of new USTs, the repair of existing USTs, and/or removal and disposal of USTs determined to be ineligible by the Office of the State Fire Marshal," and that identified hours of Senior Project Manager time "are associated with new tank installation."

Answer:

PEI was subcontracted by the tank install contractor, as is clearly evidence on PEI Invoice #2953. Installation records and documentation available from the Office of the Illinois State Fire Marshal document when tank installation occurred, based on information from the OSFM and the documentation submitted. The new tanks were installed in the same, enlarged UST pit, as is evidenced by the information available from the OSFM, 45-Day Report, and invoicing and documentation included in the reimbursement request. As activities associated with tank installation activities occurred on the days for which costs associated with the Senior Project Manager were deducted, there was insufficient documentation to support that the Senior Project Manager was not overseeing installation activities, considering that the PEI was subcontracted to provide install services.

9. State and explain in detail the bases and reasons supporting the statements included in paragraph number 9 of Attachment A of the Final Action, and identify all information, facts, and sources of information supporting the statements, as well as all assumptions You made to support the statements. Without limiting the scope of this interrogatory, in particular state and explain in detail the bases and reasons supporting the assertions that there is "no supporting documentation" for the identified costs, and that "[t]here is insufficient documentation to support PID usage."

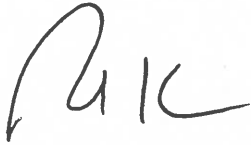
Answer:

The sources of information were all included in the record. There was no documentation provided to the Illinois EPA to show that the PID was used to screen the samples collected. There were no field notes nor table showing the PID reading levels.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent

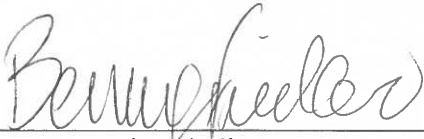
A handwritten signature in black ink, appearing to read 'Rich Kim'.

Rich Kim
Assistant Counsel/Special Assistant Attorney General
Division of Legal Counsel
2520 West Iles Avenue
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
Dated: April 24, 2025

CERTIFICATION

I, Becky Fiedler, with the Illinois EPA, Bureau of Land, Leaking Underground Storage Tank Section, depose and state, at follows:

Under penalties as provide by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the statements set forth in the responses to interrogatories one through nine are true and correct, except as to matters therein stated to be on information and belief and as to such matters I certify as aforesaid that I verily believe the same to be true.



Becky Fiedler