

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

APR 10 2013

STATE OF ILLINOIS
Pollution Control Board

JAY BELL'S 66,

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.



ORIGINAL

PCB No. 13-54
(UST Appeal – Petition for Review and
Hearing/Appeal)

PETITION FOR REVIEW AND HEARING/APEAL

NOW COMES Jay Bell's 66 ("Jay Bells"), by its attorneys, Elias, Meginness, 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 budget for a High Priority Corrective Action Plan for a certain leaking underground storage tank (LUST) site, states as follows:

BACKGROUND

1. Jay Bell's retained Midwest Environmental Consulting & Remediation Services, Inc. (Midwest) to remediate the property located at 1213 East McClure, Peoria, Illinois, LPC #14306555130, LUST Incident No. 981749 (the Property).
2. A "Summary of Work Completed to Date" is attached as Exhibit A.
3. By letter dated October 9, 2012, Midwest submitted a High Priority Site Investigation Action Plan and Corrective Action Budget Amendment, seeking payment in the amount of \$17,156.00, which was the amount reasonably and necessarily expended to complete the work on the project. A true and correct copy of that Budget Amendment is attached hereto as Exhibit B.

4. By letter dated March 6, 2013, the IEPA rejected portions of the \$17,156.00 Budget Amendment submitted on October 9, 2012. Specifically, the March 6, 2013 letter rejected (or reduced) \$4,900 for site investigation or corrective action, claiming that, “The Agency feels that 50 hours is sufficient time to develop an in-site strategy, evaluation of all options, and obtain off-site access where necessary.” The March 6, 2013 letter also deducted \$1,470 for review of reports stating that, “The Agency feels 15 hours is sufficient time to review all reports and correspondence.” Finally, the March 6, 2013 letter deducted \$600 for “HAA review,” stating that, “City of Peoria engineering consultants MACTEC review of Highway Authority Agreement. The City of Peoria has several limited area groundwater ordinances. Ordinance #15477 has already been approved by the Agency.” The aggregate amount of the three (3) deductions is \$6,970.00. A true and accurate copy of the March 6, 2013 letter and attachments is attached hereto as Exhibit C. That letter was designated as a final and appealable order (the Final Decision).

ARGUMENT

The IEPA rejected the Budget Amendment based upon the reasons stated on Attachment A to the denial letter. Jay Bell’s 66 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, Jay Bell’s 66 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 additional amount of \$6,970.00.

Respectfully submitted,

Jay Bell's 66, Petitioner

By: 
Robert M. Riffle
Its Attorney

ROBERT M. RIFFLE
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, IL 61602
(309) 637-6000
613-262

CERTIFICATE OF SERVICE

The undersigned certifies that on April 9, 2013, a copy of the foregoing document was served upon each party to this case by

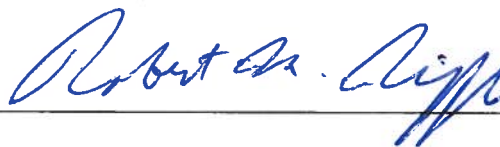
X Via Federal Express - Express Package Service - Priority Overnight

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

RECEIVED
CLERK'S OFFICE
APR 10 2013
STATE OF ILLINOIS
Pollution Control Board

A 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.

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



Robert M. Riffle
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, IL 61602
(309) 637-6000
613-262

A. Summary of Work Completed to Date

The subject site is currently an operating service station located at 1213 East McClure Avenue in Peoria, Illinois. The site is surrounded by commercial businesses on the south, recreational areas (Glen Oak Park) on the east, and residential properties on the west and north. An area map is provided in Figure 1.

Seven underground storage tanks (USTs) were removed from the site in February 1999. Three tanks were abandoned prior to January 1, 1974. Three of the USTs were used for gasoline and one UST contained used oil. Details of the UST removal activities can be found in the 45-Day Report Addendum dated September 13, 1999.

Midwest Environmental Consulting and Remediation Services, Inc. (MECRS) completed a Physical Soil Classification of the site, pursuant to IEPA Method Two, on August 17, 2000. One (1) Physical Soil Classification boring (B-1) and five (5) migratory pathway borings (B-1 through B-5) were completed during the Site Classification investigation (Figure 2). The Site Classification Completion Report dated October 20, 2000, was submitted to the IEPA and provided details of the investigation. In a letter dated January 19, 2001, the IEPA approved the report and the classification of "High Priority".

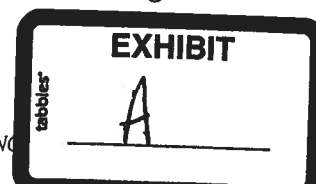
As part of the initial High Priority Investigation CAP, on March 13, 2002 MECRS completed seven (7) additional borings (B-6 through B-12) to determine the vertical and horizontal extent of soil contamination. Due to limited space and offsite access concerns, a truck-mounted GeoProbe hydraulic unit was used to push a sample probe and collect soil samples for BTEX analysis.

An additional investigation was approved by the Agency in a letter dated July 20, 2005. Originally, the investigation was proposed for the two residences closest to the service station. However, the owner of the residence at 1207 E. McClure was serving in Iraq, so all four GeoProbe borings (B-13 through B-16) were conducted on the property at 1209 E. McClure.

Eventually, access to the property at 1207 E. McClure was obtained from the owner. The Agency approved additional subsurface investigation at this property in a letter dated January 6, 2006. Three additional GeoProbe borings (B-17 through B-19) were completed in the residence's backyard. The boring originally proposed for the front yard could not be completed. Due to the slope of the front yards and the retaining walls along East McClure, access to this area with any type of drilling equipment is impractical. The owners of the property located at 1205 E McClure denied access to their property.

The extent of soil contamination has been defined to the extent possible. Groundwater has not been encountered at the site to the total depth explored of 30 feet bgs. Site specific TACO parameters were collected in August 2009. The TACO evaluation was updated using the site specific parameters. Based on the most recent data collected, it appeared that the site may be closed using engineered barriers and institutional controls.

In the Corrective Action Plan dated December 7, 2009, Midwest proposed the following:



1. Obtain an Environmental Land Use Control (ELUC) with owners of the properties located at 1207 and 1209 East McClure.
2. Request the IEPA to include a construction worker precautionary statement in the NFR letter.
3. Prepare a Highway Authority Agreement to submit to the City of Peoria as an institutional control to address the soil contamination potentially present beneath Prospect and McClure.
4. Invoke an industrial/commercial land use restriction for the site.
5. Designate the pavement and the buildings on site as engineered barriers.
6. Invoke a groundwater use restriction on-site.
7. Notify property owners within the plume of the City of Peoria Ordinance 15,477 which restricts the use of groundwater in the vicinity of the site. Property owners at 1207 and 1209 East McClure will be notified.

The purpose of this report is to provide and update on the status of the above listed actions.

B. Status of Corrective Action Activities

1. Obtain an Environmental Land Use Control (ELUC) with owners of the properties located at 1207 and 1209 East McClure.

ELUC documents were sent to the owners of the properties located at 1207 and 1209 East McClure in August 2010. The documents were sent through the US Postal Service, certified mail with return receipt requested. The return receipt was not received from the owner of the property at 1209 E. McClure. The return receipt was received from Norman Emery, the owner of the property at 1209 East McClure. Mr. Emery did not return the signed ELUC. Copies of this correspondence is included in Appendix A.

The property at 1209 E McClure is in under new ownership. On August 28, 2012, ELUC documents were once again sent to the current owners of the properties at 1207 and 1209 E McClure. Both ELUCs were sent through the US Postal Service, certified Mail with return receipt requested. Copies of the correspondences is included in Appendix B. No response was received.

2. Request the IEPA to include a construction worker precautionary statement in the NFR letter.

The IEPA routinely includes the construction worker precautionary statement in the NFR letter.

3. Prepare a Highway Authority Agreement to submit to the City of Peoria as an institutional control to address the soil contamination potentially present beneath Prospect and McClure.

The Highway Authority Agreement (HAA) has been requested from the City of Peoria. The City's consultant, MACTEC Engineering & Consulting, Inc., has completed review of the HAA and has requested minor modification. The City has passed on the cost of hiring their consultant

to review the HAA to Midwest. Midwest accounted for these costs in the budget amendment dated December 7, 2009. In the IEPA response letter dated March 31, 2010, these costs were neither approved, nor cut. These costs for professional consulting services are included in the attached budget. Correspondence received from the City of Peoria is included in Appendix C.

4. Invoke an industrial/commercial land use restriction for the site.

The IEPA routinely includes the industrial/commercial land use restriction in the NFR letter.

5. Designate the pavement and the buildings on site as engineered barriers.

The IEPA routinely designates engineered barriers in the NFR letter.

6. Invoke a groundwater use restriction on-site.

The IEPA routinely designates on-site groundwater use restrictions in the NFR letter.

7. Notify property owners within the plume of the City of Peoria Ordinance 15,477 which restricts the use of groundwater in the vicinity of the site. Property owners at 1207 and 1209 East McClure will be notified.

As discussed in the CAP dated December 7, 2009, due to impermeable soils and very low hydraulic conductivity ($2.58e-8$ cm/sec), groundwater models could not be calculated. The owners of 1207 and 1209 E McClure were notified in accordance with 742.1015(c). Copies of the correspondence is provided in Appendix D.

C. Next Phase of Work

The City of Peoria has not yet approved the HAA. Midwest is in the process of negotiating modifications to the HAA requested by the City.

The owners of the properties at 1207 and 1209 have not yet signed the ELUC. Since the property owners have not signed the requested ELUC, remediation of contaminated soils will be required. The site is an operating gas station. The affected off-site properties are residential properties developed with houses and outbuildings. Additional personnel time is required to develop an in-situ remediation strategy that will reduce the petroleum hydrocarbon contamination in soil without disrupting the retail sales at the operating gas station or destroying personal property and buildings on the adjacent, affected residential properties.

D. Budget Summary

A budget amendment is attached to cover the costs of the additional personnel time required to negotiate the HAA and to develop an effective in-situ remediation strategy to address soil contamination beneath the off-site properties.

General Information for the Budget and Billing Forms

LPC#: 1430655513 County: Peoria
City: Peoria Site Name: Jay Bell's 66
Site Address: 1213 E McClure
IEMA Incident No: 981749
IEMA Notification Date: October 9, 2012
Date this form was prepared: _____

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): CAP & Budget
Date (s): 8/28/2012

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

35 III. Adm. Code 734:

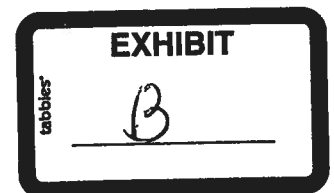
- Early Action
- Free Produce Removal After Early Action
- Site Investigation..... Stage 1: Stage 2: Stage 3:
Actual Costs
- Corrective Action

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: Jay Bell

Send in care of: Jay Bell

Address: 1917 West Butler

City: Peoria State: IL Zip: 61603

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

Jay Bell Signature of the owner or operator of the UST(s) (required) W-9 must be submitted.
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: 1

Incidents Numbers assigned to the site due to releases from USTs: 981749

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	6,000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	981749	piping Leak/spills/overfills
gasoline	6,000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	981749	piping Leak/spills/overfills
gasoline	6,000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	981749	piping Leak/spills/overfills
used oil	200	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	
gasoline	3,000	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	
gasoline	6,000	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	
		Yes <input type="checkbox"/> No <input type="checkbox"/>		
		Yes <input type="checkbox"/> No <input type="checkbox"/>		
		Yes <input type="checkbox"/> No <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
Drilling and Monitoring Well Costs Form					
Analytical Costs Form					
Remediation and Disposal Costs Form					
UST Removal and Abandonment Costs Form					
Paving, Demolition, and Well Abandonment Costs Form					
Consulting Personnel Costs Form					\$17,090.00
Consultant's Materials Costs Form					\$66.00
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					\$17,156.00

Consulting Personnel Costs Form

Employee Name	Personnel Title*	Hours	Rate *	Total \$
Remediation Category	Task			
Penny Silzer	Senior Project Manager	50	\$98.00	\$4,900.00
Corrective Action	develop an in-situ remediation strategy, evaluation all options, obtain off-site access where necessary			
Allan Green	Senior Project Manager	50	\$98.00	\$4,900.00
Corrective Action	develop an in-site remediation strategy, arrange for contractors, get prices, etc.			
Penny Silzer	Senior Project Manager	15.00	\$98.00	\$1,470.00
corrective action	A			
Penny Silzer	Senior Project Manager	25	\$98.00	\$2,450.00
corrective action	prepare CAP & Budget for remediation alternative			
Allan M Green	Sr. Project Manager	10	\$100.00	\$1,000.00
corrective action	prepare CAP & Budget for remediation alternative			
Penny Silzer	Sr Geologist/PG	3	\$100.00	\$300.00
corrective action	PG review and cert of CAP & Budget			
MACTEC	SR PE	6	\$100.00	\$600.00
corrective action	City of Peoria engineering consultants professional review of HAA			
Allan M Green	Sr. Project Manager	15	\$98.00	\$1,470.00
	review of all reports and correspondence			
				\$0.00

*Refer to the applicable Maximum Payment Amounts document.

Total of Consulting Personnel Costs	\$17,090.00
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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		120.00	\$0.55	/mile	\$66.00
Corrective action	site visits for research of remediation alternatives				
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00

Total Consultant's Material's Costs: \$66.00

Owner/Operator and Licensed Professional Engineer/Geologist Budget Certification Form

I hereby certify that I intend to seek payment from the UST Fund for costs incurred while performing corrective action activities for Leaking UST incident 981749. I further certify that the costs set forth in this budget are necessary activities and are reasonable and accurate to the best of my knowledge and belief. I also certify that the costs included in this budget are not for corrective action in excess of the minimum requirements of 415 ILCS 5/57 and no costs are included in this budget which are not described in the corrective action plan, and no costs exceed Subpart H: Maximum Payment Amounts, Appendix D Sample Handling and Analysis amounts, and Appendix E Personnel Titles and Rates of 35 Ill. Adm. Code 732 or 734. I further certify that costs ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code Section 732.606 or 734.630 are not included in the budget proposal or amendment. Such ineligible costs include but are not limited to:

- Costs associated with ineligible tanks.
- Costs associated with site restoration (e.g., pump islands, canopies).
- Costs associated with utility replacement (e.g., sewers, electrical, telephone, etc)
- Costs incurred prior to IEMA notification.
- Costs associated with planned tank pulls.
- Legal fees or costs.
- Costs incurred prior to July 28, 1989.
- Costs associated with installation of new USTs or the repair of existing USTs.

Owner/Operator Jay Bell

Authorized Representative: Jay Bell

Title: Owner

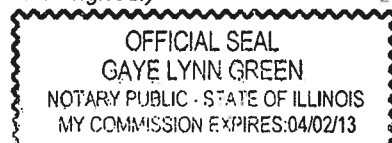
Signature: Jay L Bell

Date: 10-31-12

Subscribed and sworn to before me the 31st day of October, 2012.
(Budget Proposals and Budget Amendments must be notarized when the certification is signed.)

Gaye Lynn Green
(Notary Public)

Seal:



In addition, I certify under penalty of law that all activities that are the subject of this plan, budget or report were conducted under my supervision or were conducted under the supervision of another Licensed Professional Engineer or Licensed Professional Geologist and reviewed by me; that this plan, budget, or report and all attachments were prepared under my supervision; that, to the best of my knowledge and belief, the work described in the plan, budget, or report has been completed in accordance with the Environmental Protection Act [415 ILCS5], 35 Ill. Adm. Code 732-734, and generally accepted standards and practices of my profession; and that the information presented is accurate and complete. I am aware there are significant penalties for submitting false statements or representations to the Illinois EPA, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].

L.P.E./L.P.G.: Penny Silzer

L.P.E./L.P.G. Seal:

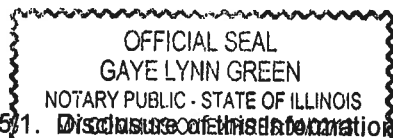
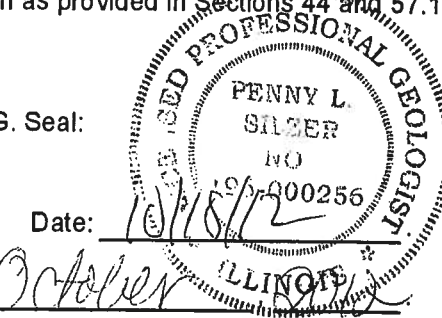
L.P.E./L.P.G. Signature: Penny Silzer

Date: 10/18/12

Subscribed and sworn to before me the 18th day of October, 2012.

Gaye Lynn Green
(Notary Public)

Seal:



The Illinois EPA is authorized to require this information under 415 ILCS 5/1. Disclosure of this information required. Failure to do so may result in the delay or denial of any budget or payment requested hereunder.



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, DIRECTOR

217/524-3300

CERTIFIED MAIL

MAR 06 2013

7011 1150 0001 0862 0243

Jay Bell's 66
Attention: Jay Bell
1917 West Butler
Peoria, Illinois 61603

Re: LPC #1430655513 -- Peoria County
Peoria/Jay Bell's 66
1213 East McClure
Leaking UST Incident No. 981749
Leaking UST Technical File

Dear Mr. Bell:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated October 9, 2012, was received by the Illinois EPA on November 7, 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 Illinois EPA requires modification of the plan; therefore, the plan is conditionally approved with the Illinois EPA's modifications. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act (Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)):

1. The Highway Authority Agreement (HAA) model document cannot be altered and must remain intact and the HAA must meet Agency requirements set forth in Section 742.1020. Any third party agreements are beyond the scope of the Agency's authority to review, approve or reject, or endorse by inclusion of references within the document.

Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits. In an effort to ensure that the proposed alternative technology will not adversely affect human health and safety or the environment, a 24-hour, seven-days-per-week emergency telephone number must be visibly posted on the building/structure housing the treatment unit(s). (Section 57.7(b)(2) of the Act)

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)346-5120

9511 Harrison St., Des Plaines
5407 N. University St., Arden
2309 W. Main St., Suite 116
100 W. Randolph, Suite 103

PLEASE PRINT ON RECYCLED PAPER



In addition, the budget is modified pursuant to Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A have been approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of payment from the Fund may be limited by Sections 57.7(c), 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

If the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c) of the Act).

NOTE: Pursuant to Section 57.8(a)(5) of the Act, if payment from the Fund will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted. Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be paid from the Fund.

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

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

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

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

Page 3

Please be advised that, pursuant to Public Act 96-0908, effective June 8, 2010, all releases of petroleum from USTs are subject to Title XVI of the Act, as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Ill. Adm. Code 734. The regulations at 35 Ill. Adm. Code 732 no longer exist, and the only releases subject to 35 Ill. Adm. Code 731 are those from hazardous substance USTs.

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 Jim Ransdell at 217/557-6938.

Sincerely,



Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

TAH:JSR

Attachment: Attachment A

c: Midwest Environmental Consulting & Remediation Services Inc.
BOL File

Attachment A

Re: LPC # 1430655513 -- Peoria County
Peoria/Jay Bell's 66
1213 East McClure
Leaking UST Incident No. 981749
Leaking UST Technical File

SECTION 1

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

\$0.00	Drilling and Monitoring Well Costs
\$0.00	Analytical Costs
\$0.00	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$10,120.00	Consulting Personnel Costs
\$66.00	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

SECTION 2

\$4,900.00 deduction for site investigation or corrective action costs for in-situ remediation strategy that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

The Agency feels that 50 hours is sufficient time to develop an in-situ strategy, evaluation of all options, and obtain off-site access where necessary.

\$1,470.00 deduction for site investigation or corrective action costs for review of reports that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

The Agency feels that 15 hours is sufficient time to review all reports and correspondence.

\$600.00 deduction for costs for HAA review, 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).

City of Peoria engineering consultants MACTEC review of Highway Authority Agreement. The City of Peoria has several limited area groundwater ordinances. Ordinance #15477 has already been approved by the Agency.

TAH:JSR

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 57.8(i) 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:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois 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
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File No. 30927-013

April 9, 2013

VIA FEDERAL EXPRESS ONLY

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: Jay-Bell's 66 v. IEPA

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PCB 13-54



ORIGINAL

Dear Clerk:

Enclosed please find the original and eleven (11) copies of a Petition for Review and Hearing/Appeal on behalf of Jay-Bell's 66 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:tlj
Enclosures
cc: Mr. Al Green
613-296