

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IL PIT STOP, LLC,)	
Petitioner,)	
v.)	PCB _____
)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

NOTICE OF FILING AND PROOF OF SERVICE

To:	John T. Therriault, Acting Clerk	Division of Legal Counsel
	Illinois Pollution Control Board	Illinois Environmental Protection Agency
	100 West Randolph Street	1021 North Grand Avenue East
	State of Illinois Building, Suite 11-500	P.O. Box 19276
	Chicago, IL 60601	Springfield, IL 62794-9276

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, pursuant to Board Procedural Rule 101.302 (d), a PETITION FOR REVIEW OF THE AGENCY LUST DECISION, a copy of which is herewith served upon the attorneys of record in this cause.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon counsel of record of all parties to this cause by enclosing same in envelopes addressed to such attorneys with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office Mailbox in Springfield, Illinois on the 5th day of June, 2017.

Respectfully submitted,
IL PIT STOP, LLC,
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
80 Bellerive Road
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IL PIT STOP, LLC,)	
Petitioner,)	
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v.)	PCB _____
)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

PETITION FOR REVIEW OF AGENCY LUST DECISION

NOW COMES Petitioner, IL PIT STOP, LLC, pursuant to Section 57.7(c)(4) of the Illinois Environmental Protection Act, 415 ILCS 5/57.7(c)(4), and hereby appeals the Agency's final decision, rejecting a plan and budget, stating as follows:

1. Petitioner is the owner or operator of a small, active service station in the City of McLeansboro, County of Hamilton, Illinois, which has been assigned LPC # 0650205017.
2. On May 15, 2013, a release was reported from a gasoline underground storage tank on the premises, which were assigned Incident Number 2013-0569.
3. Thereafter, the tank and contaminated soil were removed, and soil samples were analyzed.
4. On October 2, 2013 the Illinois EPA directed Petitioner to perform Stage 1 Site Investigation work, and subsequently a soil and groundwater investigation was conducted. This work included advancing soil borings one thru eight (BH-1 thru BH-8) on July 22, 2015.
5. On October 7, 2015, Petitioner reported the results of the Stage 1 Site Investigation as part of its Stage 3 Site Investigation Plan and Budget. The Plan proposed advancing a single soil boring on an undeveloped parcel to the West in order to define the extent of contamination. The results were anticipated as being all that would be necessary to define the

contamination plume.

6. On February 9, 2016, the Illinois EPA substantially approved the actual costs of Stage 1 Site Investigation work, modified the Stage 3 Site Investigation Plan by requiring onsite soil and groundwater sampling and analysis at several locations, including between two onsite buildings.

7. On March 2, 2016, Petitioner's consultant submitted a Stage 2 Site Investigation Plan and Budget proposing to perform the onsite investigation in the locations dictated by the Illinois EPA.

8. On May 20, 2016, the Illinois EPA approved the Stage 2 Site Investigation Plan as submitted, and modified the budget to eliminate personnel costs (\$1,709.36) for hiring a private utility location company to discover the position of the numerous utilities running between the buildings.

9. By subsequent agreement, drilling between the buildings was eventually abandoned and replaced with a location to the south of the buildings.

10. Thereafter, the additional onsite soil and groundwater investigation was performed and the results analyzed. Petitioner's consultant concluded that the extent of the contamination plume needed to be defined by advancing a single soil boring on an undeveloped parcel to the West.

11. On December 28, 2016, Petitioner submitted a Stage 3 Site Investigation Plan and Budget substantially similar to the previous submittal, with the incorporation of the results of the Stage 2 site investigation activities and the actual costs of Stage 2 site investigation activities.

12. On April 28, 2017, the Stage 3 Site Investigation plan was rejected. A true and

correct copy of the Illinois EPA decision is attached hereto as Exhibit A.

13. The Illinois EPA rejected the plan because of activities that took place during Stage 1 site investigation sampling:

Before any Stage 3 site investigation should be conducted off-site to identify the extent of the soil contamination, additional soil sampling should be collected near the property boundary line in the vicinity of soil borings BH-8 since the analytical results for BH-8 demonstrated that the reporting limits were greater than the Tier I remediation objectives for the applicable indicator contaminants, benzene and MTBE. Therefore, this location will need to be resampled to determine if the onsite contamination has migrated offsite.

Please note that any costs associated with the collection of this additional soil sample are not eligible for payment from the Fund since the original soil sample should have been analyzed using the appropriate reporting limits.

14. The only regulation cited in support of this reasoning pertains to the proper design of a Stage 2 site investigation plan. (35 Ill. Adm. Code § 734.320) Petitioner did not submit a Stage 2 site investigation plan and there is nothing in this provision which would be violated by approving the Stage 3 site investigation plan. The Illinois EPA approved the previous Stage 3 site investigation plan on February 9, 2016, based upon the evidence of offsite contamination.

15. Furthermore, the Stage 2 site investigation activities were directed by the Illinois EPA project manager with full awareness of any alleged issues in the BH-8 analytical results reported as part of Stage 1 site investigation. The Stage 2 site investigation plan was approved by the Illinois EPA on May 20, 2016.

16. The alleged deficiencies relate to Stage 1 site investigation activities that were approved for payment on February 9, 2016. Section 734.320 of the Board's regulations do not apply to Stage 1 site investigation activities either.

17. Finally, the soil samples taken as part of BH-8 were analyzed and certified by

Teklab, Inc. using the proper methods like all of the other samples, and there is no basis for the allegation that inappropriate reporting limits were used.

18. Therefore, the modification to the Stage 3 plan should be stricken as unnecessary, or alternatively, if additional soil sampling must be conducted in the vicinity of BH-8, it should be eligible for reimbursement as any other site investigation work.

19. Furthermore, the associated budget to perform the Stage 3 Site Investigation Plan should be approved.

20. Finally, with respect to the actual costs incurred performing the Stage 2 site investigation, Petitioner appeals the cutting of all costs associated with Petitioner's consultants' consulting:

- | | |
|------------|---|
| \$1,734.74 | Consulting with owner/operator regarding proposed scope of work, project status and tentative schedule. |
| \$495.64 | Onsite meeting with owner/operator to review/evaluate IEPA requested Stage 2 boring & well locations. |
| \$867.37 | Correspondence with owner/operator and Illinois EPA regarding buried utilities south of store building. |
| \$250.30 | Consulting with owner/operator regarding revised scope of work and field schedule. |
| \$625.75 | Second onsite meeting with owner/operator to review/evaluate IEPA suggested alternate drilling locations. |

21. The Illinois EPA erred in concluding that consultation costs are ineligible costs under the Board's regulations. Such costs are expressly authorized under 35 Ill. Adm. Code §

734.845 (“Professional Consulting Services”) and are normal costs of a consulting relationship. In this case, additional consulting services were necessitated by the Illinois EPA’s ordering of additional onsite testing that required additional planning, particularly to avoid utilities. These were reasonable costs actually incurred, and there was no legal basis to cut them.

22. The subject Illinois EPA letter was received by certified mail on May 1, 2017, which is 35 days from the date this appeal is being filed, and therefore timely.

WHEREFORE, Petitioner, IL PIT STOP, LLC, prays that: (a) the Agency produce the Record; (b) a hearing be held; (c) the Board find the Agency erred in its decision, (d) the Board direct the Agency to strike the modification to the Stage 3 Site Investigation Plan, direct the Agency to approve the associated budget, and restore the consulting costs to the Stage 2 Site Investigation Actual Costs budget, (e) the Board award payment of attorney’s fees; and (f) the Board grant Petitioner such other and further relief as it deems meet and just.

IL PIT STOP, LLC,
Petitioner

By its attorneys,
LAW OFFICE OF PATRICK D. SHAW

By: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
80 Bellerive Road
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

BRUCE RAUNER, GOVERNOR

ALEC MESSINA, DIRECTOR

217/524-3300

CERTIFIED MAIL

7014 2120 0002 3286 7449

APR 28 2017

IL Pitstop, LLC
Attn: Roger Swartz
P.O. Box 27
McLeansboro, Illinois 62859

Re: LPC #0650205017 -- Hamilton County
McLeansboro / IL Pitstop, LLC
211 East Randolph Street
Leaking UST Incident No. #20130569
Leaking UST Technical File

Dear Mr. Swartz:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Stage 3 Site Investigation Plan (plan) submitted for the above-referenced incident. This plan, dated December 28, 2016, was received by the Illinois EPA on December 30, 2016. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

The plan and the associated budget are rejected for the reason(s) listed in Attachment A and B, respectively (Sections 57.7(a)(1) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505 (b), 734.510(a) and 734.510(b)).

The actual costs for Stage 2 are modified pursuant to Sections 57.7(a)(2) 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 C, the amounts listed in Section 1 of Attachment C are approved. 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.

Pursuant to Sections 57.7(a) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.310, a revised plan and/or budget must be submitted within 60 days of the date of this letter 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



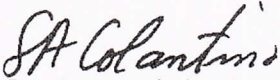
Page 2

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

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 the Illinois EPA project manager, Eric Kuhlman, at 217/785-5715.

Sincerely,


Stephen A. Colantino
Acting Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

SAC:EK:PA

Attachment: A, B, C, Appeal Rights

c: Marvin Johnson, Chase Environmental Group, Inc. (e-copy), mjohnson@chaseenv.com
BOL File

Attachment A

Re: LPC #0650205017 -- Hamilton County
McLeansboro / IL Pitstop, LLC
211 East Randolph Street
Leaking UST Incident No. #20130569
Leaking UST Technical File

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

1. The Stage 2 site investigation must be designed to complete the identification of the extent of soil and groundwater contamination at the site that, as a result of the release, exceeds the most stringent Tier I remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. The investigation of any off-site contamination must be conducted as part of the Stage 3 site investigation. (Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.320)

Before any Stage 3 site investigation should be conducted off-site to identify the extent of the soil contamination, additional soil sampling should be collected near the property boundary line in the vicinity of soil boring BH-8 since the analytical results for BH-8 demonstrated that the reporting limits were greater than the Tier I remediation objectives for the applicable indicator contaminants, benzene and MTBE. Therefore, this location will need to be resampled to determine if the onsite contamination has migrated offsite.

Please note that any costs associated with the collection of this additional soil sample are not eligible for payment from the Fund since the original soil sample should have been analyzed using the appropriate reporting limits.

EK:PV

Attachment B

Re: LPC #0650205017 -- Hamilton County
McLeansboro / IL Pitstop, LLC
211 East Randolph Street
Leaking UST Incident No. #20130569
Leaking UST Technical File

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

1. Pursuant to Sections 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b), the associated budget is rejected for the following reason:

The Illinois EPA has not approved the plan with which the budget is associated. Until such time as the plan is approved, a determination regarding the associated budget— i.e., a determination as to whether costs associated with materials, activities, and services are reasonable; whether costs are consistent with the associated technical plan; whether costs will be incurred in the performance of corrective action activities; whether costs will not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and whether costs exceed the maximum payment amounts set forth in Subpart H of 35 Ill. Adm. Code 734—cannot be made (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b)).

EK:P\

Attachment C

Re: LPC #0650205017 -- Hamilton County
McLeansboro / IL Pitstop, LLC
211 East Randolph Street
Leaking UST Incident No. #20130569
Leaking UST Technical File

SECTION 1

STAGE 2 Actual Costs

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

\$2,019.51	Drilling and Monitoring Well Costs
\$849.73	Analytical Costs
\$619.57	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$12,049.30	Consulting Personnel Costs
\$944.57	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

STAGE 2 Modifications

Note. Any costs associated with preparing, submitting, reviewing, and certifying the Stage 1 reimbursement application should not have been included in the Stage 2 Actual Costs.

1. \$1,734.74 for costs to consult O/O are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

Costs associated to consult the O/O regarding proposed scope of work, project status and tentative schedule were not part of the associated plan. In addition, these costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Besides, any costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(y). 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.

Furthermore, the site investigation or corrective action costs to consult O/O 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).

2. \$495.64 for costs for onsite meeting with O/O that are inconsistent with the associated plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated budget. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

Costs associated with onsite meeting with the O/O to review/evaluate IEPA requested Stage 2 boring & well locations were not part of the associated plan. In addition, these costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Besides, any costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(y). 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.

Furthermore, the site investigation or corrective action costs to consult O/O 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).

3. \$867.37 for costs for correspondence with O/O and IEPA that are inconsistent with the associated plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated budget. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

Costs associated with correspondence with O/O and IEPA regarding buries utilities south of store building were not part of the associated plan. In addition, these costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Besides, any costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with

the minimum requirements of the Act and regulations. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(y). 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.

Furthermore, the site investigation or corrective action costs to consult O/O 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).

4. The Senior Project Manager rate has been reduced to \$123.91 per hour. 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 \$ 4.96 was deducted from Consulting Personnel Costs.

5. \$250.30 for costs to consult O/O that are inconsistent with the associated plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated budget. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

Costs associated to consult the O/O regarding revised scope of work and field schedule were not part of the associated plan. In addition, these costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Besides, any costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(y). 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.

Furthermore, the site investigation or corrective action costs to consult O/O 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).

6. \$625.75 for costs for second onsite meeting with O/O that are inconsistent with the associated plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated budget. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

Costs associated with a second onsite meeting with the O/O to review/evaluate IEPA suggested alternate drilling locations were not part of the associated plan. In addition, these costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Besides, any costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(y). 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.

Furthermore, the site investigation or corrective action costs to consult O/O 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).

7. The Geologist III rate has been reduced to \$109.04 per hour. 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 \$ 2.72 was deducted from Consulting Personnel Costs.

8. The Senior Project Manager rate has been reduced to \$123.91 per hour. 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 \$ 6.20 was deducted from Consulting Personnel Costs.

9. The Senior Draftsperson/CAD rate has been reduced to \$74.34 per hour. 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 \$ 0.37 was deducted from Consulting Personnel Costs.

10. The Senior Project Manager rate has been reduced to \$123.91 per hour. 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 \$ 6.20 was deducted from Consulting Personnel Costs.

11. The Senior Account Technician rate has been reduced to \$68.14 per hour. 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 \$ 3.45 was deducted from Consulting Personnel Costs.

12. The Senior Account Technician rate has been reduced to \$68.14 per hour. 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 \$ 4.14 was deducted from Consulting Personnel Costs.

13. \$90.00 for costs for *digital camera* that are inconsistent with the associated plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

Costs associated with digital camera were not part of the associated plan. In addition, these costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Furthermore, the costs for the *digital camera* lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

Pursuant to 35 Ill. Adm. Code 734.850(b) costs associated with activities that do not have a maximum payment amount set forth pursuant to 35 Ill. Adm. Code 734 Subpart H must

be determined on a site specific basis and the owner/operator must demonstrate to the Agency the amounts sought for reimbursement are reasonable.

In addition, without supporting documentation the rate requested the *digital camera* is not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

EK:P\

Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544