

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

ESTATE OF GERALD D.	)	
SLIGHTOM,	)	
Petitioner,	)	
v.	)	PCB No. 11-25
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**NOTICE OF FILING AND PROOF OF SERVICE**

To:	Carol Webb, Hearing Officer	Melanie Jarvis
	Illinois Pollution Control Board	Illinois Environmental Protection Agency
	1021 North Grand Avenue East	1021 North Grand Avenue East
	P.O. Box 19274	P.O. Box 19276
	Springfield, IL 62794-9274	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 RESPONSE TO MOTION FOR SUMMARY JUDGMENT, 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 6<sup>th</sup> of September, 2011.

Respectfully submitted,  
ESTATE OF GERALD D. SLIGHTOM, Petitioner

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI

BY: /s/ Patrick D. Shaw

Patrick D. Shaw  
Fred C. Prillaman  
MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 North Old Capitol Plaza, Suite 325  
Springfield, IL 62701-1323  
Telephone: 217/528-2517  
Facsimile: 217/528-2553

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**RESPONSE TO MOTION FOR SUMMARY JUDGMENT**

NOW COMES Petitioner, Estate of Gerlad D. Slightom (hereinafter "the Estate"), pursuant to Section 101.516 of the Board's Procedural Rules (35 Ill. Admin. Code 101.516(a)), in response to the motion for summary judgment filed by the Illinois Environmental Protection Act (hereinafter "Agency"), stating further as follows:

**INTRODUCTION**

The Estate elected to irrevocably take over the clean-up of an old service station property in reliance upon the determination of the Office of the State Fire Marshal (hereinafter "OSFM") that it would be eligible to access the LUST Fund, subject to only a \$10,000 deductible. This was and remains the only eligibility and deductible determination issued to the Estate and the only such determination made by the OSFM for the site. The Estate further performed substantial work at the site pursuant to various approvals by the Agency that incorporated the OSFM determination in the plan and budget. In derogation of the legal requirements that bind the Agency from arbitrary refusals to pay, the Agency reversed its own finally, appealable decisions, relied upon heretofore unknown documents obtained by unknown means and measures, and exceeded the scope of its statutory review in setting out to invalidate the OSFM's determination.

**I. STATEMENT OF FACTS.**

1. Gerald Dean Slightom died September 5, 2007, and on September 20, 2007, Richard D. Slightom was appointed the executor of the Estate. (Exhibit A)

2. On or around January, 24, 2008, the Estate applied for an eligibility and deductibility determination from the Office of the State Fire Marshal (hereinafter "OSFM"). (Rec. 31)

3. On February 6, 2008, OSFM issued its determination that the Estate was eligible for reimbursement from the LUST Fund for cleanup costs, subject to a \$10,000 deductible. (Rec. 29) This is the only eligibility and deductibility determination ever made by OSFM for this site, and it is the only such determination made for the Estate by any agency.

4. On February 22, 2008, the Estate filed its election to proceed as "owner" of the unfinished cleanup after having "acquired an ownership interest in the . . . site." (Exhibit B)

5. On March 3, 2008, the Agency approved the election, stating in part:

**As the new owner, you may be eligible to access the Underground Storage Tank Fund for payment of costs related to remediation of the releases. For information regarding eligibility and the deductible amount to be paid, please contact the Office of the State Fire Marshal at 217/785-5878.**

(Exhibit C)

6. Thereafter, the Estate performed various corrective action at the site in reliance upon the OSFM's determination and the Agency's approvals. (Rec.115-117)

7. On January 29, 2009, the Agency approved the first application for payment at the site in the amount of \$29,239.08, subject to a \$10,000 deductible. (Rec. 47-49) These costs were incurred during Stage 1 of Site Investigation.

8. The specific work that is the subject of this appeal was performed in accordance

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with Stage 3 Site Investigation Plans and Budgets that were approved in full or with modifications by the Agency. Each of the plans and budgets submitted included a copy of the OSFM eligibility and deductibility determination (\$10,000), and were approved with or without modification by the Agency on the following dates:

DOCUMENT	SUBMITTED	APPROVED
Site Investigation Stage 3 Plan and Budget	8/27/08	10/1/08
Site Investigation Stage 3 Plan and Budget	3/4/09	3/25/09
Site Investigation Stage 3 Plan and Budget	7/2/09	7/24/09
Site Investigation Stage 3 Plan and Budget	11/5/09	11/25/09

(Exhibit 1; see also Rec. 116-17 (database summary of submittals))

9. The costs associated with the specific work that is the subject of this appeal were also submitted as actual costs within the Site Investigation Completion Report on June 11, 2010, and also included a copy of the OSFM determination, (Exhibit D (relevant excerpt from the Report)) and was approved by the Agency on July 8, 2010, with the budget specifically approved in the amount of \$82,057.28, plus handling charges to be determined. (Rec. 38-40)

10. On July 19, 2010, the Estate filed an application for payment in the amount of \$83,912.58, (Rec. 120-215), which included (i) a copy of the OSFM's eligibility and deductibility determination of \$10,000 (Rec. 209-210), (ii) proof that the deductible had already been applied in prior payments (Rec. 206-208), and the federal taxpayer identification number for the Estate. (Rec.214-215)

11. The project reviewer determined that the Estate had submitted a "complete application for payment." (Rec. 109)

12. By reason and belief, the Agency conducted some form of investigation, the details and extent of which are known only to the Agency, but may be deduced from the Agency Record. Specifically, pages one through thirty-six of the record consist of documents from the files of the Agency and the OSFM that were not submitted by the Estate. (Exhibit 1) Most of these documents purport to date from 1990 to 1991. (Rec. 1-28 & 35-36) It also appears that the Agency attempted to look behind the OSFM determination by obtaining some of the application materials from OSFM. (Rec. 31-34)

13. On October 29, 2010, the Agency denied the application for payment, purporting to rely upon its own deductible determination made in 1991 to a prior owner for \$100,000. (Rec. 109) On the basis of the 1991 document, the Agency not only denied payment for nearly \$84,000 in approved work under an approved budget, but asserted that the Estate now owes the LUST Fund money. (Rec. 109)

14. The Estate timely appealed the Agency decision, arguing not only that a \$100,000 deductible does not apply, but raising the alternative additional defense that even if the Agency is correct, it should be barred by estoppel and laches from changing its legal positions the Estate relied upon to its detriment. (Amend. Pet. At ¶ 18)

15. The Estate also alleged that the 1991 document relied upon by the Agency was a “heretofore unknown” determination and “[t]he Agency’s own Leaking Underground Storage Tank database fails to reflect that it ever issued, let alone sent, an eligibility and determination letter.” (Amend Pet. ¶ 15 & ¶ 16) The Agency’s record confirms that its database does not reflect any such document at the time the Agency made its decision. (Rec.116-117 (print-out of the IEPA database as of October 28, 2010))

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16. The Estate had no knowledge of the 1991 document prior to the Agency's denial of the application for payment. (Exhibit 1) The Agency had no knowledge of it either, see paragraphs 5 through 11 supra.

17. On June 16, 2011, the Agency filed the administrative record in this case and its motion for summary judgment, relying upon the 1991 document. The administrative record lacks any evidence that the 1991 document was ever sent or issued by the Agency, or received by the prior owner.

18. In response, on June 29, 2011, the Estate filed a verified motion to compel, seeking the opportunity to depose the project reviewer concerning the circumstances surrounding the investigation and discovery of the 1991 document.

19. On July 8, 2011, the Agency filed its objection to the motion to compel, stating in part:

**In any event the contention that Petitioner was unaware of the existence of the eligibility determination applied is incorrect. Petitioner itself had applied for two eligibility determinations from the Office of the State Fire Marshall.**

(Agency's Objection to Petitioner's Motion to Compel, at p. 8)

20. On July 29, 2011, the Estate replied, objecting to the aforementioned claim that the Estate, being the Estate, is one and the same as the decedent, as a matter of fact (the Estate did not exist in 1991), as well as a matter of estate law and environmental law. (Petitioner's Reply in Support of Motion to Compel Deposition, at pp. 2-4)

21. On August 8, 2011, the Agency filed its sur-objection, claiming that the Agency's arguments were being mischaracterized:

**No fair reading of the State's pleading could bring a reasonable person to the conclusion that the State has argued that the decedent and the Estate are**

**“...one and the same...” and the Board should recognize this fact and strike Petitioner’s argument.**

(Respondent's Sur-Objection to Petitioner's Motion to Compel at p. 4)<sup>1</sup>

22. On August 10, 2011, the Hearing Officer entered her ruling in this matter, in relevant part stating:

**Petitioner makes various legal arguments in its motion to compel discovery which are more appropriately addressed in its response to the motion for summary judgment. Most relevant to the motion to compel, petitioner argues that deposing respondent’s project reviewer is necessary to uncover details about the Agency’s investigation of the earlier OSFM [sic] determination, and to address the validity and circumstances of the evidence. Petitioner does not assert that the 1991 determination is fraudulent. In this instance, there appears to be no ambiguity in the record that a deposition could clarify. The earlier determination was found and applied. Accordingly, petitioner’s motion to compel is denied, and respondent’s motion to quash the subpoena is granted. Petitioner may appeal this decision as part of its response to the motion for summary judgment.**

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<sup>1</sup> Given the Agency’s statement, Petitioner assumes in this Response that the Agency is not claiming that the Estate applied for the 1991 document.

**II. THE AGENCY WRONGFULLY RELIED UPON THE 1991 DOCUMENT.**

**A. THE APPLICANT DID NOT SUBMIT THE 1991 DOCUMENT AND THEREFORE THE AGENCY FAILS TO MEET ITS BURDEN OF PROOF.**

As stated in the Agency's Motion for Summary Judgment,<sup>2</sup> the question before the Board is "whether the application, as submitted to the Agency, would not violate the Act and Board regulations." Metropolitan Pier and Exposition Authority v. IEPA, PCB 10-73, at p. 51 (July 7, 2011).

The Agency's motion for summary judgment is premised on materials not submitted in the application. The subject application for payment included a copy of the only OSFM eligibility and deductibility determination (Rec. 209-210), in accordance with the requirements of the Act. (415 ILCS 5/57.8(a)(6)(C)) The application also included a copy of a prior IEPA decision, applying the \$10,000 deductible. (Rec. 206-208)

Pursuant to the Agency's own description of the Board's standard of review, the motion for summary judgment should be denied outright.

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<sup>2</sup> "[W]hen reviewing an Illinois EPA determination of ineligibility for reimbursement from the Underground Storage Tank Fund, the Board must decide whether or not the application as submitted demonstrates compliance with the Act and the Board regulations." (Mot. S.J., at p.3) (emphasis added)



**B. THE PETITIONER COMPLIED WITH THE ACT BY SUBMITTING THE COPY OF THE OSFM DETERMINATION AND THE AGENCY IS WITHOUT AUTHORITY TO DISREGARD IT.**

A basic premise of the LUST Program is to provide certainty to the owner/operator that expenses incurred performing an approved plan and budget will be reimbursed and the Agency will not arbitrarily deny the subsequent payment application. This goal is achieved through pre-approval of budgets, limitations on Agency review of the application for payment, and the creation of final, appealable decisions. Taken together, they allow the owner/operator to be confident that if they comply with the Act and the Board regulations, they will receive payment.

The Act requires the owner or operator seeking reimbursement from the LUST Fund to obtain an eligibility determination from the OSFM:

**If an owner or operator is eligible to access the Underground Storage Tank Fund pursuant to an Office of State Fire Marshal eligibility/deductible final determination letter issued in accordance with Section 57.9, the owner or operator may submit a complete application for final or partial payment to the Agency for activities taken in response to a confirmed release.**

(415 ILCS 5/57.8) (emphasis added)

**For purposes of this Section, a complete application shall consist of:**

...

**(C) A copy of the Office of the State Fire Marshal's eligibility and deductibility determination.**

(415 ILCS 5/57.8(1)(C))

The Agency decision being reviewed acknowledges that Petitioner submitted a "complete application for payment." (Rec. 109) Having submitted a statutorily complete application, the Agency had no authority to bypass the determination made by the OSFM. The Act is clear that responsibility for "[e]ligibility and deductibility determinations shall be made by the Office of the

State Fire Marshal.” (415 5/57.9(c)) The OSFM’s determination is final and appealable “as to owner or operator eligibility to access the Underground Storage Tank Fund pursuant to this Title and the appropriate deductible.” (415 ILCS 5/57.9(c)) The extent of the Agency’s attempt to circumvent the OSFM’s statutory authority is evidenced by the presence of materials the Agency must have gathered on its own from the OSFM file in an attempt to find information that it might use to undermine the OSFM’s determination. (Rec. 31-34)

In addition to these statutory protections from Agency arbitrariness, the Board’s procedural rules require the OSFM determination to be submitted with the budget. 35 Ill. Admin. Code § 734.31(b) (“The budget must include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM . . .”) Since the statute already required a copy of the OSFM determination at the application for payment stage, this additional requirement must be intended to provide additional protection to the owner earlier in the process, so that questions concerning eligibility and deductibility are addressed earlier.

Not only did Petitioner submit a complete application, the application as submitted did not violate any statute or regulation since it included all of the information required by law, contained a determination made by the competent authority (OSFM), and was entirely consistent with the information provided in the approved budget. Indeed, it was the Agency that acted in violation of the plain language of the Act.

**C. THE AGENCY EXCEEDED ITS PERMISSIBLE REVIEW OF THE PAYMENT APPLICATION.**

Once the owner/operator submits a complete application for payment, the Act imposes strict limits on the scope of the Agency's review of that application. Without such constraints owner/operators would be reluctant to perform the approved work and budget for fear of arbitrary Agency rejections.

**In the case of any approved plan and budget for which payment is being sought, the Agency shall make a payment determination within 120 days of receipt of the application. Such determination shall be considered a final decision. The Agency's review shall be limited to generally accepted auditing and accounting practices. In no case shall the Agency conduct additional review of any plan which was completed within the budget, beyond auditing for adherence to the corrective action measures in the proposal. . . .**

(415 ILCS 5/57.8(a)(1) (emphasis added))

Once the Agency has determined that the application is complete, as it did here, the Agency's review is restricted to an audit of the subsequent costs incurred. "When an application requests reimbursement for costs that are at or under the amounts of Subpart H and the approved budget, and provides documentation demonstrating that the costs were actually incurred for approved work, the Agency cannot 'second-guess' whether the requested reimbursement is reasonable." T-Town Drive Thru v. IEPA, PCB 07-85 (2008). While the Board went on to rule that the owner/operator could be required to submit backup invoices in order for the payment application to be complete, the reasoning does not extend to eligibility and deductibility issues which the Act specifically provides are deemed complete by supplying a copy of the OSFM determination in the application. (415 ILCS 5/57.8(a)(1)(C))

In addition, the Board in T-Town relied upon its own procedural rule authorizing the Agency to seek review of any "documentation relied upon by the owner or operator in developing

the application for payment.” 35 Ill. Admin. Code § 732.602(b); see also id. § 734.610(c) (Part 734 counterpart). There is no question that the owner here (the Estate) did not rely upon the 1991 document in developing the application for payment.

The evidence indicates that the Agency violated Section 57.8(a)(1) of the Act by collaterally attacking the determination made by the OSFM by engaging in activities prohibited by that Section, including seeking to examine the files of the co-ordinate administrative agency charged with making the deductibility determination. It would appear that once again, “the Agency has arrogated to itself a role in which it -- and it alone -- can be trusted with the important task of protecting our environment . . . , and normal legal rules and procedures be damned.” Grigolet Co. v. Pollution Control Bd., 245 Ill. App. 3d 337, 348 (4th Dist. 1993) (Steigmann, specially concurring) Except in this case, the Agency cannot be said to be doing much to protect our environment.

**D. THE INTERPRETATION OF THE LUST PROGRAM ADVOCATED BY THE ESTATE IN THIS CASE IS CONSISTENT WITH THE PURPOSE OF THE ACT, AVOIDS CONSTITUTIONAL QUESTIONS AND IS CONSISTENT WITH AGENCY PRACTICE.**

For the foregoing reasons, Petitioner believes that the plain language of the Act and the regulations promulgated thereunder require the rejection of the Agency’s motion for summary judgment. Nonetheless, in the event of any residual uncertainty, there are additional considerations that support these conclusions. The basic rules of interpretation are as follows:

**If the language is clear, no resort to other aids of construction is necessary. If the statute is susceptible of more than one interpretation, the court may look to other aids, such as the purpose to be served by the statute. Courts should avoid construing a statute in a manner that raises substantial questions concerning the statute's constitutional validity. Additionally, courts**

**should construe a statute so as to avoid an absurd result or hardship.**

Presley v. P&S Grain Co., 289 Ill. App. 3d 453, 462 (5th Dist. 1997).

The problems with the Agency's approach are manifest: The Petitioner performed over eighty thousand dollars worth of approved environmental work and when it applied for payment, the Agency demanded money instead. The Agency in turn relies upon a heretofore unknown document in violation of the Act and fights any efforts of the Estate to discover, or of the Board to know, the circumstances surrounding that document that might assist in challenging it.

**1. The Agency's Approach Discourages New Owners from Electing to Complete Clean-Ups.**

Because the prior owner/operator of the tanks is deceased, many of the historical details are unavailable. Until recently, it would not have mattered. Prior to 2006, when an owner/operator had not completed an environmental clean-up, his or her death or transfer of the property constituted the end of anybody's eligibility to seek reimbursement for corrective action costs from the LUST Fund. The Board recently explained how this previous state of affairs has been modified by the legislature:

**Without this revision, the definition [of owner/operator] generally limited participation in the UST Program and reimbursement to the owner or operator of the removed leaking USTs, even if that owner or operator had abandoned the property or transferred it to another entity. Without this access to the Fund, a new owner or operator of a contaminated property would presumably be required to bear the costs of remediating contamination originating with the previous owner. The burden of these costs plainly would discourage prospective buyers from acquiring property at which corrective action had not yet resulted in an NFR letter or from performing corrective action after acquiring it. The Board concludes that the General Assembly intended in Public Act 94-274 to provide an incentive to purchase and remediate properties of this nature.**

Zervos Three v. IEPA, PCB 10-54, at 31 (Jan. 20, 2011)

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For decedent estates the situation is even more deserving of attention. An estate is formed foremost to collect the assets of the decedent for distribution pursuant to the Probate Act. In re Estate of Spaits, 117 Ill. App. 3d 142, 149 (5th Dist. 1983). However, the presence of contamination on a decedent's property may mean the property is not an asset. Cf. Department of Transp. ex rel. People v. Parr, 259 Ill. App. 3d 602, 603 (3rd Dist. 1994) (describing condemnation dispute in which the government wanted \$100,000 for taking contaminated property). The likely effect of such a situation, barring the financial resources to remediate the contamination, is that of disclaimer and abandonment of the property. Cf. 755 ILCS 5/2-7 (disclaimer property through probate). The obvious consequence would be the needless propagation of more brownfields across the state. As in Zervos Three, the Board should interpret any ambiguities in the statute in a manner that would encourage estates to make an election. Doing so would not mean disregarding the requirement of a deductible, but simply recognizing that the estate or other new owner should be able to rely upon the OSFM determination made as to it.

Like the new owner in Zervos Three, the Petitioner voluntarily elected to take over the cleanup in reliance upon the OSFM's determination that it would be eligible for reimbursement for cleanup costs in excess of \$10,000. Indeed, the Agency's acceptance of that election stated:

**As the new owner, you may be eligible to access the Underground Storage Tank Fund for payment of costs related to remediation of the releases. For information regarding eligibility and the deductible amount to be paid, please contact the Office of the State Fire Marshal at 217/785-5878.**

(Exhibit C)

The above language further demonstrates Petitioner's justified reliance upon the OSFM determination. In contrast, the Agency's position that once a high deductible, always a high

deductible, regardless of changes in the law and circumstances, is not merely inconsistent with its own statements in accepting the election, it would greatly discourage anybody from electing to perform corrective action.

**2. The Agency's Argument Raises Substantial Questions of the Constitutionality of its Actions or the Board's Procedures.**

The courts have recognized that the Constitution "requires fundamental fairness in administrative proceedings." Lyon v. Dep't of Children & Family Servs., 335 Ill. App. 3d 376, 384 (4th Dist. 2002). There are several Constitutional questions raised in this record. First, the Estate obtained Agency approval of the work, which included approval of the OSFM determination contained in the budget proposal. In reliance upon the various approvals and the past payment made by the Agency, the Estate then performed over eighty thousand dollars worth of work. The effect of the Agency's position is to retroactively modify its prior approval of the budget proposal. The courts have said this is unfair even when the retroactive change is justified by a change in the statute:

**[W]e believe justice, fairness and equity require that persons who comply with the law not as it might be but as it is then in effect, and in this instance obtain the required permit after expenditure of funds, should not have that permit nullified by retroactive application of a statute subsequently enacted.**

American Fly Ash Co. v. County of Tazewell, 120 Ill. App. 3d 57, 59 (3d Dist. 1983).

Here, there was no change in the law between when the work was approved and payment sought. Thus, the Agency's change in position is without any justification.

The fundamental fairness problems posed by the Agency's actions are exacerbated by the procedures it has utilized and seeks to utilize to defend them. Despite the Act's clear language

that a copy of the OSFM determination is complete as to that issue, the Agency sought additional information outside of the application without giving the applicant notice and opportunity to confront the new information. See Kraut v. Rachford, 51 Ill. App. 3d 206, 214 (1st Dist. 1977) (While the exact formula varies from situation to situation, due process requires at a minimum that "notice must be given and an opportunity to be heard afforded which will be meaningful and appropriate under the circumstances.") Indeed, the courts have indicated that the Agency denies fundamental fairness when it relies upon new information without giving the applicant an opportunity to respond before a final decision is made. Wells Mfg. Co. v. EPA, 195 Ill. App. 3d 593, 597 (1st Dist. 1990). However, Petitioner is not asking for the issuance of a Wells letter here; Petitioner is asking that the Board follow its procedural framework that makes a Wells letter irrelevant since no new information will be considered by the Board:

**The purpose of a Wells letter in the permit program is to notify the applicant of a potential denial of a permit because of information beyond the contents of a permit application. This situation does not occur in the UST program.**

In re Proposed Amendments To: Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 734), R04-22 & R04-23 (Feb. 17, 2005) (emphasis added).

What the Board meant by this is that this situation is not supposed to occur in the UST program. Here, though, not only did this situation occur, it has been potentially aggravated by the Hearing Officer's ruling denying discovery into the circumstances surrounding the new information. If the new information relied upon by the Agency should not have been considered, then discovery relating to it is irrelevant. If consideration of information beyond the contents of the application was appropriate, then discovery was appropriate. Soil Enrichment Materials Corp. v. EPA, 5 Ill. PCB 715 (1972) ("the appellant is entitled to a hearing to determine whether



or not such material was relied upon and further to explore what it discovers").

The process used by the Agency to review and deny previously approved expenses and to deny the opportunity to examine and confront new evidence relied upon by the Agency violated the applicant's right to fundamental fairness. The Board should seek to avoid or limit these problems by rejecting the Agency's use of the 1991 document.

**III. ALTERNATIVELY, THE APPLICATION DID NOT VIOLATE 35 ILL. ADMIN. CODE 734.615(b)(4).**

**A. THE BOARD RULE DOES NOT APPLY IN THE FACE OF CONTROLLING STATUTORY AUTHORITY.**

A tribunal "should apply the law as it exists at the time of the appeal." First of Am. Trust Co. v. Armstead, 171 Ill. 2d 282, 289 (1996). At the time of the appeal (and well before), the law provided that the deductibility determinations are to be made by the OSFM and proven by a copy of the determination made by the OSFM. (415 ILCS 5/57.8(1)(C); 415 5/57.9(c)) Any alleged determination made by the Agency over a generation ago under a different regulatory scheme does not reflect existing law to be applied. Nor does it reflect Petitioner's eligibility and relevant deductible, since no other determination was ever made as to the new owner.

**B. THE HISTORY OF THE RULE INDICATES THAT IT WAS NOT INTENDED TO APPLY TO THESE CIRCUMSTANCES.**

The regulatory history of Section 734.615(b)(4) reveals that it was based upon the problem of two incidents at a site and based upon the Agency's multiple-deductible-per-site arguments that were later rejected by the Board in Swif-T-Food Mart v. IEPA, PCB 03-185 (May

20, 2004). The rules were proposed in the R01-26 proceedings with the following explanation:

**W]e have had occasions where eligibility determinations have been issued, say, for two separate incidents where different deductibles have been applied by the Illinois Office of the State Fire Marshal.**

R01-26 (Feb. 27, 2001 Hrg. Transcript), at p. 41 (emphasis added).

Doug Clay of the Agency further explained how this could occur:

**[I]f I could respond to your question about could you have multiple deductibles at a given site, the answer is yes. If – I mean, if they are in different years and they are separate occurrences. What we were trying to clarify here is that if you have got two determinations on the same occurrences but different incident numbers and maybe years apart and there have been two different deductibles assessed, we just wanted to clarify that we would be going by the highest deductible.**

R01-26 (Feb. 27, 2001 Hrg. Transcript), at p. 43.

This analysis must at least partly be understood from the context of the Agency's discredited position at that time, namely its belief that "one deductible shall apply to one separate occurrence." Swif-T-Food Mart, PCB 03-185, at p. 7. Instead, the Board held that "deductibles are generally assessed per site, not per occurrence." Id. at p. 11. The confusion is based upon the Agency's misunderstanding of what the OSFM was doing when it issued more than one deductible determination. If during a cleanup, an abandoned, unregistered tank was discovered, a subsequent eligibility determination for the "new" tank might assess a higher deductible if its discovery meant that "not all" of the tanks were registered any more. (415 ILCS 5/57.9(b)(3)) The typical OSFM determination reserves the right to modify the determination "should additional information that would change the determination become available." (Rec. 30) In summary, the Agency's articulation for the need for this rule was premised on an overruled analysis of the nature of the OSFM's issuance of multiple deductibles per site. It would have

been simpler to state that the most recent OSFM determination controls, but that would have conflicted with the Agency's anachronistic view that multiple deductions exist for multiple incidents.

In any event, the present situation is not within the contemplated intent of the rule. There was only one occurrence or incident. There was only one OSFM determination. There was only one eligibility and deductibility determination made as to Petitioner.

**C. ALTERNATIVELY, THE RULE IS INVALID.**

Final consideration should be given to the strong likelihood that the rule itself is invalid or at least will be found invalid in various situations. During the rulemaking, the Agency was asked about the statutory authority for the rule and conceded there was none:

**Q. What is the basis for going by the highest deductible and not the lowest deductible?**

**A. The highest deductible indicates that not all of the tanks were registered, timely registered, and I guess just being conservative.**

**Q. But there is . . . no statutory requirements that the highest deductible applies as opposed to the lowest deductible?**

...

**A. No.**

R01-26 (Feb. 27, 2001 Hrg. Transcript), at pp. 43-44.

The rule is entirely arbitrary in its purpose. Assuming the existence of two determinations that are identical in all manner except for two different deductibles, there are several different approaches available, including applying the correct deductible or the most recent deductible. If the question is which is the correct deductible, then the OSFM is

responsible for making that decision. (415 ILCS 5/57.9(c)) But things become more complicated, where as here, the deductible determinations are not identical, they were made by different agencies, to different owners, separated by a generation of significant legal changes to the LUST program. For the Agency to formalize a rule for purely self-serving reasons is insufficient to support its validity as applied to the unique facts of each situation and the Agency should at minimum be expected to demonstrate that application of the rule is not purely arbitrary and is consistent with legislative intent.

Furthermore, the entire rulemaking appears to assume that the Agency has a discretionary function in reviewing multiple deductibility determination, when in fact, no such discretion exists in the Act. If any discretion exists, it lies with the OSFM.

**IV. ADDITIONALLY, THE MATTER SHOULD BE SUBMITTED FOR FURTHER FACTUAL ANALYSIS.**

Concurrently, Petitioner is appealing the Hearing Officer's decision to deny discovery. Petitioner has asked for the discovery in order to ensure that the Board has all of the available evidence before it when evaluating the case. As Petitioner hopes has been demonstrated in the previous sections, there are substantial questions of a purely legal nature about the Agency's arguments, and indeed if the Board finds the 1991 document to be an improper basis for the Agency's decision as a matter of law, then discovery into the circumstances surrounding that heretofore unknown document would most likely be moot as well.

In addition, Petitioner does not believe the motion for summary judgment can be granted as presented. "The summary judgment movant is obligated to demonstrate the absence of factual

dispute with respect to all issues raised by the pleadings, including the absence of factual dispute regarding an affirmative defense raised by the party's opponent.” West Suburban Mass Transit Dist. v. Conrail, 210 Ill. App. 3d 484, 488 (1st Dist. 1991) (emphasis added). The Agency did not address the issues raised in Petitioner’s Amended Petition, and in particular it did not address the affirmative defenses of estoppel and laches raised therein. (Amend. Pet. ¶ 18) In other words, even if we assume for the sake of argument that the Agency correctly states the law in its motion for summary judgment, the Board may still decide that the Agency is barred by estoppel and waiver from succeeding on this point due to prior Agency actions.

Finally, the motion for summary judgment does not argue that the OSFM determination was correct or incorrect; simply that it is low. Petitioner has also not addressed that issue herein, since it argues that the OSFM determination is conclusive. However, if the Board deems review of the proper deductible to be a relevant to the determination of this appeal, then OSFM’s record, going back to its 1990 administrative orders concerning this site’s tanks registration needs to be placed in the record before such an evaluation can be made.

Consequently, if the Board rejects the arguments made in the previous sections of this response, we ask that the Board order discovery, upon completion of which the parties may either move for summary judgment based upon the totality of evidence or proceed to hearing.

WHEREFORE, Petitioner, ESTATE OF GERALD D. SLIGHTOM, prays that the Agency’s Motion for Summary Judgment be Denied and the matter directed to the Hearing Officer for the scheduling of appropriate discovery into the nature and circumstances of the 1991

document, or for such other and further relief as it deems meet and just.

ESTATE OF GERALD D. SLIGHTOM,  
Petitioner

By its attorneys,  
MOHAN, ALEWELT, PRILLAMAN & ADAMI

By: /s/ Patrick D. Shaw

Fred C. Prillaman  
Patrick D. Shaw  
MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 N. Old Capitol Plaza, Ste. 325  
Springfield, IL 62701  
Telephone: 217/528-2517  
Facsimile: 217/528-2553

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

ESTATE OF GERALD D. )  
SLIGHTOM, )  
Petitioner, )  
v. ) PCB No. 11-25  
) (LUST Permit Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

**AFFIDAVIT OF SHANE THORPE**

Shane Thorpe, on oath says:

1. I am over twenty-one years old and a resident of Sangamon County, Illinois.
2. I am employed as a Senior Project Manager with CSD Environmental Services, Inc.
3. CSD Environmental Services, Inc. was retained by the Estate of Gerald D. Slightom in 2007 to provide environmental consulting services concerning the former service station at 103 North Third Street, Girard, Illinois.
4. As the Senior Project Manager, I prepared or assisted in the preparation of a number of the documents regarding the site, including the documents pertaining to the Estate's election to proceed as Owner.
5. While the site was identified as having experienced one more releases from underground storage tanks, I did not find any prior eligibility and deductibility determination had been made.
6. In December of 2007, I submitted an application to the Office of the State Fire Marshal in order to obtain an eligibility and deductible determination for the Estate.
7. Included in the materials submitted to the Office of the State Fire Marshal were the "Letters of Office - Decedent's Estate," a true and correct copy of which is attached hereto as Exhibit A.
8. Upon receiving the determination of the Office of the State Fire Marshal that the Estate was eligible for reimbursement from the LUST Fund with a deductible of \$10,000.00, I prepared the "Election to Proceed as "Owner"," which I submitted to the Agency on February 22, 2008 on behalf of the Estate.

EXHIBIT

1

PC 1 OF 3

9. Had the deductible been \$100,000, the Estate would not have taken over the cleanup since it lacked sufficient assets.
10. A true and correct copy of the "Election to Proceed as "Owner"" is attached hereto as Exhibit B.
11. On March 3, 2011, the Illinois Environmental Protection Agency approved the "Election to Proceed as "Owner," a true and correct copy of which is attached hereto as Exhibit C. Upon receipt of the approval, the attorney for the Estate forwarded Exhibit C to me.
12. Thereafter, substantial work was performed at the site pursuant to plans and budgets approved by the Agency, and each budget contained a copy of the OSFM determination.
13. The work at issue here was performed in accordance with Stage 3 Site Investigation Plans and Budgets that were approved in full or with modifications by the Agency. Each of the plans and budgets submitted included a copy of the OSFM eligibility and deductibility determination, and were approved with or without modification by the Agency on the following dates:

DOCUMENT	SUBMITTED	APPROVED
Site Investigation Stage 3 Plan and Budget	8/27/08	10/1/08
Site Investigation Stage 3 Plan and Budget	3/4/09	3/25/09
Site Investigation Stage 3 Plan and Budget	7/2/09	7/24/09
Site Investigation Stage 3 Plan and Budget	11/5/09	11/25/09

14. The costs associated with the specific work that is the subject of this appeal were also submitted as actual costs within the Site Investigation Completion Report on June 11, 2010, which also included a copy of the OSFM determination.
15. A true and correct copy of the Stage 3 Actual Costs, Appendix G of the Site Investigation Report, is attached hereto as Exhibit D.
16. After approval of said report, CSD Environmental Services, Inc. prepared and submitted the payment application on behalf of the Estate. Attached to the application was a copy of the OSFM determination.
17. At the time the application for payment was submitted, the OSFM determination was the only known eligibility and deductible determination issued at the site, and

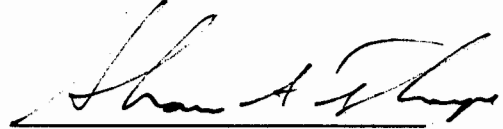




it was the only document relied upon by CSD Environmental Services, Inc. for the purpose of proving the Estate's eligibility for reimbursement from the LUST Fund, subject to the applicable deductible.

FURTHER AFFIANT SAYETH NOT.

The undersigned certifies, under penalty of perjury, that the statements set forth in this instrument are true and correct, except as to matters stated to be on information and belief, which the undersigned believes to be true.



Shane Thorpe



IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT  
MACOUPIN COUNTY, ILLINOIS

ESTATE OF GERALD DEAN SLIGHTOM, ) IN PROBATE  
DECEASED ) DOCKET NO. 2007-P-137

LETTERS OF OFFICE - DECEDENT'S ESTATE

RICHARD D. SLIGHTOM has been appointed executor of the Estate of GERALD DEAN SLIGHTOM, who died September 5, 2007, and is authorized to take possession of and collect the estate of the decedent, and to do all acts required of him by law.

WITNESS, \_\_\_\_\_ 9-20 2007.  
*Mike Mathis*  
\_\_\_\_\_  
Clerk of the Circuit Court

(Seal of Court)

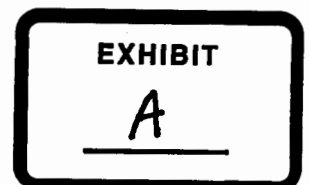
CERTIFICATE

I certify that this a copy of the letters of office now in force in this estate.

Dated: \_\_\_\_\_ 9-20, 2007.  
*Mike Mathis*  
\_\_\_\_\_  
Clerk of the Circuit Court

(Seal of Court)

Prepared by:  
Bill Nichelson  
Attorney at Law  
P.O. Box 290  
Virden, IL 62690  
(217) 965-1400



The Agency is authorized to require this information under Section 4 and Title XVI of the Environmental Protection Act (415 ILCS 5/4, 5/57 - 57 17). Failure to disclose this information may result in a civil penalty of not to exceed \$50,000.00 for the violation and an additional civil penalty of not to exceed \$10,000.00 for each day during which the violation continues (415 ILCS 5/42). Any person who knowingly makes a false material statement or representation in any label, manifest, record, report, permit, or license, or other document filed, maintained or used for the purpose of compliance with Title XVI commits a Class 4 felony. Any second or subsequent offense after conviction hereunder is a Class 3 felony (415 ILCS 5/57 17). This form has been approved by the Forms Management Center

Illinois Environmental Protection Agency  
Leaking Underground Storage Tank Program  
Election to Proceed as "Owner"

A. Site Identification

IEMA Incident # (6- or 8-digit): 912456 IEPA LPC # (10-digit): 1170455005

Site Name: Former Robinson Service Station (closed facility)

Site Address (Not a P.O. Box): 103 N. 3rd St. (aka 3rd & Center Street)

City: Girard County: Macoupin Zip Code: 62640

Leaking UST Technical File

B. Election

Pursuant to Section 57.2 of the Environmental Protection Act [415 ILCS 5/57.2], I hereby elect to proceed as an "owner" under Title XVI of the Environmental Protection Act. I certify that I have acquired an ownership interest in the above-named site, that one or more underground storage tanks registered with the Office of the State Fire Marshal have been removed from the site, and that corrective action on the site has not yet resulted in the issuance of a "no further remediation letter" by the Illinois EPA pursuant to Title XVI of the Environmental Protection Act.

I understand that by making this election I become subject to all of the responsibilities and liabilities of an "owner" under ~~Title XVI of the Environmental Protection Act and the Illinois Pollution Control Board's rules at 35 Ill. Adm. Code 734.~~ I further understand that, once made, this election cannot be withdrawn.

C. Signature

Person electing to proceed as "owner":

Name: Estate of Gerald D. Slightom

Contact: Richard D. Slightom, Executor

Address: %Bill Nichelson, Atty. at Law, P.O. Box 290

City: Virden

State: Illinois

Zip Code: 62690

Phone: 217-965-1400

Signature: *Richard D. Slightom*

Date: 2-16-2008

Election to Proceed as "Owner"





ILLINOIS ENVIRONMENTAL PROTECTION AGENCY RECEIVED

2021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-8397  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

MAR 03 2008

CERTIFIED MAIL

7007 0220 0000 0149 6332

Estate of Gerald D. Slightom  
P.O. Box 290, c/o Bill Nicholson, Atty at Law  
Virden, IL 62690

Re: LPC #1170455005 -- Macoupin County  
Girard/Slightom, Gerald  
3rd & Center  
Leaking UST Incident No. 912456  
Leaking UST Technical File

Dear Sir or Madam:

On February 22, 2008, the Illinois Environmental Protection Agency (Illinois EPA) received the Election to Proceed as "Owner" form (electing to proceed under Title XVI of the Act as amended by Public Act 94-0274) dated February 16, 2008 for the above-referenced incident. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code):

By signing the form, you certified that you have acquired an ownership interest in the above-referenced site, one or more underground storage tanks registered with the Office of the State Fire Marshal have been removed from the site, and corrective action on the site has not yet resulted in the issuance of a "no further remediation letter" by the Illinois EPA pursuant to Title XVI of the Act. Based upon this certification, your Election to Proceed as "Owner" is accepted (Section 57.13 of the Act and 35 Ill. Adm. Code 734.105).

As the new owner, you may be eligible to access the Underground Storage Tank Fund for payment of costs related to remediation of the release. For information regarding eligibility and the deductible amount to be paid, please contact the Office of the State Fire Marshal at 217/785-5878.

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

EXHIBIT  
C  
PG 1 OF 2

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463  
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

Page 2

If you have any questions or need further assistance, please contact Michelle Bentley at 217/524-6713.

Sincerely,



Douglas W. Clay, P.E., Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

cc: LCU  
Division File

EXHIBIT  
C  
PG 2 OF 2

**APPENDIX G**  
**STAGE 3 ACTUAL COSTS**

EXHIBIT  
D  
84 PAGES

**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 912466. I further certify that the costs set forth in this budget are for 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, no costs are included in this budget that 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 732.808 or 734.830 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: Estate of Gerald D. Slightom

Authorized Representative: Richard D. Slightom Title: Executor

Signature: [Signature] Date: 5-28-2010

\* Subscribed and sworn to before me the 28th day of May, 2010

Jordan Horst  
(Notary Public) Seal:



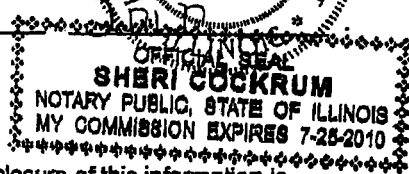
In addition, I certify under penalty of law that all activities that are the subject of this plan, budget, or report were conducted under my supervision or were conducted under the supervision of another Licensed Professional Engineer or Licensed Professional Geologist and reviewed by me; that this plan, 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 ILCS 5], 35 Ill. Adm. Code 732 or 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.: Cindy S. Davis L.P.E./L.P.G. Seal: Joseph W. Truesdale, P.E., P.G.

L.P.E./L.P.G. Signature: [Signature] Date: 6/10/10



Subscribed and sworn to before me the 10 day of June  
[Signature]  
(Notary Public) Seal:



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

**General Information for the Budget and Billing Forms**

LPC #: 1170455005 County: Macoupin

City: Girard Site Name: Est. of Gerald Slightom/Robinson Service Station

Site Address: 103 N. 3rd Street

IEMA Incident No.: 912456

IEMA Notification Date.: August 30, 1991

Date this form was prepared: May 26, 2010

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

- 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 requested:

Name(s): \_\_\_\_\_

Date(s): \_\_\_\_\_

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

**35 Ill. Adm. Code 734:**

- Early Action
- Free Product Removal after Early Action
- Site Investigation      Stage 1:     Stage 2:     Stage 3:
- Corrective Action

**35 Ill. Adm. Code 732:**

- Early Action
- Free Product Removal after Early Action
- Site Classification
- Low Priority Corrective Action
- High Priority Corrective Action

**35 Ill. 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: CSD Environmental Services, Inc.

Send in care of: Estate of Gerald D. Slightom

Address: P.O. Box 20912

City: Springfield State: IL Zip: 62708-0912

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

X Gerald D. Slightom

Signature of the owner or operator of the UST(s) (required)

If you have a change of address, [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: 5 (Number of USTs includes USTs presently at the site and USTs that have been removed.)

Number of incidents reported to IEMA for this site: 1

Incident Numbers assigned to the site due to releases from USTs: 912456

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

Product Stored In UST	Size (gallons)	Did UST have a release?	Incident No.	Type of Release Tank Leak / Overfill / Piping Leak
Gasoline	2,000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	912456	
Gasoline	4,000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	912456	
Gasoline	4,000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	912456	
Heating Oil	580	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	912456	
Used Oil	560	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	912456	
		Yes <input type="checkbox"/> No <input type="checkbox"/>		
		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**

Choose 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	\$	\$	\$	\$ 12,999.78	\$ .00
Analytical Costs Form	\$	\$	\$	\$ 18,115.00	\$ .00
Remediation and Disposal Costs Form	\$	\$	\$	\$ 4,939.92	\$ .00
UST Removal and Abandonment Costs Form	\$	\$ .00	\$	\$	\$ .00
Paving, Demolition, and Well Abandonment Costs Form	\$	\$ .00	\$	\$	\$ .00
Consulting Personnel Costs Form	\$	\$	\$	\$ 12,225.16	\$ .00
Consultant's Materials Costs Form	\$	\$	\$	\$ 3,777.14	\$ .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 handling charge will be determined in accordance with the Handling Charges Form.				
<b>Total</b>	\$	\$ .00	\$	\$ 82,057.28	\$ .00

**Drilling and Monitoring Well Costs Form**

1. **Drilling**

Number of Borings to Be Drilled	Type HSA / PUSH / Injection	Depth (feet) of Each Boring	Total Feet Drilled	Reason for Drilling
11		16.00	176.00	Monitor Wells MW-6 through MW-16
1	Push	4.00	4.00	Tier 2
2	HSA	16.00	32.00	Monitor Wells MW-20 & MW-21

	Total Feet	Rate per Foot (\$)	Total Cost
Total Feet via HSA08:	176	25.08	\$4,414.08
Total Feet via HSA09: *Sub Part H	48	34.76	\$1,668.46 *
Total Feet via PUSH 08:	36	19.63	\$706.68
Total Feet via HSA 09:	32.00	52.13938	\$1,668.46 *
Total Feet for Injection via PUSH:			\$0.00
<b>Total Drilling Costs:</b>			<b>\$8,457.68</b>

Subpart H minimum payment amount applies

\* MINIMUM DAILY RATES APPLY FOR DRILLING COMPLETED ON 9/30/09 & 4/13/10

2. **Monitoring / Recovery Wells**

Number of Wells	Type of Well HSA / PUSH / 4" or 6"	Diameter of Well (inches)	Depth of Well (feet)	Total Feet of Wells to Be Installed
11		2.00	16	176
		2.00		0
		2.00		0

Well Installation	Total Feet	Rate per Foot (\$)	Total Cost
Total Feet via HSA:	144	17.47	\$2,515.68
Total Feet via :	80	17.99	\$1,439.20
Total Feet via: HSA	32	18.35	\$587.20
Total Feet of 8 or Greater			\$0.00
<b>Total Well Costs:</b>			<b>\$4,542.08</b>

<b>Total Drilling and Monitoring Well Costs:</b>	<b>\$12,999.76</b>
--	--------------------

**Analytical Costs Form**

Laboratory Analysis	Number of Samples		Cost (\$) per Analysis		Total per Parameter
<b>Chemical Analysis</b>					
BETX Soil with MTBE EPA 8260	22	X	92.69	=	\$2,039.18
BETX Water with MTBE EPA 8260	26	X	88.33	=	\$2,296.58
COD (Chemical Oxygen Demand)		X		=	
Corrosivity		X		=	
Flash Point or Ignitability Analysis EPA 1010		X		=	
Fixed Organic Carbon Content (66) ASTM D 2974-00		X	25.00	=	\$25.00
Fat, Oil, & Grease (FOG)		X		=	
Heavy Metals Soil Analysis (includes volatile organics / neutral polynuclear aromatic hydrocarbons) with Section 72 Appendix B and 72 Appendix B.18		X		=	
Dissolved Oxygen (DO)		X		=	
Paints / Coatings		X		=	
PCB / Pesticides (combination)		X		=	
PH		X		=	
Pesticides		X		=	
PH		X		=	
Phenol		X		=	
Polynuclear Aromatics PNA, or PAH SOIL EPA 8270	22	X	165.76	=	\$3,646.72
Polynuclear Aromatics PNA, or PAH WATER EPA 8270	26	X	165.76	=	\$4,309.76
Reactivity		X		=	
SVOC - Soil (Semi-Volatile Organic Compounds)		X		=	
SVOC - Water (Semi-Volatile Organic Compounds)		X		=	
TKN (Total Kjeldahl) "nitrogen"		X		=	
TKN (Total Kjeldahl) "nitrogen"		X		=	
VOC (Volatile Organic Compounds) - Soil (Non-Aqueous)		X		=	
VOC (Volatile Organic Compounds) - Water		X		=	
		X		=	
Polynuclear Aromatics PNA, or PAH WATER EPA 8270	20	X	165.76	=	\$3,315.20
BETX Water with MTBE EPA 8260	20	X	90.10	=	\$1,802.00
		X		=	
<b>Geo-Technical Analysis</b>					
Soil Bulk Density (p <sub>b</sub> ) ASTM D2937-94	1	X	14.00	=	\$14.00
Ex-situ Hydraulic Conductivity / Permeability		X		=	
Moisture Content (w) ASTM D2216-92 / D4643-93	1	X	4.50	=	\$4.50
Reactivity		X		=	
Rock Hydraulic Conductivity Ex-situ		X		=	
Slax / Field Seepage Rate ASTM D422-93 / D140-94		X	95.00	=	\$95.00
Soil Classification ASTM D2488-90 / D2487-90		X		=	
Soil Particle Density (p <sub>s</sub> ) ASTM D854-92	1	X	85.00	=	\$85.00
		X		=	
		X		=	
		X		=	

**Analytical Costs Form**

Metals Analysis					
Soil preparation fee for Metals TCLP Soil (one fee per soil sample)		X			
Soil preparation fee for Metals Total Soil (one fee per soil sample)	8	X	17.45	=	\$139.60
Water preparation fee for Metals Water (one fee per water sample)		X			
Arsenic TCLP Soil		X			
Arsenic Total Soil		X			
Arsenic Water		X			
Barium TCLP Soil		X			
Barium Total Soil	8	X	10.90	=	\$87.20
Barium Water		X			
Cadmium TCLP Soil		X			
Cadmium Total Soil		X			
Cadmium Water		X			
Chromium TCLP Soil		X			
Chromium Total Soil	8	X	10.90	=	\$87.20
Chromium Water		X			
Cyanide TCLP Soil		X			
Cyanide Total Soil		X			
Cyanide Water		X			
Iron TCLP Soil		X			
Iron Total Soil		X			
Iron Water		X			
Lead TCLP Soil		X			
Lead Total Soil		X			
Lead Water		X			
Mercury TCLP Soil		X			
Mercury Total Soil		X			
Mercury Water		X			
Selenium TCLP Soil		X			
Selenium Total Soil		X			
Selenium Water		X			
Silver TCLP Soil		X			
Silver Total Soil		X			
Silver Water		X			
Metals TCLP Soil (a combination of all metals) RCRA		X			
Metals Total Soil (a combination of all metals) RCRA		X			
Metals Water (a combination of all metals) RCRA		X			
		X			
		X			
		X			
<b>Other</b>					
Enoer's sampler, pump and trap sampler, or equivalent sampling device		X			
Sample Shipping per sampling event <sup>1</sup>		X			

<sup>1</sup>A sampling event, at a minimum, is all samples (soil and groundwater) collected in a calendar day.

**Total Analytical Costs: \$ 14,303.96**

**Remediation and Disposal Costs Form**

**A. Conventional Technology**

**Excavation, Transportation, and Disposal of contaminated soil and/or the 4-foot backfill material removal during early action activities:**

Number of Cubic Yards	Cost per Cubic Yard (\$)	Total Cost

**Backfilling the Excavation:**

Number of Cubic Yards	Cost per Cubic Yard (\$)	Total Cost

**Overburden Removal and Return:**

Number of Cubic Yards	Cost per Cubic Yard (\$)	Total Cost

**B. Alternative Technology**

Alternative Technology Selected:	
Number of Cubic Yards of Soil to Be Remediated	
Total Non-Consulting Personnel Costs Summary Sheet (\$)	
Total Remediation Materials Costs Summary Sheet (\$)	
Total Cost of the System	

**Remediation and Disposal Costs Form**

**C. Groundwater Remediation and/or Free Product Removal System**

Total Non-Consulting Personnel Costs Summary Sheet (\$)	
Total Remediation Materials Costs Summary Sheet (\$)	
Total Cost of the System	

**D. Groundwater and/or Free Product Removal and Disposal**

Subpart H minimum payment amount applies.

Number of Gallons	Cost per Gallon (\$)	Total Cost (\$)

**E. Drum Disposal**

Subpart H minimum payment amount applies.

Number of Drums of Solid Waste	Cost per Drum (\$)	Total Cost (\$)
12	272.62	3,271.44
6	278.08	1,668.48
Number of Drums of Liquid Waste	Cost per Drum (\$)	Total Cost (\$)
<b>Total Drum Disposal Costs</b>		<b>4,939.92</b>

<b>Total Remediation and Disposal Costs:</b>	<b>\$4,939.92</b>
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**Consulting Personnel Costs Form**

Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
Jud Milas	Senior Admin. Assistant	.25	47.64	\$11.91
Stage 3-Budget	Assist with preparing budget			
James Doerner	Scientist II	4.50	68.82	\$309.69
Stage 3-Budget	Prepare Stage 3 SI Budget proposal			
Shane Thorne	Senior Project Manager	1.00	105.87	\$105.87
Stage 3-Plan	Prepare Stage SI plan			
James Doerner	Scientist II	33.00	68.82	\$2,271.06
Stage 3-Plan	Preparation & completion of Stage 3 SI			
Shane Thorne	Senior Project Manager	2.00	105.87	\$211.74
Stage 3-Budget	Prepare Stage 3 SI Budget proposal			
Jared Burrey	Draftperson/CAD I	1.50	41.12	\$61.68
Stage 3-Plan	Drafting / printing figures for Stage 3 plan			
Burt Bradley	Senior Draftperson/CAD	.50	63.52	\$31.76
Stage 3-Plan	Drafting / printing figures for Stage 3 plan			
James Doerner	Scientist II	1.50	70.88	\$106.32
Stage 3-Budget	Prepare Stage 3 SI Budget proposal			
Shane Thorne	Senior Project Manager	3.50	109.05	\$381.68
Stage 3-Plan	Plan preparation / completion of Stage 3 SI			



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Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
Gindy Davis	Senior Prof. Geologist	2.50	119.95	\$299.88
Stage 3-Plan	Oversight, review & P.G. certification of Stage 3 SIP			
Shen Cookrum	Senior Acct. Technician	1.50	59.97	\$89.96
Stage 3-Plan	Typing, copying, and mailing for signatures			
Shane Horne	Senior Project Manager	3.00	109.05	\$327.15
Stage 3-Field	Schedule / coordinate field work, meet with field staff			
Judi Miles	Senior Admin. Assistant	3.00	49.07	\$147.21
Stage 3-Plan	Copy, bind, and distribute Stage 3 plan and budget			
James Doerner	Scientist II	10.00	70.88	\$708.80
Stage 3-Field	Off-site access agreements			
Shane Horne	Senior Project Manager	1.50	109.05	\$163.57
Stage 3-Field	Off-site access agreements			
Shane Horne	Senior Project Manager	7.00	109.05	\$763.35
Stage 3-Field	Planning, scheduling and correspondence with owner / operator			
Frank Bralavage	Geologist III	14.25	95.98	\$1,367.43
Stage 3-Field	Oversight of off-site monitoring well installation			
James Doerner	Scientist II	1.75	70.88	\$124.04
Stage 3-Field	Sample containers, labels, maps & equipment			

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Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
Jud Miles	Senior Admin. Assistant	.75	49.08	\$38.81
Stage 3-Field	Preparation of sample containers, COC & lab certifications			
Jud Miles	Senior Admin. Assistant	1.25	49.07	\$61.34
Stage 3-Field	Prepare off-site access agreements (x3)			
Joe Mesdale	Senior Prof. Engineer	2.50	141.76	\$354.40
Stage 3-Field	PE oversight & review of Stage 3 field activities			
Brandon Hargrave	Geologist III	2.50	95.96	\$239.90
Stage 3-Field	Calculate TOC & groundwater surface elevations			
Brandon Hargrave	Geologist III	8.00	40.00	\$320.00
Stage 3-Field	Oversight of soil borings & monitoring well installation			
Brandon Hargrave	Geologist III	14.50	95.96	\$1,391.42
Stage 3-Field	Oversight of soil borings & monitoring well installation			
Brandon Hargrave	Geologist III	6.50	95.96	\$623.74
Stage 3-Field	Prepare boring logs & monitoring well completion report			
Brandon Hargrave	Geologist III	1.00	95.96	\$95.96
Stage 3-Field	Review geology, previous borings logs & Stage 3 plan			
Marc Simmering	Senior Technician	1.50	50.00	\$75.00
Stage 3-Field	Site visit to survey & sample wells			

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Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
Brandon Hargrave	Geologist III	7.00	95.96	\$671.72
Stage 3-Field	Site visit to survey & sample wells			
Marc Simmering	Senior Technician	6.50	70.88	\$460.72
Stage 3-Field	Site visit to survey & sample wells			
Brandon Hargrave	Geologist III	1.50	40.00	\$60.00
Stage 3-Field	Site visit to survey & sample wells			
Shane Thorpe	Senior Project Manager	9.00	109.05	\$981.45
Stage 3-Plan	Exposure route evaluation & develop strategy			
Shane Thorpe	Senior Project Manager	1.00	109.05	\$109.05
SICR	Analytical data review, boring logs & monitoring wells			
James Doerflinger	Scientist II	36.00	70.88	\$2,551.68
Stage 3-Plan	Prepare Amended Stage 3 plan			
Shane Thorpe	Senior Project Manager	3.00	109.05	\$327.15
Stage 3-Plan	Prepare Amended Stage 3 plan			
James Doerflinger	Scientist III	7.25	70.88	\$513.88
Stage 3-Plan	Prepare Stage 3 budget, forms and attachments			
James Doerflinger	Scientist III	2.00	70.88	\$141.75
Stage 3-Plan	Prepare groundwater elevation summary			

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Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
James Doerfler	Scientist II	6.25	70.88	\$443.00
Stage 3-Plan	Tabulated soil and groundwater analytical data			
Burt Bradley	Senior Draftperson/CAD	5.00	63.52	\$317.60
Stage 3-Plan	Preparation of maps & figures for Stage 3 plan and budget			
Shane Ingabe	Senior Project Manager	3.50	109.05	\$381.67
Stage 3-Plan	Prepare Amended Stage 3 budget			
James Doerfler	Scientist III	.25	70.88	\$17.72
Stage 3-Field	Planning, scheduling & correspondence with owner			
Shane Ingabe	Senior Project Manager	9.50	109.05	\$1,035.97
Stage 3-Plan	Prepare Stage 3 work plan, project QA /QC			
Joe Amabile	Senior Prof. Engineer	.50	141.76	\$70.88
Stage 3-Plan	Exposure route evaluation & develop strategy			
Judi Miles	Senior Admin. Assistant	1.50	49.07	\$73.61
Stage 3-Plan	Copy, scan, bind and distribute Stage 3 Plan & Budget			
Judi Miles	Senior Admin. Assistant	1.00	49.07	\$49.07
Stage 3-Budget	Prepare Stage 3 budget			
Judi Miles	Senior Admin. Assistant	.25	49.07	\$12.27
Stage 3-Plan	Typing, copying & mailing			

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Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
Brandon Hargrave	Geologist III	2.50	95.96	\$239.90
Stage 3-Field	Prep sample containers, labels, maps & equipment			
Brandon Hargrave	Geologist III	4.00	95.96	\$383.84
Stage 3-Field	Surveying monitoring well elevation & complete H/C			
Brandon Hargrave	Geologist III	8.50	95.96	\$815.66
Stage 3-Field	Well development, purge, gauge and sample groundwater			
James Dorrer	Scientist III	1.75	70.88	\$124.04
TACO 2 or 3	Evaluation of in-situ H/C test data			
Shane Horpe	Senior Project Manager	1.00	109.05	\$109.05
TACO 2 or 3	Prepare groundwater contours, tabulate and evaluate			
Shane Horpe	Senior Project Manager	7.00	111.23	\$778.62
Stage 3-Budget	Prepare amended Stage 3 budget			
Shane Horpe	Senior Project Manager	2.50	111.23	\$278.07
Stage 3-Field	Schedule / coordinate field work, meet with field staff			
Shane Horpe	Senior Project Manager	7.50	111.23	\$834.23
Stage 3-Field	Off-site access agreement procurement			
Brandon Hargrave	Geologist III	1.75	97.88	\$171.28
Stage 3-Field	Prep sample containers, labels, maps & equipment			

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Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
Shel Dockrum	Senior Acct. Technician	1.75	61.18	\$107.06
Stage 3-Plan	Copy, scan, bind & distribute Plan & Budget			
Brandon Hargrave	Geologist III	1.25	97.88	\$122.35
Stage 3-Field	Review geology, previous boring logs & Stage 3 plan			
Brandon Hargrave	Geologist III	18.25	97.88	\$1,788.31
Stage 3-Field	Oversight of off-site monitoring well installation			
Shanel Hope	Senior Project Manager	18.50	111.23	\$1,835.30
Stage 3-Plan	Prepare amended Stage 3 plan			
Shanel Hope	Senior Project Manager	2.00	111.23	\$222.46
Stage 3-Field	Review geology, previous boring logs & Stage 3 plan			
Shanel Hope	Senior Project Manager	1.50	111.23	\$166.85
Stage 3-Field	Planning, scheduling & correspondence with owner / operator			
Brandon Hargrave	Geologist III	12.25	97.88	\$1,199.03
Stage 3-Field	Well development, purge, gauge and samples groundwater			
Marc Summering	Senior Technician	9.00	72.30	\$650.70
Stage 3-Field	Well development, purge, gauge and samples groundwater			
Ben Bradley	Senior Draftperson/CAD	8.50	66.74	\$567.29
Stage 3-Plan	Drafting / printing figures for Stage 3 plan			

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Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
Joe Tresdale	Senior Prof. Engineer	2.00	144.80	\$289.20
Stage 3-Plan	Exposure route evaluation & develop strategy			
Shane Thorpe	Senior Project Manager	1.50	111.23	\$166.84
TACO 2 or 3	Prepare groundwater contours, tabulate & evaluate			
Judi Miles	Senior Admin. Assistant	1.50	50.05	\$75.07
Stage 3-Plan	Typing, copying & mailing			
James Doerfler	Scientist III	.50	77.88	\$38.93
Stage 3-Field	Off-site access agreement procurement			
Brandon Bargrave	Geologist III	8.75	97.88	\$856.45
Stage 3-Field	Off-site access agreement procurement			
Brandon Bargrave	Geologist III	.50	97.88	\$48.94
Stage 3-Field	Review geology, previous boring logs & stage 3 plan			
Brandon Bargrave	Geologist III	1.50	97.88	\$146.82
Stage 3-Plan	Provide off-site property owners with test results			
James Doerfler	Scientist III	1.75	77.88	\$136.25
Stage 3-Plan	Off-site access agreement procurement			
Shane Thorpe	Senior Project Manager	1.00	111.23	\$111.23
Stage 3-Field	Schedule / coordinate field work, meet with field staff			

Electronic Filing - Received, Clerk's Office, 09/06/2011

Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
Brandon Hargrave	Geologist III	1.25	97.88	\$122.35
Stage 3-Field	Preparation of sample containers, COC & lab certs			
Brandon Hargrave	Geologist III	2.25	97.88	\$220.23
Stage 3-Field	Preparation of soil boring logs & monitoring wells			
Shane Thorne	Senior Project Manager	3.50	111.23	\$389.31
Stage 3-Pay	QA / QC review Stage 3 actual cost / reimbursement request			
Shari Cockburn	Senior Acct. Technician	50.00	61.18	\$3,059.00
Stage 3-Pay	Preparation & completion of Stage 3 actual cost / reimbursement request			
Shane Thorne	Senior Project Manager	6.00	111.23	\$667.38
SICR	Design cross-sections showing vertical & horizontal extent			
Shane Thorne	Senior Project Manager	1.00	111.23	\$111.23
SICR	Reviewed slug test data & determined hydraulic conductivity			
Shane Thorne	Senior Project Manager	2.00	111.23	\$222.46
SICR	Tabulate Stage 3 analytical results			
Shane Thorne	Senior Project Manager	4.00	111.23	\$444.92
SICR	Analytical data review, boring logs & monitoring wells			
Shane Thorne	Senior Project Manager	40.00	111.23	\$4,449.20
SICR	Preparation & completion of Site Investigation Completion Report			



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Employee Name	Personnel Title	Hours	Rate* (\$)	Total Cost
Remediation Category	Task			
Cindy Davis	Senior Prof. Geologist	5.00	122.35	\$611.75
SICR	P.G. oversight, review and P.G. certification of Site Investigation Completion Report / Reimbursement			
Shana Monroe	Senior Project Manager	5.50	111.23	\$611.78
TACO 2 or 3	Tier 2 evaluation			
Shan Gokhron	Senior Acct. Technician	2.50	61.18	\$152.95
SICR	Assembly, scanning, copying, binding and distribution of SICR			

\*Refer to the applicable Maximum Payment Amounts document.

<b>Total of Consulting Personnel Costs</b>	<b>\$42,225.16</b>
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**Consultant's Materials Costs Form**

Materials, Equipment, or Field Purchase		Time or Amount Used	Rate (\$)	Unit	Total Cost
Remediation Category	Description/Justification				
Truck		12.00	60.00	day	\$720.00 ✓
Stage 3-Field	Travel to and from site (Geologist)				
RD		6.00	100.00	day	\$600.00 ✓
Stage 3-Field	Determine presence of hydro carbons				
Mileage				mile	
Stage 3-Field	Travel to and from site (Project Manager)				
Bailers		48.00	15.00	each	\$690.00 ✓
Stage 3-Field	Purge & sample groundwater				
Water Level Indicator		5.00	25.00	day	\$125.00 ✓
Stage 3-Field	Determine groundwater level in monitoring wells				
Survey Equipment		4.00	125.00	day	\$500.00 ✓
Stage 3-Field	Survey top of casings				
Unifac Parcel Service		1.00	6.28	each	\$6.28
Stage 3-Plan	Shipping				
Purge and trap samples		32.00	10.90	each	\$348.80
Stage 3-Field	soil sampling				
Unifac Parcel Service		1.00	6.23	each	\$6.23
Stage 3-Plan	Shipping				

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Materials, Equipment, or Field Purchase	Time or Amount Used	Rate (\$)	Unit	Total Cost
Remediation Category	Description/Justification			

Postmaster	1.00	16.70	each	\$16.70
Stage 3-Plan	Certify mailing access agreements			

United Parcel Service	1.00	4.79	each	\$4.79
Stage 3-Plan	Shipping			

United Parcel Service	2.00	6.42	each	\$12.84
Stage 3-Plan	Shipping			

Well Development	4.00	140.00	each	\$560.00
Stage 3-Field	Develop wells			

Hydrofracturing	1.00	180.00	each	\$180.00
Stage 3-Field	Hydraulic conductivity test			

United Parcel Service	1.00	6.50	each	\$6.50
Stage 3-Plan	Shipping			




<b>Total of Consultant Materials Costs</b>	<b>\$3,777.14</b>
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Office of the Illinois  
**State Fire Marshal**

*"Partnering With the Fire Service to Protect Illinois"*

CERTIFIED MAIL - RECEIPT REQUESTED #7005 1820 0002 9077 7306

February 6, 2008

Estate of Gerald D. Slightom  
1330 N. Springfield Street  
P.O. Box 290  
Virden, IL 62690

In Re: Facility No. 5-025513  
IEMA Incident No. 91-2456  
Robinson Service Station  
103 N. 3<sup>rd</sup> Street  
Girard, Macoupin Co., IL

Dear Applicant:

The Reimbursement Eligibility and Deductible Application received on January 24, 2008 for the above referenced occurrence has been reviewed. The following determinations have been made based upon this review.

It has been determined that you are eligible to seek payment of costs in excess of \$10,000. The costs must be in response to the occurrence referenced above and associated with the following tanks:

Eligible Tanks

Tank 1 2,000 gallon Gasoline  
Tank 2 4,000 gallon Gasoline  
Tank 3 4,000 gallon Gasoline  
Tank 4 560 gallon Heating Oil  
Tank 5 560 gallon Used Oil

You must contact the Illinois Environmental Protection Agency to receive a packet of Agency billing forms for submitting your request for payment.

An owner or operator is eligible to access the Underground Storage Tank Fund if the eligibility requirements are satisfied:

1. Neither the owner nor the operator is the United States Government,
2. The tank does not contain fuel which is exempt from the Motor Fuel Tax Law,
3. The costs were incurred as a result of a confirmed release of any of the following substances:

"Fuel", as defined in Section 1.19 of the Motor Fuel Tax Law

1035 Stevenson Drive • Springfield, Illinois 62703-4259

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Aviation fuel

Heating oil

Kerosene

Used oil, which has been refined from crude oil used in a motor vehicle, as defined in Section 1.3 of the Motor Fuel Tax Law.

4. The owner or operator registered the tank and paid all fees in accordance with the statutory and regulatory requirements of the Gasoline Storage Act.
5. The owner or operator notified the Illinois Emergency Management Agency of a confirmed release, the costs were incurred after the notification and the costs were a result of a release of a substance listed in this Section. Costs of corrective action or indemnification incurred before providing that notification shall not be eligible for payment.
6. The costs have not already been paid to the owner or operator under a private insurance policy, other written agreement, or court order.
7. The costs were associated with "corrective action".

This constitutes the final decision as it relates to your eligibility and deductibility. We reserve the right to change the deductible determination should additional information that would change the determination become available. An underground storage tank owner or operator may appeal the decision to the Illinois Pollution Control Board (Board), pursuant to Section 57.9 (c) (2). An owner or operator who seeks to appeal the decision shall file a petition for a hearing before the Board within 35 days of the date of mailing of the final decision, (35 Illinois Administrative Code 105.102(a) (2)).

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, Illinois 60601  
(312) 814-3620

If you have any questions, please contact our Office at (217) 785-1020.

Sincerely,



Deanne Lock  
Administrative Assistant  
Division of Petroleum and Chemical Safety

cc: IEPA  
Facility File