

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

RECEIVED
CLERK'S OFFICE
MAR 28 2011
STATE OF ILLINOIS
Pollution Control Board

DICK'S SUPER SERVICE,)
)
Petitioner,)
)
vs.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 1-63
(UST Appeal – Petition for Review and
Hearing/Appeal)

PETITION FOR REVIEW AND HEARING/APPEAL

NOW COMES Dick's Super Service, by its attorneys, Elias, Meginnis, 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 modification of the budget for a High Priority Corrective Action Plan for a certain leaking underground storage tank (LUST) site, (which denied, in part, requested budget increases) states as follows:

BACKGROUND

1. Dick's Super Service retained Midwest Environmental Consulting & Remediation Services, Inc. (Midwest) to remediate the property located at 500 South Locust Street, Delevan, Illinois, LPC #1790155008-Tazewell County, LUST Incident No. 981750 (the Property).

2. The Property was the site of remediation and investigation activities to include UST removal, soil borings/wells, and corrective action planning, HAA, groundwater ordinance, and reports. No work was performed outside the required guidelines and was within acceptable LUST Fund reimbursement requirements.

3. By letter dated October 18, 2010, Midwest submitted a reimbursement request, seeking payment of the additional amount of \$26,771.55, which was the amount reasonably and necessarily expended to complete the work on the project. A true and correct copy of that submittal is attached hereto as Exhibit A.

4. By letter dated February 17, 2011 (and delivered on February 23, 2011 by certified mail), the IEPA denied the Corrective Action Plan Budget Amendment. A true and accurate copy of the February 17, 2011 letter and attachments is attached hereto as Exhibit B. That letter was designated as a final and appealable order.

ARGUMENT

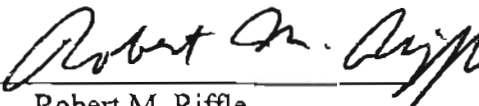
The IEPA rejected the Budget based upon their findings that the costs for site investigation or corrective action costs for Consulting Fees are not reasonable as submitted pursuant Section 57.5(c)(3) of the Act and 35 Ill. Admin. Code 734.630(dd). Dick's Super Service (and Midwest) disagree with this determination, and affirmatively states that the reimbursement amounts expended were reasonably, customary, and necessary for the proper completion of the project and site closure. Specifically, all of the costs listed on Exhibit B 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, Dick's Super Service 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 B, thereby allowing additional reimbursement in the amount of \$26,771.55.

Respectfully submitted,

Dick's Super Service, Petitioner

By: 
Robert M. Riffle
Its Attorney

ROBERT M. RIFFLE
Elias, Meghinnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, IL 61602
(309) 637-6000/611-186

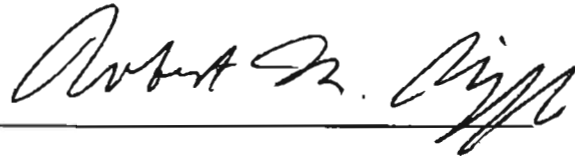
CERTIFICATE OF SERVICE

The undersigned certifies that on March 21, 2011, a copy of the foregoing document was served upon each party to this case by

to Enclosing a true copy of same in an envelope addressed to 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.

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

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Ave. East
Post Office 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
611-233

Midwest Environmental Consulting & Remediation Services Inc.

22200 Illinois Route 9 • P.O. Box 614

Tremont, IL 61568-0614

Phone: (309) 925-5551 • Fax: (309) 925-5606

October 18, 2010

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

RE: LPC #1790155008 – Tazewell County
Delavan/Powers, Dick – Dick's Super Service
500 South Locust Street
Incident #981750
LUST Technical File

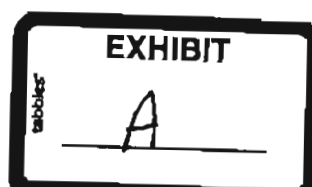
Dear Mr. Heaton,

Attached please find the Corrective Action Budget Amendment for the above referenced site. The personnel budget for this incident has been cut deeply by the IEPA. The personnel budget allotted by the IEPA is too restrictive and unreasonable. The following is a breakdown of the budgets proposed, the budgets approved and the actual personnel time accrued. We request approval of the personnel budget so that the Corrective Action Completion Report can be submitted.

1. Corrective Action Investigation Plan dated October 3, 2001 and the Budget Amendment dated July 11, 2002.

Installation of three off-site groundwater monitoring wells was proposed. Wells were to be surveyed, developed and sampled. All wells were to be sampled a total of five times. The IEPA approved the scope of work and added two additional borings and a slug test. MECRS requested \$17,160.00 in personnel time to complete the following tasks:

- obtain off-site access,
- write the Corrective Action Investigation Plan,
- write the Corrective Action Plan with the results of the proposed investigation,
- prepare the reimbursement
- install the wells, survey, develop and sample the wells



- logging and sample prep
- Quarterly groundwater samples
- Corrective action planning
- Certification of Report by a PE

The IEPA cut \$5,015.00 from this budget, approving only \$12,145.00.

MECRS prepared a Budget Amendment dated July 11, 2002 in response to the budget cuts made by the IEPA and to add the costs of the additional work required by the IEPA. MECRS requested \$5,799.00 in personnel time. The IEPA cut \$5,240.00 from the personnel budget leaving only \$12,704.00 total in the personnel budget. Based on the invoices for the work completed as proposed in the Corrective Action Investigation Plan dated October 3, 2001 and the Budget Amendment dated July 11, 2002, the personnel time required to complete the work proposed in those reports is \$23,096.66. The invoices are attached in Appendix A for the IEPA to review as documentation of the personnel time required to complete the work as proposed in the two reports listed above. The additional personnel time required is presented on the budget forms provided in Appendix D.

2. Corrective Action Plan (CAP) dated March 18, 2004

TACO groundwater models, evaluation of exposure pathways, Tier 2 TACO calculations, and reimbursement applications were proposed in the subject CAP. MECRS requested \$9,9223.00 to complete these tasks and prepare a CAP amendment reporting the results. The IEPA approved the budget as proposed. Based on the invoices for the work completed as proposed in the CAP dated March 18, 2004, the personnel time required to complete the work proposed in that report is \$21,574.27. The invoices are attached in Appendix B for the IEPA to review as documentation of the personnel time required to complete the work as proposed in the subject report. The additional personnel time required is presented on the attached budget forms included in Appendix D.

3. Corrective Action Plan (CAP) dated July 7, 2008

The results of the TACO evaluation were presented in the subject report. MECRS requested \$22,101.80 to complete the TACO evaluation and to bring the site to closure due to the cumulative effect of the cuts made by the IEPA to the previous budgets. This budget amendment also includes costs for preparation of the CACR, for obtaining a Highway Authority Agreement, preparing reimbursement applications and abandoning the groundwater monitoring wells. The IEPA cut \$17,718.06 from this personnel budget, leaving only \$4,383.74 in personnel time to complete the proposed tasks.

Based on the invoices for the work completed as proposed in the CAP dated July 7, 2008, the personnel time required to complete the work proposed in that report is \$9,628.50. The invoices are attached in Appendix C for the IEPA to review as documentation of the personnel time required to complete the work as proposed in the subject report. The

additional personnel time required is presented on the attached budget forms included in Appendix D.

The Highway Authority Agreement has been obtained and the groundwater models calculated. The incident meets the criteria for closure. The Corrective Action Completion Report (CACR) has been prepared and will be submitted to the IEPA upon resolution of the subject personnel budget issues.

If you have any questions or comments, please call our office.

Sincerely,



Allan Green
President

PLS/alg
Job No. 9853

Attachments

- Appendix A Invoices, April 2001 through April 2004
- Appendix B Invoices, April 2004 through August 2008
- Appendix C Invoices, February 2009 through September 2010
- Appendix D Budget Amendment

BUDGET AND BILLING FORM FOR LEAKING UNDERGROUND STORAGE TANK SITES

A. SITE INFORMATION

Site Name: Powers, Dick - Dick's Super Service

Site Address: 500 South Locust Street City: Delavan

Zip: 61734

County: Tazewell IEPA Generator No.: 1790155008

IEMA Incident No: 981750 IEMA Notification Date: July 17, 1998

Date this Form was Prepared: October 15, 2010

This form is being submitted as a:

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

Amendment Number: 4

Billing Package for costs incurred pursuant to 35 Illinois Administrative Code (IAC), Part 732 ("new program")

Name(s) of report(s) documenting the costs requested: _____

Date(s): _____

This form is being submitted for the Site Activities indicated below (check one):

- Early Action
- Site Classification
- Low Priority Corrective Action
- High Priority Corrective Action
- Other (Indicate activities): _____

DO NOT SUBMIT "NEW PROGRAM" COSTS AND "OLD PROGRAM" COSTS AT THE SAME TIME, ON THE SAME FORMS.

A-1

IEMA NO. 981750

If eligible for reimbursement, where should reimbursement checks be sent? Please note that only owners or operators or USTs may be eligible for reimbursement. Therefore, payment can only be made to an owner or operator.

Pay to the order of: Beverly Powers

Send in care of: Beverly Powers

Address: 608 W. 5th Street, Box 445

City: Delavan State: IL Zip: 61734

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: X 101 or more: _____

Number of USTs at the site: 3 (Number of USTs included USTs presently at the site and USTs that have been removed.)

Number of incidents reported to IEMA: 1

Incident Numbers assigned to the site due to releases from USTs: 981750

Please list all tanks which have ever been located at the site and are presently located at the site:

Product Stored	Size (gallons)	Did UST have a release?		Incident No.	Type of Release
		Yes	No		
<u>gasoline</u>	<u>8,000</u>	<u>Yes</u>	<u>No</u>	<u>981750</u>	<u>UST/piping leaks, spills, overfills</u>
<u>gasoline</u>	<u>6,000</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>N/A</u>
<u>gasoline</u>	<u>5,000</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>N/A</u>
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____
_____	_____	<u>Yes</u>	<u>No</u>	_____	_____

IEMA No. 981750

B. PROPOSED BUDGET SUMMARY AND BUDGET TOTAL

1. Investigation Costs:	<u>\$0.00</u>
2. Analysis Costs:	<u>\$0.00</u>
3. Personnel Costs:	<u>\$26,771.55</u>
4. Equipment Costs:	<u>\$0.00</u>
5. Field Purchases and Other Costs:	<u>\$0.00</u>
6. Handling Charges:	<u>\$0.00</u>
TOTAL PROPOSED BUDGET =	<u>\$26,771.55</u>

IEMA No. 981750

G. PERSONNEL

All personnel costs that are not included elsewhere in the budget/billing form must be listed here. Costs must be listed per task, not personnel type. The following are some examples of tasks: Drafting, data collection, plan, report or budget preparation for _____ (i.e., site classification work plan, 45 day report, or high priority corrective action budget), sampling, field oversight for _____ (i.e., drilling/well installation, corrective action, or early action), or maintenance of _____. The above list is not inclusive of all possible tasks.

Personnel Costs April 2001 to April 2004 - Before IEPA Maximum Payment Amounts

<u>Professional Engineer (PE)</u> :	<u>5.5</u> hours x	<u>\$125.00</u> per hour =	<u>\$687.50</u>
(Title)			
Task to be performed for the above hours:	<u>Reimbursement/Report review & Certification</u>		
<u>Principal</u> :	<u>12.25</u> hours x	<u>\$120.00</u> per hour =	<u>\$1,470.00</u>
(Title)			
Task to be performed for the above hours:	<u>HP CA Investigation; planning</u>		
<u>Sr. Environmental Manager</u> :	<u>12</u> hours x	<u>\$110.00</u> per hour =	<u>\$1,320.00</u>
(Title)			
Task to be performed for the above hours:	<u>HP CA Investigation; planning</u>		
<u>Sr. Environmental Manager</u> :	<u>5.25</u> hours x	<u>\$98.00</u> per hour =	<u>\$514.50</u>
(Title)			
Task to be performed for the above hours:	<u>HP CA Investigation; planning</u>		
<u>Sr. Project Manager</u> :	<u>5.5</u> hours x	<u>\$98.00</u> per hour =	<u>\$539.00</u>
(Title)			
Task to be performed for the above hours:	<u>Reimbursement preparation</u>		
<u>Sr. Project Manager</u> :	<u>13</u> hours x	<u>\$95.00</u> per hour =	<u>\$1,235.00</u>
(Title)			
Task to be performed for the above hours:	<u>Reimbursement; CA Investigation</u>		
<u>Admin/Clerical</u> :	<u>9.71</u> hours x	<u>\$42.00</u> per hour =	<u>\$407.82</u>
(Title)			
Task to be performed for the above hours:	<u>Report/reimbursement prep, review, copy, bind, and mail</u>		
<u>Sr. Environmental Hydrogeologist</u> :	<u>20</u> hours x	<u>\$98.00</u> per hour =	<u>\$1,960.00</u>
(Title)			
Task to be performed for the above hours:	<u>HP Site Inv. Plan & Budget, amendment, gw data, IEPA</u>		
<u>Sr. Environmental Hydrogeologist</u> :	<u>19.25</u> hours x	<u>\$98.00</u> per hour =	<u>\$1,886.50</u>
(Title)			
Task to be performed for the above hours:	<u>Offsite Investigation, planning</u>		
<u>Environmental Technician</u> :	<u>4</u> hours x	<u>\$65.00</u> per hour =	<u>\$260.00</u>
(Title)			
Task to be performed for the above hours:	<u>Well sampling</u>		

IEDMA No. 981750

<u>Reimbursement Manager</u> :	<u>1</u> hours x <u>\$55.00</u> per hour = <u>\$55.00</u>
(Title)	
Task to be performed for the above hours:	<u>Reimbursement, billing preparation</u>
<u>Professional Engineer (PE)</u> :	<u>3</u> hours x <u>\$125.00</u> per hour = <u>\$375.00</u>
(Title)	
Task to be performed for the above hours:	<u>HP CA Investigation; planning</u>
<u>Sr. Environmental Manager</u> :	<u>4.5</u> hours x <u>\$98.00</u> per hour = <u>\$441.00</u>
(Title)	
Task to be performed for the above hours:	<u>HP CA Investigation; planning</u>
<u>Sr. Project Manager</u> :	<u>1.25</u> hours x <u>\$95.00</u> per hour = <u>\$118.75</u>
(Title)	
Task to be performed for the above hours:	<u>Reimbursement; CA Investigation</u>
<u>Admin/Clerical</u> :	<u>3.35</u> hours x <u>\$42.00</u> per hour = <u>\$140.70</u>
(Title)	
Task to be performed for the above hours:	<u>Report/reimbursement prep, review, copy, bind, and mail</u>
<u>Sr. Environmental Hydrogeologist</u> :	<u>12</u> hours x <u>\$98.00</u> per hour = <u>\$1,176.00</u>
(Title)	
Task to be performed for the above hours:	<u>HP Site Inv. Plan & Budget, amendment, gw data, IEPA</u>
<u>Reimbursement Manager</u> :	<u>0.25</u> hours x <u>\$55.00</u> per hour = <u>\$13.75</u>
(Title)	
Task to be performed for the above hours:	<u>Reimbursement, billing preparation</u>
<u>Project Manager</u> :	<u>1.25</u> hours x <u>\$78.00</u> per hour = <u>\$97.50</u>
(Title)	
Task to be performed for the above hours:	
<u>Sr. Env. Manager</u> :	<u>8.5</u> hours x <u>\$98.00</u> per hour = <u>\$833.00</u>
(Title)	
Task to be performed for the above hours:	<u>Corrective Action; offsite investigation; CAP</u>
<u>Sr. Project Manager</u> :	<u>16.5</u> hours x <u>\$95.00</u> per hour = <u>\$1,567.50</u>
(Title)	
Task to be performed for the above hours:	<u>Site Investigation; well installation</u>
<u>Sr. Env. Hydrogeologist</u> :	<u>34.25</u> hours x <u>\$98.00</u> per hour = <u>\$3,356.50</u>
(Title)	
Task to be performed for the above hours:	<u>Site Investigation; offsite investigation; GW data; slug test analysis</u>
<u>Project Manager</u> :	<u>25.25</u> hours x <u>\$78.00</u> per hour = <u>\$1,969.50</u>
(Title)	
Task to be performed for the above hours:	<u>Sample; survey, develop wells; slug test; boring logs; data entry</u>
<u>Environmental Technician</u> :	<u>24.25</u> hours x <u>\$60.00</u> per hour = <u>\$1,455.00</u>
(Title)	
Task to be performed for the above hours:	<u>well survey, sample & develop, slug test, sample planning</u>

Subtotal Personnel Costs: **\$21,879.52**
 Total Approved by the IEPA: **\$12,704.00**
 Subtotal Amount Requested: **\$9,175.52**

Personnel Costs April 2004 to August 2008
Before IEPA Maximum Payment Amounts

IEPA No. 981730

<u>Sr. Env. Hydrogeologist</u> :	<u>97.75</u> hours x	<u>\$98.00</u> per hour =	<u>\$9,579.50</u>
(Title)			
Task to be performed for the above hours:	<u>reimbursement, planning, TACO Calculations, groundwater modeling</u>		
<u>PE</u> :	<u>3</u> hours x	<u>\$125.00</u> per hour =	<u>\$375.00</u>
(Title)			
Task to be performed for the above hours:	<u>reimbursement</u>		
<u>Sr. Env. Manager</u> :	<u>20</u> hours x	<u>\$98.00</u> per hour =	<u>\$1,960.00</u>
(Title)			
Task to be performed for the above hours:	<u>reimbursement, corrective action plan & budget, TACO</u>		
<u>Admin</u> :	<u>5.38</u> hours x	<u>\$42.00</u> per hour =	<u>\$225.96</u>
(Title)			
Task to be performed for the above hours:	<u>reimbursement</u>		
<u>Reimbursement Manager</u> :	<u>0.5</u> hours x	<u>\$55.00</u> per hour =	<u>\$27.50</u>
(Title)			
Task to be performed for the above hours:	<u>reimbursement</u>		
<u>Sr. Project Manager</u> :	<u>3.75</u> hours x	<u>\$95.00</u> per hour =	<u>\$356.25</u>
(Title)			
Task to be performed for the above hours:	<u>reimbursement</u>		
After IEPA Maximum Payment Amounts			
Todd Birky, Sr. Env. Hydrogeologist			
<u>Sr. Project Manager</u> :	<u>79.97</u> hours x	<u>\$98.00</u> per hour =	<u>\$7,837.06</u>
(Title)			
Task to be performed for the above hours:	<u>TACO, corrective action plan & budget amendment</u>		
Allan Green			
<u>Sr. Project Manager</u> :	<u>10.5</u> hours x	<u>\$98.00</u> per hour =	<u>\$1,029.00</u>
(Title)			
Task to be performed for the above hours:	<u>Corrective Action Plan, TACO, planning</u>		
Gayo Lynn Green			
<u>Sr. Admin. Assist.</u> :	<u>2</u> hours x	<u>\$42.00</u> per hour =	<u>\$84.00</u>
(Title)			
Task to be performed for the above hours:	<u>reports</u>		
Penny Slizer, Sr. Geologist			
<u>Sr. PG</u> :	<u>1</u> hours x	<u>\$100.00</u> per hour =	<u>\$100.00</u>
(Title)			
Task to be performed for the above hours:	<u>CAP & Budget review and certification</u>		

Subtotal Personnel Costs: \$21,574.27
Total Approved by IEPA: 9,223.00
Subtotal Amount Requested: \$12,351.27

Personnel Costs February 2009 to September 2010

Todd Birky, Sr. Env. Hydrogeologist			
<u>Sr. Project Manager</u> :	<u>89.75</u> hours x	<u>\$98.00</u> per hour =	<u>\$8,795.50</u>
(Title)			
Task to be performed for the above hours:	<u>CAP & Budget, TACO, HAA, CACR</u>		
Allan Green			
<u>Sr. Project Manager</u> :	<u>8.5</u> hours x	<u>\$98.00</u> per hour =	<u>\$833.00</u>
(Title)			
Task to be performed for the above hours:	<u>Corrective Action, TACO, HAA, CACR</u>		

Subtotal Personnel Costs: \$9,628.50
Total Approved by IEPA: 4,383.74
Subtotal Amount Requested: \$5,244.76

Total Personnel Costs: \$26,771.55

Illinois Environmental Protection Agency

Owner/Operator and Professional Engineer Budget Certification Form for Leaking Underground Storage Tanks Sites

In accordance with 415 ILCS 5/57, if an owner or operator intends to seek payment from the UST Fund, an owner or operator must submit to the Agency, for the Agency's approval or modification, a budget which includes an accounting of all costs associated with the implementation of the investigative, monitoring and/or corrective action plans.

I hereby certify that I intend to seek payment from the UST Fund for performing High Priority Corrective Action activities at Powers, Dick - Dick's Super Service LUST site. 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. I further certify that costs ineligible for payment from the Fund pursuant to 35 Illinois Administrative Code Section 732.606 are not included in the budget proposal or amendment. Such ineligible costs include but are not limited to:

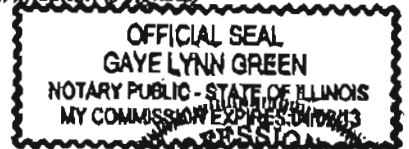
- Costs associated with ineligible tanks.
Costs associated with site restoration (e.g., pump islands, canopies).
Costs associated with utility replacement (e.g., sewers, electrical, telephone, etc.).
Costs incurred prior to IEMA notification.
Costs associated with planned tank pulls.
Legal defense costs.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

Owner/Operator: Beverly Powers Title: Owner

Signature: [Handwritten Signature] Date: 10/15/10

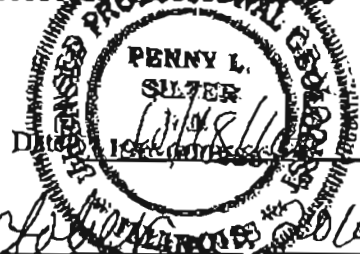
Subscribed and sworn to before me the 15th day of October, 2010. (Budget Proposals and Budget Amendments must be notarized when the certification is signed.)

[Handwritten Signature] Seal: (Notary Public)



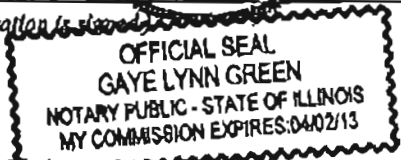
P.E./P.G.: Penny Silzer Seal:

P.E./P.G. Signature: [Handwritten Signature]



Subscribed and sworn to before me the 18th day of October, 2010. (Budget Proposals and Budget Amendments must be notarized when the certification is signed.)

[Handwritten Signature] Seal: (Notary Public)



The Agency is authorized to require this information under 415 ILCS 5/1. Failure to do so may result in the delay or denial of any budget or payment requested hereunder. This form has been approved by the Forms Management Center.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR
CERTIFIED MAIL

217/782-6762

FEB 17 2011

7009 2820 0001 7494 2007

Dick's Super Service
Attention: Ms. Beverly Powers
608 W. 5th Street
Delavan, Illinois 61734

Re: LPC # 1790155008 -- Tazewell County
Delavan / Powers, Dick
500 South Locust St.
LUST Incident No. 981750
LUST Technical File

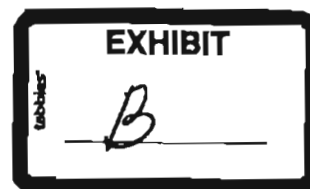
Dear Ms. Powers:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan Budget (budget) submitted for the above-referenced incident. This budget, dated October 18, 2010, was received by the Illinois EPA on October 21, 2010. 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 Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The budget is rejected for the reason(s) listed in Attachment A (Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b)).

In accordance with 35 IAC 734.345(a), a Corrective Action Completion Report must be submitted within thirty days after the completion of a Corrective Action Plan that achieves the applicable remediation objectives. As indicated in the subject submittal, the applicable remediation objectives have been achieved; therefore, the Corrective Action Completion Report must be submitted at this time to the following address:

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



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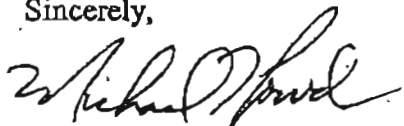
Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

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 Michael A. Heaton at 217/524-3312.

Sincerely,



Michael T. Lowder
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

MTL:mh\981750f5.docx

Attachment: Appeal Rights

c: Mr. Allan Green – Midwest Env. Consulting and Remediation (Tremont, Illinois)
Leaking UST Claims Unit
BOL File

Attachment A

Re: LPC # 1790155008 -- Tazewell County
Delavan / Powers, Dick
500 South Locust St.
LUST Incident No. 981750
LUST Technical File

Citations in this attachment 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).

1. All budgets must be signed by the owner or operator and list the owner's or operator's full name, address, and telephone number pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 734.135(c).

The budget was signed by the consultant and did not provide the owner's or operator's full name, address, and telephone number.

2. The budget includes site investigation or corrective action costs for Consulting Fees 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).

Costs associated with the CACR preparation and TACO analysis were approved in a budget on July 8, 2004. There has been no justification as to why more hours were needed when an adequate amount was requested and approved previously.

3. The budget includes costs that 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.

It is understood that invoices are present in the subject submittal, but what was not provided was justification with regard to the number of hours spent per task. Costs associated with the CACR preparation and TACO analysis were approved in a budget on July 8, 2004. There has been no justification as to why more hours were needed when an adequate amount was requested and approved previously.

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:

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
217/782-5544