

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

JESSE FOODMART, INC.,	)	
	)	
Petitioner,	)	
v.	)	PCB No. _____
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**NOTICE OF FILING AND PROOF OF SERVICE**

To: Don Brown, Clerk	Division of Legal Counsel
Illinois Pollution Control Board	Illinois Environmental Protection Agency
60 E. Van Buren St., Ste. 630	1021 North Grand Avenue East
Chicago, IL 60605	P.O. Box 19276
	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 (h), a PETITION FOR REVIEW OF ILLINOIS EPA LUST DECISION, a copy of which is herewith served upon Respondent.

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 Respondent by enclosing same in envelopes addressed as above with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office Mailbox in Springfield, Illinois on the 9<sup>th</sup> day of May, 2024.

JESSE FOODMART, INC.,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw  
Law Office of Patrick D. Shaw  
80 Bellerive Road  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JESSE FOODMART, INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB No. _____
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**PETITION FOR REVIEW OF ILLINOIS EPA LUST DECISION**

NOW COMES Petitioner, JESSE FOODMART, INC., pursuant to Section 57.8(i) of the Illinois Environmental Protection Act, 415 ILCS 5/57.8(i), and hereby appeals the Illinois EPA's final decision, refusing payment in full for early action costs, stating as follows:

1. Petitioner owns a former self-service fueling station in Galesburg, County of Knox, Illinois, assigned LPC #0950205070.
2. Three gasoline underground tanks were in operation at the site: a 12,000 gallon tank, and two 6,000 gallon tanks.
3. On April 27, 2023, Petitioner reported a suspected release from all three tanks at the site to the Illinois Emergency Management Agency, which assigned Incident Number 2023-0338 to the releases.
4. Following the report, Petitioner's consultants obtained a release confirmation and a waste characterization sample for analysis of indicator constituents. The laboratory results indicated that a petroleum release had occurred at the facility and exceeded the most stringent applicable clean up objectives.
5. While initially the tanks were to be removed, they were located too close to a building to be removed without likely undermining the building. Therefore, on May 5, 2023,

Petitioner's consultant applied to the Office of the Illinois State Fire Marshal ("OSFM") for a permit for abandonment in place the tanks, which was subsequently approved.

6. On June 5 and 6, 2023, tank abandonment activities were conducted and coordinated by Petitioner's consultant and Bandy Concrete & Excavation. An OSFM Tank Specialist was present to oversee the tank abandonment and in conjunction with Petitioner's consultant determined the releases were the result of leaks from all tanks.

7. On June 20, 2023, Petitioner's consultant submitted a 45-Day Report detailing early action activities, including a preliminary geological investigation performed under the direction of an Illinois Licensed Professional Geologist in accordance with the Professional Geologist Licensing Act and its Rules for Administration.

8. On August 10, 2023, the Office of the State Fire Marshal issued an Eligibility and Deductible determination finding that all three tanks were eligible for reimbursement from the Underground Storage Tank Fund subject to a \$5,000 deductible.

9. On October 24, 2023, the Illinois EPA approved the 45-Day Report.

10. On October 30, 2023, Petitioner's consultant submitted an application for payment of \$70,407.48 for early action activities.

11. On March 29, 2024, the Illinois EPA cut \$18,796.09 from the request. A true and correct copy of the decision is attached hereto as Exhibit A.

12. Of the seventeen cuts in the Illinois EPA decision, Petitioner is appealing ten of them: 1, 4, 6, 7, 10, 11, 12, 15, 16 & 17.

13. The first deduction cut \$253.60 for drilling costs with the explanation that "drilling to determine and confirm the presence of a release" is not reimbursable. This decision

is in error because no release confirmation drilling costs were submitted for payment. Instead, payment was sought for a drilling invoice for work performed on May 24, 2023. Alternatively, the Illinois Environmental Protection Act and the regulations promulgated thereunder require the owner/operator of a suspected release to confirm the release.

14. The fourth deduction cut \$10,996.58 for tank abandonment costs for Bandy Concrete & Excavation. Petitioner's consultant informed the Illinois EPA that upon further review of their records Bandy Concrete and Excavation only had one laborer on site on June 5, 2024, so the laborer hours should only be 8 instead of 16 on that date. Eight hours for a laborer was invoiced at \$560.00. Petitioner would not object to a \$560.00 deduction, but strongly objects to cutting all of the labor, equipment and material cost for the contractor who performed the tank abandonment. The costs for tank abandonment are supported by invoices from Bandy Concrete and Excavation with breakdowns, receipts and cancelled checks.

15. The sixth and seventh deductions cut \$100.30 for mileage on May 24, 2023 and May 25, 2023. The invoice reported a total of 560 miles on those two days with a mileage reimbursement rate of \$0.59 per mile, for a total of \$330.40. For the first day, the Illinois EPA calculated 606 miles per round trip so that \$357.54 could be reimbursed and cut \$79.06. On the second date, the Illinois EPA calculated 244 miles per round trip so that \$143.96 could be reimbursed while cutting \$21.24. These cuts are erroneous in that the Illinois EPA's own math is inconsistent from day to day. Furthermore, the Illinois EPA's calculation fail to take into account stops for gas, food, hotel and field purchases.

16. The tenth deduction cut all \$281.76 for the Senior Project Manager to prepare the "Site Assessment/Background Information" in the 45-Day Report, stating such costs are

“ineligible.” Pollution Control Board regulations require the owner or operator to submit “information about the site and the nature of the release, including information gained while confirming the release” in the 45-Day Report. (35 Ill. Adm. Code 734.210(d) & (e)) Therefore, the work is not merely eligible, but mandatory.

17. The eleventh and twelfth deductions cut a total of \$810.06 for consulting personnel costs associated with “drilling to determine and confirm the presence of a release.” Release confirmation samples are required by the Illinois Environmental Protection Act and the regulations of the Pollution Control Board and Office of the State Fire Marshal. (415 ILCS 57.5(c)) No costs were sought for work performed prior to notice to the Illinois Emergency Management Agency of a suspected release.

18. The fifteenth and sixteenth deduction cut a total of \$551.04 for consulting personnel costs associated with preparing the reimbursement package. The Illinois EPA cut 2.50 hours of the Senior Administrative Assistant’s time (\$166.40) for reimbursement preparation without explanation. While there is a statement that the cost lacks documentation, the cost is documented with the same invoice as all of the other consulting personnel work and the Illinois EPA is required to specify what documents it believes are needed in the decision letter. The Illinois EPA also cut all two hours for a professional engineer to review and certify the reimbursement request (\$384.64). Board regulations require the professional engineer to certify that the work for which payment was sought was performed in accordance with Board regulations. (35 Ill. Adm. Code § 734.605(b)(1)) Again, the Illinois EPA states there is a lack of documentation without identifying any document it “needs to complete the review.” (35 Ill. Adm. Code § 734.610(d)) The decision letter notes that the certification from the owner and

engineer was dated October 27, 2023, but per the Board regulation, the professional engineer's obligation to oversee the work is ongoing, as is the work of the Senior Project Manager to document reimbursable costs.

17. The seventeenth deduction cut handling charges for a total of \$2,305.13 across a variety of categories. To the extent those cuts relate to cuts ultimately reversed by the Board herein, the related handling charges should be restored. To the extent the Illinois EPA deducted subcontracted costs before calculating the handling charge, there is no support for doing so in the Pollution Control Board's regulations. (35 Ill. Adm. Code § 734.115) To the extent the Illinois EPA refused to provide a handling charge for hotel costs, there is no support for treating those differently from other field purchases. (Id.) To the extent the Illinois EPA still would want to deny handling charges for the Bandy Concrete & Excavation in the event the Board rules that the contract should have been paid from the UST Fund, there is no legal basis for treating a contract for abandonment work differently than any other contract eligible for handling charges.

18. The Illinois EPA determination was received on April 4, 2024, which is thirty-five days from today and therefore this appeal is timely.

WHEREFORE, Petitioner JESSE FOODMART, INC., prays that: (a) the Illinois EPA produce the Record; (b) a hearing be held; (c) the Board find the Illinois EPA erred in its decision, (d) the Board direct the Illinois EPA to pay the amounts erroneously deducted from the payment application, (e) the Board award payment of attorney's fees; and (f) the Board grant the Petitioner such other and further relief as it deems meet and just.

JESSE FOODMART, INC.,  
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw  
LAW OFFICE OF PATRICK D. SHAW  
80 Bellerive Road  
Springfield, IL 62704  
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# 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 #

9589 0710 5270 1326 4520 99

MAR 29 2024

Jesse Food Mart, Inc  
C/O CWM Company  
701 South Grand Avenue West  
Springfield, IL 62704

Re: 0950205070 -- Knox County  
Galesburg / Jesse Food Mart  
275 South Academy Street  
Incident-Claim No.: 20230338 -- 74296  
Queue Date: November 2, 2023  
Leaking UST Fiscal File

Dear Parminder Kaur:

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, 2023, and was received by the Illinois EPA on November 2, 2023. The application for payment covers the period from April 1, 2023, to July 31, 2023. The amount requested is \$70,407.48.

On November 2, 2023, the Illinois EPA received your application for payment for this claim. As a result of Illinois EPA's review of this application for payment, a voucher for \$46,611.39 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Illinois EPA received your complete request for payment of this application for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date complete 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 of \$5,000.00 was withheld from your payment. 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.

2125 S. First Street, Champaign, IL 61820 (217) 278-5800  
1101 Eastport Plaza Dr., Suite 100, Collinsville, IL 62234 (618) 346-5120  
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000  
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62955  
412 SW Washington Street, Suite D, Peoria, IL 61603  
4302 N. Main Street, Rockford, IL 61103 (815) 981-1111

EXHIBIT

A



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.

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 Becky Fiedler of my staff at (217) 785-7115 or at [Becky.Fiedler@illinois.gov](mailto:Becky.Fiedler@illinois.gov).

Sincerely,



Brian P. Bauer  
Interim Section Manager  
Leaking Underground Storage Tank Section  
Bureau of Land

Attachments: Attachment A  
Appeal Rights

c: Jesse Food Mart, Inc  
Leaking UST Claims Unit

Attachment A  
Accounting Deductions

Re: 0950205070 -- Knox County  
Galesburg / Jesse Food Mart  
275 South Academy Street  
Incident-Claim No.: 20230338 -- 74296  
Queue Date: November 2, 2023  
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. \$253.60, deduction for drillings costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for costs for drilling, 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action costs for drilling that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee). Furthermore, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v).

Costs associated with drilling to determine and confirm the presence of a release are unreasonable, exceed the minimum necessary requirements, lack documentation, and are ineligible for reimbursement. Therefore, costs for ten feet of direct push drilling are deducted.

2. \$1,268.00, deduction for drillings costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for drilling 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action costs for drilling that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

The piping associated with the abandoned USTs were removed. In accordance with 35 Ill. Adm. Code 734.210(h)(1)(c), one sample must be collected from the floor of each 20 feet of UST piping run excavation or fraction thereof. The piping was removed, therefore costs associated with drilling soil borings to collect piping run samples are unreasonable and exceed the minimum requirements, and are therefore, ineligible for reimbursement.

3. \$535.64, deduction for analytical costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for analytical 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action sampling costs that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

The piping associated with the abandoned USTs were removed. In accordance with 35 Ill. Adm. Code 734.210(h)(1)(c), one sample must be collected from the floor of each 20 feet of UST piping run excavation or fraction thereof. The piping was removed, therefore costs associated with collecting two samples per piping sampling location are unreasonable and exceed the minimum requirements, and are therefore, ineligible for reimbursement.

- \$479.28 associated with four BTEX soil samples are ineligible for reimbursement.
- \$56.36 associated with four Encore sampling devices are ineligible for reimbursement.

4. \$10,996.58, deduction for costs for tank abandonment 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 and 35 Ill. Adm. Code 734.630(o) 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.

Additionally, deduction for early action costs for tank abandonment that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

Furthermore, deduction for costs for tank abandonment which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additional information provided to the Illinois EPA indicated that the 16 hours for a laborer from Bandy Concrete & Excavation on June 5, 2023 was invoiced in error and should be reduced to eight hours. Furthermore, there is insufficient documentation to support the time and materials invoiced by Bandy Concrete & Excavation based the work performed, per documentation submitted to the Illinois EPA.

5. \$187.50, deduction for costs PID 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 and 35 Ill. Adm. Code 734.630(o) 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.

Additionally, deduction for early action costs for PID use that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

Furthermore, deduction for costs for a PID which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum

requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Costs associated with use of a PID to confirm whether a release occurred is ineligible for reimbursement. Additionally, no sampling was performed on June 5 or June 6, 2023; therefore, the use of a PID on June 5, 2023 and June 6, 2023 lack documentation, are unreasonable, and exceeds requirements.

6. \$79.06 for costs for vehicle charges, that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Pursuant to 35 Ill. Adm. Code 734.850(b) costs associated with activities that do not have a maximum payment amount set forth in Subpart H of 35 Ill. Adm. Code 734 must be determined on a site-specific basis, and the owner or operator must demonstrate to the Illinois EPA the amounts sought for reimbursement are reasonable.

In addition, without supporting documentation the rate requested, for vehicle costs are unreasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

The Illinois EPA will reimburse for mileage at a rate of \$0.59 when sufficient documentation has not been submitted for vehicle charges. Based on the round-trip mileage from the consultant's office to the site location of 606 miles per round trip and a total of 1 round-trip on May 24, 2023, \$357.54 for mileage is being reimbursed.

7. \$21.24 for costs for vehicle charges, that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Pursuant to 35 Ill. Adm. Code 734.850(b) costs associated with activities that do not have a maximum payment amount set forth in Subpart H of 35 Ill. Adm. Code 734 must be determined on a site-specific basis, and the owner or operator must demonstrate to the Illinois EPA the amounts sought for reimbursement are reasonable.

In addition, without supporting documentation the rate requested, for vehicle costs are unreasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

The Illinois EPA will reimburse for mileage at a rate of \$0.59 when sufficient documentation has not been submitted for vehicle charges. Based on the round-trip

mileage from the consultant's office to the site location of 244 miles per round-trip and a total of 1 round-trip on June 5, 2023, \$143.96 is being reimbursed.

8. \$25.00, deduction for costs for sampling supplies, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for early action costs for that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

Sampling was done only on May 24, 2023, and therefore an additional sampling supply requested for reimbursement is unreasonable as submitted.

9. \$55.00, deduction for costs for meals and incidentals, 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 and 35 Ill. Adm. Code 734.630(o) 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. There is no receipt provided for the costs that are requested for reimbursement.

Additionally, deduction for early action costs that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

10. \$281.76, deduction for consulting personnel costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for costs for consulting personnel, 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action costs for consulting personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee). Furthermore, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v).

Costs associated with a Senior Project Manager to prepare "Site Assessment/Background Information" is ineligible for reimbursement.

11. \$704.40, deduction for consulting personnel costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for costs for consulting personnel, 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action costs for consulting personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee). Furthermore, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v).

Costs associated with drilling to determine and confirm the presence of a release are unreasonable, exceed the minimum necessary requirements, lack documentation, and are ineligible for reimbursement. Therefore, costs associated with five hours for an Engineer III associated with drilling RC1 is for reimbursement.

12. \$105.66, deduction for consulting personnel costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for costs for consulting personnel, 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action costs for consulting personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee). Furthermore, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v).

Costs associated with drilling to determine and confirm the presence of a release are unreasonable, exceed the minimum necessary requirements, lack documentation, and are ineligible for reimbursement. Therefore, costs associated with a Senior Project Manager to review release confirmation results are ineligible for reimbursement.

13. \$316.98, deduction for consulting personnel costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for costs for consulting personnel, 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action costs for consulting personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

The requested 2.25 hours for a Senior Project Manager to schedule tank abandonment activities lacks documentation and are unreasonable, especially as there is an additional 8.50 hours for an Engineer III to perform the same task.

14. \$1,109.50, deduction for consulting personnel costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment



from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for costs for consulting personnel, 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action costs for consulting personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

The requested 8.75 hours for a Senior Project Manager for tank abandonment oversight lacks documentation and are unreasonable.

15. \$166.40 deduction for consulting personnel costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for costs for consulting personnel, 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action costs for consulting personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

Time for a Senior Administrative Assistant to prepare the reimbursement request in July of 2023 lacks documentation.

16. \$384.64 deduction for consulting personnel costs which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment

from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Additionally, deduction for costs for consulting personnel, 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 and 35 Ill. Adm. Code 734.630(o) 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.

In addition, deduction for early action costs for consulting personnel that are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(ee).

The two hours for a Senior Professional Engineer to review and certify the reimbursement request lacks documentation. The *Owner/Operator & Professional Engineer/Geologist Billing Certification Form* is dated October 27, 2023.

17. \$2,305.13, deduction for handling charges charged by persons other than the owner's or operator's primary contractor. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630 (rr). Additionally, adjustment in the handling charges due to the deduction(s) of ineligible costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.635. In addition, deduction of such costs is not approved pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd) because they are not reasonable.
  - 131.5 yards of flowable fluid was subcontracted to Group Materials, Inc and 15 tons of CA6 was subcontracted to Mechanical Service, Inc.; therefore, handling charges associated with these costs were reduced subsequently.
  - Hotel costs are not eligible for handling.
  - Costs associated with labor and material from Bandy Concrete & Excavation lack sufficient documentation and are ineligible for reimbursement.

### 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  
60 East Van Buren Street, Ste. 630  
Chicago, IL 60605  
(312) 814-3461

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

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