

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

RECEIVED
CLERK'S OFFICE
SEP 04 2012
STATE OF ILLINOIS
Pollution Control Board

BRIMFIELD AUTO & TRUCK,

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

ORIGINAL
RETURN TO CLERK'S OFFICE

PCB No. 12-134
(UST Appeal – Petition for Review and
Hearing/Appeal)

PETITION FOR REVIEW AND HEARING/Appeal

NOW COMES Brimfield Auto & Truck (“Brimfield”), by its attorneys, Elias, Meginnes, Riffle & Seghetti, P.C., and as and for its Petition for Review and Hearing/Appeal of the Illinois Environmental Protection Agency’s final decision with respect to the Stage 1 Site Investigation Plan Budget for a certain leaking underground storage tank (LUST) site, states as follows:

BACKGROUND

1. Brimfield retained Midwest Environmental Consulting & Remediation Services, Inc. (Midwest) to remediate the property located at 408 East Knoxville Road, Brimfield, Illinois, LPC #1430155012, LUST Incident No. 923484 and 20080373 (the Property).

2. The Property was the site of early action activities to include UST removal, contaminated backfill removal/disposal and pavement replacement, all within IEPA approved guidelines. The final report of early action activities detailed the work performed. No work was performed outside the early action guidelines (four (4) foot rule) and was within acceptable IEPA LUST Fund reimbursement requirements.

3. By letter dated March 28, 2012, Midwest submitted a Stage 1 Site Investigation Plan Budget, seeking payment in the amount of \$21,776.57, which was the amount reasonably

and necessarily expended to complete the work on the project. A true and correct copy of that Budget is attached hereto as Exhibit A.

4. By letter dated April 30, 2012, the IEPA rejected the \$15,184.84 Budget submitted on March 28, 2012 and approved amended amounts as listed in their "Attachment A". A true and accurate copy of the April 30, 2012 letter and attachments is attached hereto as Exhibit B. That letter was designated as a final and appealable order (the Final Decision).

ARGUMENT

The IEPA rejected the Budget based upon the reasons stated on Attachment A to the denial letter. Brimfield and Midwest disagree with these determinations, and affirmatively state that the reimbursement amounts expended were reasonable, customary, and necessary for the proper completion of the project and site closure. Specifically, all of the costs listed on Exhibit A were actually and legitimately expended and performed. Additionally, the scope of the additional work performed was within the guidelines pre-approved by the IEPA.

CONCLUSION

For all of the foregoing reasons, Brimfield respectfully requests a hearing in this matter, which will provide it the opportunity to establish the propriety of the costs, and that the Final Decision be reversed or modified by increasing and accepting the budget as proposed in Exhibit A, thereby allowing payment of the approved budget in the amount of \$21,776.57.

Respectfully submitted,

Brimfield Auto. & Truck, Petitioner

By: 

One of Its Attorneys

ROBERT M. RIFFLE
LANE G. ALSTER
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, IL 61602
(309) 637-6000
612-769

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SEP 04 2012

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

The undersigned certifies that on August 31, 2012, a copy of the foregoing document was served upon each party to this case by

X enclosing a true copy of same in an envelope addressed to the attorney of record of each party as listed below, with first class postage fully prepaid, and depositing each of said envelopes in the United States Mail at 5:00 p.m. on said date.

James G. Richardson
Illinois Environmental Protection Agency
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62794-9276

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street
Suite 11-500
Chicago, IL 60601

A handwritten signature in blue ink, appearing to be 'D. Gunn', is written over a horizontal line.

Robert M. Riffle
Lane G. Alster
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, IL 61602
(309) 637-6000
612-769

March 28, 2012

Illinois Environmental Protection Agency
Division of Remediation Management
Remedial Projects Accounting & Procurement Unit
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
attn: Mr. Hernando Albarracin

RE: Stage 1 Work Summary/Actual Costs Summary
LPC #1430155012 – Peoria County
Brimfield Auto & Truck
LUST Incident No.: 923484 & 20080373
LUST Technical File

Dear Mr. Albarracin,

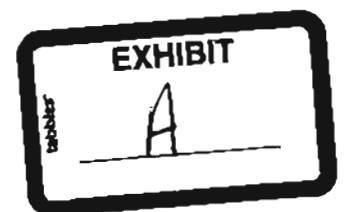
Pursuant to our telephone conversation on March 28, 2012 please consider this letter a request to re-review the Stage 1 related sections of the Stage 2 Site Investigation Plan and Budget dated May 12, 2011 which was rejected in an IEPA letter dated August 19, 2011. This re-review would include Section 2 and Appendix F of the report which detailed Stage 1 Investigation Results and the Stage 1 Actual Costs Summary. As discussed, an amended Stage 2/3 Plan and Budget will also be submitted to complete definition of the extents of contamination at the site.

Please feel free to contact this office with any questions or comments regarding this request. Thank you for your time and assistance in this matter.

Sincerely,
Midwest Environmental Consulting and Remediation Services, Inc.

Allan Green
President, MECRS

AJF
Job No. 11-16



Section 2.

Stage 1 Investigation Results

Section 2. Stage 1 Investigation Results

During Stage 1 of the investigation, a total of five soil borings were advanced at the subject property and all of the borings were completed as groundwater monitoring wells. All soil borings were sampled continuously in an attempt to determine the vertical extent of soil contamination. Soil samples collected from the borings were field screened using a photoionization detector (PID). Select soil samples exhibiting the greatest likelihood of an impact (odor, discoloration, PID levels) from every five feet were submitted for chemical analysis of BTEX and PNAs. Groundwater samples were also collected from all wells and submitted for chemical analysis of BTEX and PNAs. Contamination above Tier I CUOs in soil and groundwater was observed at the property boundaries. The horizontal extent of soil and groundwater contamination has yet to be defined. Further investigation is needed to define the extents.

Appendix F

Stage 1 Actual Costs Summary

General Information for the Budget and Billing Forms

LPC#: 1430155012 County: Peoria
City: Brimfield Site Name: Brimfield Auto & Truck
Site Address: 408 East Knoxville
IEMA Incident No: 923484 20080373 (re-report)
IEMA Notification Date: 12/7/1992
Date this form was prepared: April 20, 2011

This form is being submitted as a (check one if applicable):

- Budget Proposal
 Budget Amendment (Budget Amendments must include only the costs over the previous budget.)
 Billing Package

Please provide the name(s) and date(s) of report(s) documenting the costs as requested.

Name(s): _____

Date (s): _____

This package is being submitted for the site activities indicated below:

35 III. Adm. Code 734:

- Early Action
 Free Produce Removal After Early Action
 Site Investigation..... Stage 1: Stage 2: Stage 3:
Actual Costs
 Corrective Action

35 III. Adm. Code 732:

- Early Action
 Free Produce Removal After Early Action
 Site Classification
 Low Priority Corrective Action
 High Priority Corrective Action

35 III. Adm. Code 731

- Site Investigation
 Corrective Action

General Information for the Budget and Billing Forms

The following address will be used as the mailing address for checks and any final determination letters regarding payment from the Fund.

Pay to the order of: Mr. Larry Satterfield

Send in care of: Mr. Larry Satterfield

Address: Post Office Box 107

City: Brimfield State: IL Zip: 61517

The payee is the: Owner Operator (Check one or both)

W-9 must be submitted.

Signature of the owner of operator of the UST(s) (required) Click [here](#) to print off a W-9 Form

Number of petroleum USTs in Illinois presently owned or operated by the owner or operator, any subsidiary, parent or joint stock company of the owner or operator; and any company owned by any parent, subsidiary or joint stock company of the owner or operator:

Fewer than 101 101 or more:

Number of USTs at the site: 6 (Number of USTs includes USTs presently at the site and USTs that have been removed).

Number of incidents reported to the IEMA for this site: 2

Incidents Numbers assigned to the site due to releases from USTs: 923484 20080373
re-report

Please list all tanks that have ever been located at the site and tanks that are presently located at the site.

Product Stored in UST	Size (gallons)	Did UST have a release?	Incident No.	Type of Release Tank Leak / Overfill / Piping Leak
gasoline	2,000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	923484/20080373	overfills/spills
gasoline	560	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	923484/20080373	overfills/spills
diesel fuel	560	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	923484/20080373	overfills/spills
drain oil	300	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	N/A
gasoline	560	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	923484/20080373	overfills/spills
kerosene	560	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	923484/20080373	overfills/spills
		<input type="checkbox"/> <input type="checkbox"/>		
		<input type="checkbox"/> <input type="checkbox"/>		
		<input type="checkbox"/> <input type="checkbox"/>		

Budget Summary

Chose the applicable regulation.



734



732

734	Free Product	Stage 1 Site Investigation	Stage 2 Site Investigation	Stage 3 Site Investigation	Corrective Action
		actual			
Drilling and Monitoring Well Costs Form		\$6,317.20			
Analytical Costs Form		\$7,986.43			
Remediation and Disposal Costs Form		\$0.00			
UST Removal and Abandonment Costs Form		\$0.00			
Paving, Demolition, and Well Abandonment Costs Form		\$0.00			
Consulting Personnel Costs Form		\$7,326.09			
Consultant's Materials Costs Form		\$146.85			
Handling Charges Form	Handling charges will be determined at the time a billing package is submitted to the Illinois EPA. The amount of allowable charges will be determined in accordance with the Handling Charges Form.				
Total		\$21,776.57			

Drilling and Monitoring Well Costs Form

1. Drilling

Number of Borings to Be Drilled	Type HSA / PUSH / Injection	Depth (feet) of Each Boring	Total Feet Drilled	Reason for Drilling
5	HSA	25.00	125.00	plume definition/MW installation
			0.00	
			0.00	
			0.00	
			0.00	
			0.00	
			0.00	

Subpart H minimum payment amounts applies.

	Total Feet	Rate per Foot (\$)	Total Cost (\$)
Total Feet via HSA	125.00	\$31.09	\$3,886.25
Total Feet via PUSH:			\$0.00
Total Feet for Injection via PUSH:			\$0.00
Total Drilling Costs:			\$3,886.25

2. Monitoring / Recovery Wells

Number of Wells	Type of Well HSA / PUSH / 4" - 6" Recovery / 8" Recovery	Diameter of Well (inches)	Depth of Well (feet)	Total Feet of Wells to Be Installed (\$)
5	HSA	2.00	20.00	100.00
				0.00
				0.00
				0.00
				0.00

Well Installation	Total Feet	Rate per Foot (\$)	Total Cost (\$)
Total Feet via HSA:	100.00	\$24.31	\$2,430.95
Total Feet via PUSH:			\$0.00
Total Feet of 4" or 6" Recovery:			\$0.00
Total Feet of 8" or Greater Recovery:			\$0.00
Total Well Costs:			\$2,430.95

Total Drilling and Monitoring Well Costs:	\$6,317.20
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Analytical Costs Form

Laboratory Analysis	Number of Samples		Cost (\$) per Analysis		Total per Parameter
Chemical Analysis					
BTEX Soil with MTBE EPA 8260	22	x	\$96.44	=	\$2,121.68
BTEX Water with MTBE EPA 8260	5	x	\$91.90	=	\$459.50
COD (Chemical Oxygen Demand)		x	\$32.71	=	\$0.00
Corrosivity		x	\$16.36	=	\$0.00
Flash Point or Ignitability Analysis EPA 1010		x	\$35.99	=	\$0.00
Fraction Organic Carbon Content (f_{oc}) ASTM-D 2974-00		x	\$43.11	=	\$0.00
Fat, Oil, & Grease (FOG)		x	\$65.43	=	\$0.00
LUST Pollutants Soil - analysis must include volatile, base/neutral, polynuclear aromatics and metals list in Section 732, Appendix B and 734, Appendix B.		x	\$755.72	=	\$0.00
Dissolved Oxygen (DO)		x	\$26.17	=	\$0.00
Paint Filter (Free Liquids)		x	\$15.27	=	\$0.00
PCB / Pesticides (combination)		x	\$37.08	=	\$0.00
PCBs		x	\$165.76	=	\$0.00
Pesticides		x	\$165.76	=	\$0.00
pH		x	\$15.88	=	\$0.00
Phenol		x	\$37.08	=	\$0.00
Polynuclear Aromatics PNAs or PAH SOIL EPA 8270	22	x	\$172.45	=	\$3,793.90
Polynuclear Aromatics PNA, PAH WATER EPA 8270	5	x	\$172.45	=	\$862.25
Reactivity		x	\$74.15	=	\$0.00
SVOC - Soil (Semi-Volatile Organic Compounds)		x	\$341.33	=	\$0.00
SVOC - Water (Semi-Volatile Organic Compounds)		x	\$341.33	=	\$0.00
TKN (Total Kjeldahl) "nitrogen"		x	\$47.98	=	\$0.00
TPH (Total Petroleum Hydrocarbons)		x	\$133.04	=	\$0.00
VOC (Volatile Organic Compound) - Soil (Non-Aqueous)		x	\$190.84	=	\$0.00
VOC (Volatile Organic Compound) - Water		x	\$184.29	=	\$0.00
		x		=	\$0.00
		x		=	\$0.00
		x		=	\$0.00
		x		=	\$0.00
		x		=	\$0.00
Geo-Technical					
Bulk Density (ρ_b) ASTM D4292 / D2937		x	\$24.96	=	\$0.00
Ex-Situ Hydraulic Conductivity / Permeability		x	\$278.08	=	\$0.00
Moisture Content (w) ASTM D2216-90 / D4643-87		x	\$13.61	=	\$0.00
Porosity		x	\$34.04	=	\$0.00
Rock Hydraulic Conductivity Ex-Situ		x	\$381.67	=	\$0.00
Sieve / Particle Size Analysis ASTM D422-63 / D1140-54		x	\$158.12	=	\$0.00
Soil Classification ASTM D2488-90 / D2487-90		x	\$77.15	=	\$0.00
Soil Particle Density (ρ_s) ASTM D854-92		x	\$100.00	=	\$0.00
		x		=	\$0.00
		x		=	\$0.00
		x		=	\$0.00

Analytical Costs Form

Metals Analysis					
Soil preparation fee for Metals Soil TCLP (one fee per soil sample)		x	\$86.15	=	\$0.00
Soil preparation fee for Metals Total Soil (one fee per soil sample)		x	\$17.45	=	\$0.00
Water Preparation fee for Metals in Water (one fee per water sample)		x	\$12.00	=	\$0.00
Arsenic TCLP Soil		x	\$17.45	=	\$0.00
Arsenic Total Soil		x	\$17.45	=	\$0.00
Arsenic Water		x	\$19.63	=	\$0.00
Barium TCLP Soil		x	\$10.90	=	\$0.00
Barium Total Soil		x	\$10.90	=	\$0.00
Barium Water		x	\$13.09	=	\$0.00
Cadmium TCLP Soil		x	\$17.45	=	\$0.00
Cadmium Total Soil		x	\$17.45	=	\$0.00
Cadmium Water		x	\$19.63	=	\$0.00
Chromium TCLP Soil		x	\$10.90	=	\$0.00
Chromium Total Soil		x	\$10.90	=	\$0.00
Chromium Water		x	\$13.09	=	\$0.00
Cyanide TCLP Soil		x	\$30.53	=	\$0.00
Cyanide Total Soil		x	\$37.08	=	\$0.00
Cyanide Water		x	\$37.08	=	\$0.00
Iron TCLP Soil		x	\$10.90	=	\$0.00
Iron Total Soil		x	\$10.90	=	\$0.00
Iron Water		x	\$13.09	=	\$0.00
Lead TCLP Soil		x	\$17.45	=	\$0.00
Lead Total Soil		x	\$17.45	=	\$0.00
Lead Water		x	\$19.63	=	\$0.00
Mercury TCLP Soil		x	\$20.72	=	\$0.00
Mercury Total Soil		x	\$10.90	=	\$0.00
Mercury Water		x	\$28.35	=	\$0.00
Selenium TCLP Soil		x	\$17.45	=	\$0.00
Selenium Total Soil		x	\$17.45	=	\$0.00
Selenium Water		x	\$16.36	=	\$0.00
Silver TCLP Soil		x	\$10.90	=	\$0.00
Silver Total Soil		x	\$10.90	=	\$0.00
Silver Water		x	\$13.09	=	\$0.00
Metals TCLP Soil (a combination of all RCRA metals)		x	\$112.32	=	\$0.00
Metals Total Soil (a combination of all RCRA metals)		x	\$102.51	=	\$0.00
Metals Water (a combination of all RCRA metals)		x	\$129.77	=	\$0.00
Other					
EnCore Sampler, purge-and-trap sampler or equivalent sampling device	66	x	\$11.35	=	\$749.10
Sample Shipping per sampling event ^f		x	\$56.73	=	\$0.00

^fA sampling event, at a minimum, is all samples (soil and groundwater) collected in a calendar day.

Total Analytical Costs: \$7,986.43

Consulting Personnel Costs Form

Employee Name	Personnel Title*	Hours	Rate *	Total \$
Remediation Category	Task			
Penny Silzer	Geologist III	20.00	\$99.84	\$1,996.80
Stage 1 - field	fieldwork oversight, borings/well installation, boring/well logs, survey			
Andrew Fetterolf	Scientist IV	7.00	\$85.09	\$595.63
Stage 1 - field	survey, develop, sample wells, water levels			
Allan Green	Sr. Project Manager	19.50	\$113.46	\$2,212.47
Stage 1 - plan/reimb	site investigation planning, project organization, site inspections			
Penny Silzer	Senior Prof. Geologist	0.50	\$124.80	\$62.40
Stage 1 - plan/reimb	plan/budget/reimbursement review and certification			
Andrew Fetterolf	Project Manager	21.08	\$102.11	\$2,152.48
Stage 1/2 - results/plan	report preparation, SIP and Budget, reimbursement prep			
Andrew Fetterolf	Senior Draftsperson/CAD	4.50	\$68.07	\$306.32
Stage 1 - results	drafting, contaminant extent maps, GW flow map, geologic cross section			

*Refer to the applicable Maximum Payment Amounts document.

Total of Consulting Personnel Costs	\$7,326.09
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Consultant's Materials Costs Form

Consulting Materials Costs:

Materials, Equipment, or Field Purchases	Time or Amount Use	Rate (\$)	Units	Total Cost
Remediation Category	Description/Justification			
Company vehicle mileage	267.00	\$0.55	/mile	\$146.85
Stage 1 field	site visits and mobilization at site			
				\$0.00
				\$0.00
				\$0.00

Total Consultant's Material's Costs: \$146.85



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397
PAT QUINN, GOVERNOR JOHN J. KIM, INTERIM DIRECTOR

217/782-6762

CERTIFIED MAIL

APR 30 2012

7009 3410 0002 3749 3273

Brimfield Auto & Truck
Mr. Larry Satterfield
Post Office Box 107
Brimfield, Illinois 61512

Re: LPC #1430155012 – Peoria County
Brimfield Auto & Truck
408 East Knoxville
Leaking UST Incident No. 923484 & No. 20080373
Leaking UST Technical File

Dear Mr. Satterfield:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Stage 1 Site Investigation Plan Budget (budget) submitted for the above-referenced incident. This budget, dated March 28, 2012, was received by the Illinois EPA on March 28, 2012. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The budget is modified pursuant to Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) or 734.510(b). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are 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 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

All future correspondence must be submitted to:

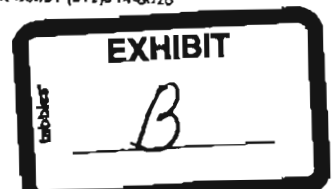
Illinois Environmental Protection Agency
Bureau of Land -- #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

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

4302 N. Main St., Rockford, IL 61103 (815)987-7760
595 S. State, Elgin, IL 60123 (847)608-3131
2125 S. First St., Champaign, IL 61820 (217)278-5800
2009 Mall St., Collinsville, IL 62234 (618)246-5120

9511 Harrison St., Des Plaines, IL 60016 (847)294-4000
5407 N. University St., Alton, IL 61814 (309)693-5462
2309 W. Main St., Suite 116, Marion, IL 62959 (618)993-7200
100 W. Randolph, Suite 11-300, Chicago, IL 60601 (312)814-6026

PLEASE PRINT ON RECYCLED PAPER

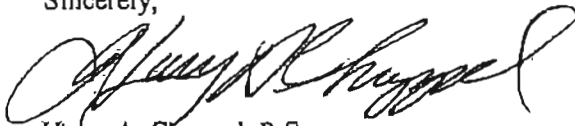


Page 2

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

If you have any questions or need further assistance, please contact me at 217-785-3913

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section

Cc: MECRS, Inc.
BOL File

C:\Documents and Settings\epauser\Desktop\HAC\Leaking UST PROJECTS\Brimfield Auto & Truck\Stage I approval letter.docx

Attachment A

Re: LPC # 1430155012 -- Peoria County
Brimfield Auto & Truck
408 East Knoxville
Leaking UST Incident No. 923484 & No. 20080373
Leaking UST Technical File

SECTION 1

Stage 1 - Actual Costs

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

\$3,360.75	Drilling and Monitoring Well Costs
\$4,351.15	Analytical Costs
\$0	Remediation and Disposal Costs
\$0	UST Removal and Abandonment Costs
\$0	Paving, Demolition, and Well Abandonment Costs
\$7,326.09	Consulting Personnel Costs
\$146.85	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.

This is your notification that payment of costs will be apportioned upon review and approval of your application for payment from the UST Fund. Eligibility of tanks is based upon the determination made by the Office of the State Fire Marshal. The two methods of apportionment follow:

Volume of tanks

Five eligible USTs totaling 4,240 gallons, one ineligible UST with a capacity of 300 gallons, for a total of 4,540 gallons.

$4,240 \text{ eligible gallons} \div 4,540 \text{ total gallons} = 0.93$ (percentage apportioned to the owner or operator for eligible USTs based upon volume of tanks).

Number of tanks

Five eligible USTs + one ineligible USTs = six total USTs. Five eligible USTs ÷ six total USTs = 0.83 (percentage apportioned to the owner or operator for eligible USTs based upon number of tanks)

Based upon the above calculations and the determination as to which method is more favorable to the owner or operator, any payments from the UST Fund made to the owner or operator will be apportioned at 93 percent of the total amount approved. Therefore, 7 percent will be deducted from the payment amount due to apportionment.

SECTION 2

STAGE 1 Modifications

1. The drilling rate has been reduced to \$26.09 per foot. Only 75 foot of drilling was approved (5 borings X 15 foot per boring). The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

The monitoring well rate has been reduced to \$18.72 per foot. Only 75 foot of monitoring well was approved (5 wells X 15 foot per well). The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Based upon the above deduction, a total of \$ 2,956.45 was deducted from drilling & monitoring well costs.

2. \$3,635.28 for costs associated with improperly collected, transported, or analyzed laboratory samples. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(q). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs. These cost also 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).

Soil samples (12) collected from below the depth to water while drilling and the associated encore samplers are not eligible based on the above.

ELIAS, MEGINNES, RIFFLE & SEGHETTI, P.C.
ATTORNEYS AT LAW

JOHN S. ELIAS
BRIAN J. MEGINNES
ROBERT M. RIFFLE
MICHAEL R. SEGHETTI
TROY N. PUDIK

416 MAIN STREET, SUITE 1400
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www.emrslaw.com

DAVID N. SCHELLENBERG
JANAKI NAIR
LANE G. ALSTER
CYNTHIA L. ELIAS, OF COUNSEL

File No. 30927-007

August 31, 2012

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CLERK'S OFFICE

SEP 04 2012

STATE OF ILLINOIS
Pollution Control Board

Ms. Dorothy M. Gunn
State of Illinois
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

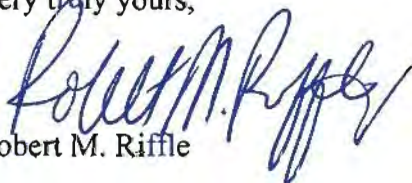
Re: Brimfield Auto & Truck v. IEPA
PCB No. 12-134

Dear Clerk:

Enclosed please find the original and eleven (11) copies of a Petition for Review and Hearing/Appeal on behalf of Brimfield Auto & Truck in the above-referenced matter. Our check in the amount of \$75.00 is also enclosed for cost of filing. Please return one-file-stamped copy of the undersigned in the return envelope enclosed.

Thank you for your anticipated cooperation.

Very truly yours,


Robert M. Riffle

RMR:tj
Enclosures
cc: Mr. Al Green
612-770