

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

FREEDOM OIL COMPANY,)	
)	
Petitioner,)	
)	
vs.)	
)	PCB No. _____
ILLINOIS ENVIRONMENTAL)	(UST Appeal – Petition for Review and
PROTECTION AGENCY,)	Hearing/Appeal)
)	
Respondent.)	

PETITION FOR REVIEW AND HEARING/APPEAL

NOW COMES Freedom Oil Company (“Freedom”), by its attorney, Robert M. Riffle, Esq., and as and for its Petition for Review and Hearing/Appeal of the Illinois Environmental Protection Agency’s final decision with respect to the Application for Payment for a certain leaking underground storage tank (LUST) site, states as follows:

BACKGROUND

1. Freedom retained Midwest Environmental Consulting & Remediation Services, Inc. (“Midwest”) to remediate the property located at 601 West Main Street, El Paso, Illinois, LPC #2030155016, LUST Incident-Claim No. 20150816-71571 (the “Property”).
2. By letter dated October 30, 2020, Midwest submitted an Application for Payment of this claim, seeking payment in the amount of \$2,502.96, which was the amount reasonably and necessarily expended to complete the work on the project. A true and correct copy of that Application for Payment is attached hereto as Exhibit 1.
3. By letter dated February 11, 2021, the Illinois Environmental Protection Agency (“IEPA”) rejected the entirety of the Application submitted on October 30, 2020. Specifically, the February 11, 2021 letter rejected payment of all costs, and listed an Attachment A stating the

reasons they were not paid. A true and accurate copy of the February 11, 2021 letter and attachments (the "Denial Letter") is attached hereto as Exhibit 2. That letter was designated as a final and appealable order (the "Final Decision").

ARGUMENT

The IEPA rejected the Application based upon the reasons stated in Attachment A to the denial letter (Exhibit 2). Freedom Oil and Midwest disagree with these determinations, and affirmatively state that the reimbursement amounts expended were reasonable, customary, and necessary for the proper completion of the project and site closure. All of the costs listed on that Attachment A to Exhibit 2 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, Freedom Oil and Midwest respectfully request 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 requiring payment of the amounts denied in Attachment A to Exhibit 2, thereby requiring payment to Freedom of the additional amount of \$2,502.96.

Respectfully submitted,

Freedom Oil Company, Petitioner

By: /s/ Robert M. Riffle

Robert M. Riffle

Its Attorney

ROBERT M. RIFFLE, ESQ
Riffle & Associates LLC.
133A S. Main Street
Morton, IL 61550
(309) 321-8365

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 16, 2021, the foregoing document was electronically filed with the Illinois Pollution Control Board using the electronic filings system, which will send notification of such filing to the following:

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
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62794-9276

/s/ Robert M. Riffle

ROBERT M. RIFFLE, ESQ.
Riffle & Associates LLC
133A S. Main Street
Morton, IL 61550
(309) 321-8365

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

E-mail : mdwstenv@frontier.com

October 30, 2020

Pat Barber
Illinois Environmental Protection Agency
Division of Remediation Management
Remedial Projects Accounting and Procurement Unit
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

RE: LPC #20150861 - Woodford County
El Paso/Freedom Oil Company Claim #20150816 -- 71266
601 West Main Street
Incident #20150861
LUST Fiscal File

Dear Pat Barber:

We are in receipt of your letter dated October 27, 2020 for the subject claim. Please consider the following information and re-review the subject claim. The number of the items below correspond to the items listed in your letter.

- 1) The geologist rate was approved at \$137.67. The \$8.00 cut will not be disputed.
- 2) The aquifer test was proposed in the Stage 2 Plan dated January 2, 2017. The IEPA approved the Plan in a letter dated April 25, 2017, including the aquifer test. The aquifer test equipment was prepared on February 7, 2019. The test was conducted on March 22, 2019. The data was analyzed March 26, 2019. The data was then provided to Freedom Oil's new consultant. I have attached a copy of the aquifer test data as proof that the aquifer test data was collected by and analyzed by Midwest personnel. This data was provided to Freedom Oil Company to include in the Site Investigation Completion Report to be prepared by their new consultant. The 8 hours of Project Manager Time should be approved for reimbursement as the work was performed as proposed.

In the letter dated April 25th, 2017, the IEPA approved the budget dated January 2, 2017 which included 10 hours of Sr. Admin Assistant time for preparation of reports and reimbursement applications. On January 21, 23, 24 and 25, the Sr. Admin Assistant spent 4.5 hours on the reimbursement applications received by the IEPA on February 1, 2019, and 5.5 hours on the Site Investigation Plan (SIP) which detailed the results of the Stage 2 site investigation. All of this time is documented by proof of the two reimbursement applications and the SIP that arrived at the IEPA on February 1, 2019.

The subject reimbursement application was prepared on April 28, 2020. The Sr. Professional Geologist originally reviewed and certified the reimbursement application on April 23, 2020. Due to issues with Freedom Oil Company, the signature pages had to be reprinted and recertified by the Sr. Professional Geologist on May 28, 2020. I did not charge the IEPA twice for the review and certification. The fact that this reimbursement application arrived at the IEPA on June 9, 2020 with my signature on it is documentation that this work was performed.

EXHIBIT

tabbles
1

- 3) As demonstrated above, the aquifer test was performed on March 22, 2019 and a vehicle had to be used to get to the site. The mileage costs should be reimbursed.
- 4) The invoices in question, Reynolds (\$1,501.84), PDC Laboratories (\$2,215.23), Teklab (\$4,024.50) and Reynolds (\$4,052.75) were submitted for payment in the claim dated February 1, 2019.

Please re-review the subject claim with emphasis on the documented personnel time.

Please feel free to contact our office with any comments or questions.

Sincerely,

Midwest Environmental Consulting & Remediation Services, Inc.

Penny Silzer
Project Manager

PLS
Job No. 15-30
Enclosures
cc: Mr. Mark Eckhoff

Hydraulic Conductivity/Groundwater Yield Calculations

Freedom Oil Company
El Paso, Illinois

Hydraulic Conductivity Calculations using:

$$k = \frac{r^2 \ln(L/R)}{2LT_0}$$

Where: k = Hydraulic Conductivity

L = filter pack length (in)

L = 12ft = 144 in

R = filter pack radius (in)

R = 4 in

r = riser radius (in)

r = 1 in

T₀ = Basic Time Lag (sec)

T₀ = 2170, 2504 sec

SLUG TEST 1 CALCULATIONS

$$k_1 = \frac{(1)^2 \ln(144/4)}{2 * 144 * 2170}$$

= 5.73E-06 in/sec

= 1.46E-05 cm/sec

$$k_2 = \frac{(1)^2 \ln(144/4)}{2 * 144 * 2504}$$

= 4.97E-06 in/sec

= 1.26E-05 cm/sec

Average Hydraulic Conductivity = 1.36E-05 cm/sec = 4.29E+00 m/yr

Groundwater yield calculations using Darcy's Law:

$$Q = k i A$$

Where : Q = Discharge (gallons per day)

k = hydraulic conductivity (average):

IN-SITU = 1.36E-05 cm/sec = 0.04 ft/day

i = hydraulic gradient (set as 1 -- per IEPA methodology)

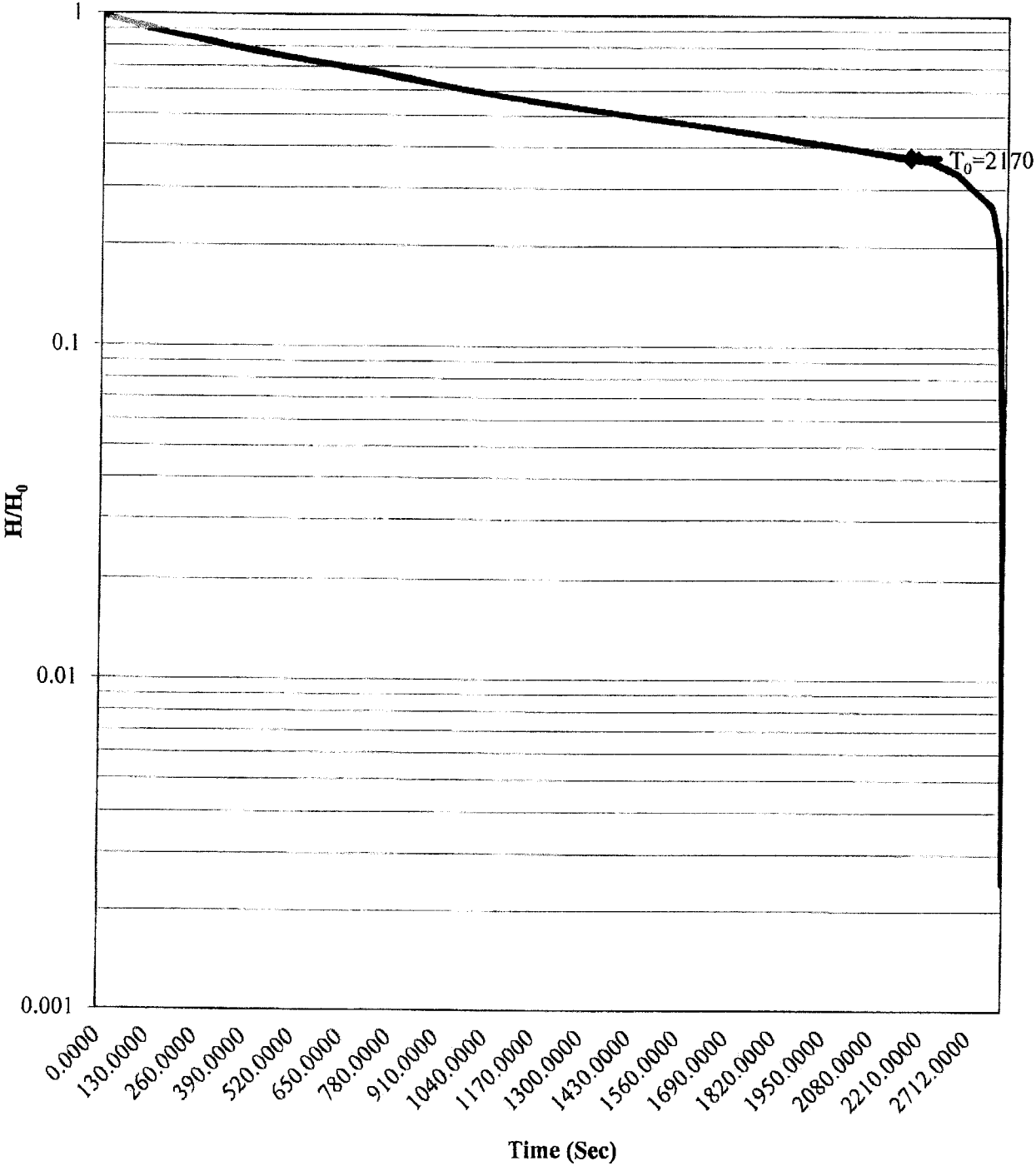
A = circumference of borehole X length of well screen (IEPA methodology) 30.48 ft²

FROM SLUG TEST:

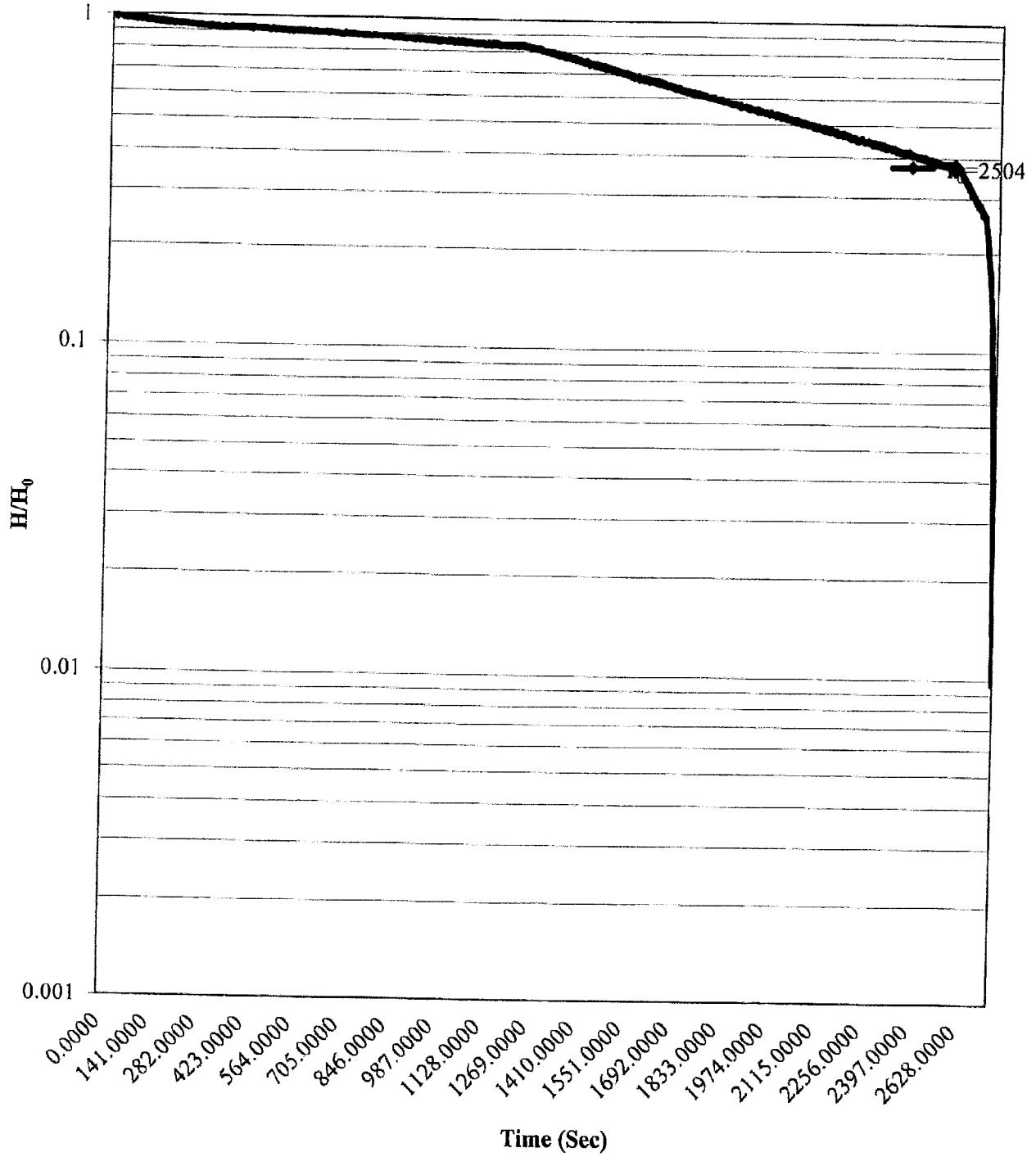
Q = 1.17 ft³/day

Q = 8.78 gallons per day

Freedom Oil Company - El Paso Slug Test Results



Freedom Oil Company - El Paso Slug Test Results





ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

(217) 524-3300

CERTIFIED MAIL #

FEB 11 2021

7017 2680 0001 0209 6294

Freedom Oil Company
c/o Midwest Environmental Consulting & Remediation Services, Inc.
P.O. Box 614
Tremont, IL 61568

Re: LPC #2030155016 -- Woodford County
El Paso / Freedom Oil Company
601 West Main Street
Incident-Claim No.: 20150816 -- 71571
Queue Date: November 4, 2020
Leaking UST Fiscal File

Dear Mr. Eckhoff:

The Illinois Environmental Protection Agency (Illinois EPA) has completed the review of your application for payment from the Underground Storage Tank (UST) Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.Subpart F.

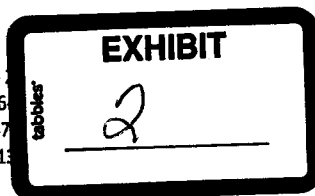
This information is dated October 30, 2020 and was received by the Illinois EPA on November 4, 2020. The application for payment covers the period from January 5, 2017 to April 23, 2020. The amount requested is \$2,502.96.

On November 4, 2020, the Illinois EPA received your application for payment for this claim. As a result of the Illinois EPA's review of this application for payment, a voucher cannot be prepared for submission to the Comptroller's office for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date subsequent application for payment requests are received by the Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

The deductible amount for this claim is \$5,000.00, which was previously withheld from your payment(s). Pursuant to Section 57.8(a)(4) of the Act, any deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted from any payment invoice paid to an eligible owner or operator.

There are costs from this claim that are not being paid. Listed in Attachment A are the costs that are not being paid and the reasons these costs are not being paid.

2125 S. First Street, Champaign, IL 61820 (217) 244-3100
2009 Mall Street Collinsville, IL 62234 (618) 346-3100
9511 Harrison Street, Des Plaines, IL 60016 (847) 344-3100
595 S. State Street, Elgin, IL 60123 (847) 608-3100



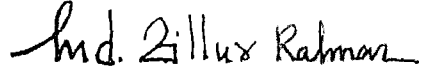
Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
Main Street, Rockford, IL 61103 (815) 987-7760

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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 require further assistance, please contact Pat Barber of my staff at (217) 785-0030.

Sincerely,



Mohammed Z. Rahman, Manager
Leaking Underground Storage Tank Section
Bureau of Land



Attachment

c: Freedom Oil Company
Leaking UST Claims Unit

Attachment A
Accounting Deductions

Re: LPC #2030155016 -- Woodford County
El Paso / Freedom Oil Company
601 West Main Street
Incident-Claim No.: 20150816 -- 71571
Queue Date: November 4, 2020
Leaking UST Fiscal File

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

Item # Description of Deductions

1. \$1,500.30, deduction for costs for Consulting Personnel Costs, which 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.

Two hours Senior Professional Geologist (\$275.34) still no invoice, 8 hours Project Manager (901.12) slug test calculations are not correct filter pack length needs to be reviewed and 5.75 hours Senior Administrative Assistant (\$323.84) lack documentation of work performed. Still no invoice.
2. \$33.39, deduction for costs for Consultant's Material Costs, which 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.

Mileage for slug test denied no technical documentation.
3. \$969.27, deduction for costs associated with duplicate billings. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 734.630(o). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable. These costs also 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. Also, these costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

Handling charges for Reynolds Drilling (\$1,501.84), PDC Laboratories (\$2,215.23), TEK Lab (\$4,024.50) and Reynold Drilling (\$4,052.75) already submitted and reimbursed on previous stage 2 claim request received on February 1, 2019.

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 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:

Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
(312) 814-3620

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

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