

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

GREEN OIL COMPANY,)	
)	
Petitioner,)	
v.)	PCB No. _____
)	(UST 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 16th day of August, 2024.

GREEN OIL COMPANY,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
Law Office of Patrick D. Shaw
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Springfield, IL 62704
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

GREEN OIL COMPANY,)	
Petitioner,)	
)	
v.)	PCB No. _____
)	(UST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

PETITION FOR REVIEW OF ILLINOIS EPA LUST DECISION

NOW COMES Petitioner, GREEN OIL COMPANY, pursuant to Section 57.7(c)(4) of the Illinois Environmental Protection Act, 415 ILCS 5/57.7(c)(4), and hereby appeals the Illinois EPA's final decision, denying a corrective action budget amendment, stating as follows:

1. Petitioner was owner of underground storage tanks at a self-service fueling station in Abingdon, County of Knox, Illinois, assigned LPC #0950055007.
2. On May 3, 1989, a release was reported from two underground storage tanks, and the incident was assigned Incident Number 89-0758.
3. Thereafter, site investigation activities took place, along with free product removal. A Site Investigation Completion Report was approved by the Illinois EPA on March 22, 2022.
4. On November 14, 2022, Petitioner's consultants submitted a corrective action plan and budget which provided for the removal of two underground storage tanks, 2,353 cubic yards of contaminated soil, and groundwater in the excavation. The plan also called for institutional controls to address remaining contamination. The budget proposed for the plan was \$316,488.54, of which the Illinois EPA approved \$313,106.94.
5. Thereafter, Petitioner's consultant was unable to find a contractor willing to

perform the excavation and backfilling tasks within the maximum payment amounts approved in the budget, and so the approved work was put out for bid.

6. On March 8, 2024, Petitioner submitted an amended corrective action plan budget to the Illinois EPA based upon the lowest bid received, which was \$255,558.53 above the previously approved budget for that work. The budget amendment requested approval of a total of \$288,709.21 in costs, which is the sum of the increased costs reflected in the aforementioned lowest bid along with the consultant's costs associated with bidding.

7. On July 5, 2024, the Illinois EPA rejected the budget amendment in total claiming that bidding could not be used to alter previously approved amounts. A true and correct copy of the decision letter is attached hereto as Exhibit A.

8. The Illinois EPA explained its position as follows:

Pursuant to 35 Ill. Adm. Code 734.870(d)(1), for costs approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum amounts must be the amounts in effect on the date the Illinois EPA received the budget in which the costs were proposed. Once the Illinois EPA approves costs, the applicable maximum amounts must not be increased, e.g., by proposing the costs in a subsequent budget.

(Exhibit A)

9. As an initial matter, the approach taken herein is entirely consistent with that taken in Singh v. IEPA, PCB 23-90 (Sept. 21, 2023) (approving budget amendment for concrete placement based upon competitive bid after budget had previously been approved pursuant to Subpart H rates).

10. As a matter of law, Section 734.870(d)(1) does not apply to competitive bidding. As narrated in the Agency's decision letter, there are three methods for determining maximum payment amounts, but only the first method, the one based upon the maximum amounts set forth

in Subpart H, incorporates Section 734.870. (35 Ill. Adm. Code 734.800(a)(1)) The second and third method omit Section 734.870 from the provisions listed as being applicability to competitive bidding and unusual or extraordinary circumstances. (35 Ill. Adm. Code 734.800(a)(2) & (3)) This is not surprising because Section 734.870 contains the inflation factor used to increase maximum payment amounts yearly and has no relevancy to the second and third methods. Pursuant to the maxim *expressio unius est exclusio alterius*, the express inclusion of Section 734.870 for the first method, but not for the other two methods, indicates the intention to exclude that Section from consideration for the other two methods.

11. The submittal contained the information necessary to evaluate that corrective action cannot be performed for amounts less than or equal to maximum payment amounts set forth in the Board's regulations, included all information in the Agency's bid summary form, contains the signature and date of the prevailing bidder, and otherwise was in substantial compliance with the Act and regulations promulgated thereto.

12. The Illinois EPA determination was received on July 15, 2024, which is less than thirty-five days from the date of this filing and therefore this appeal is timely.

WHEREFORE, Petitioner GREEN OIL COMPANY, 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 approve the budget amendment as submitted, (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.

GREEN OIL COMPANY,
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

(217) 524-3300

CERTIFIED MAIL

9589 0710 5270 0389 6476 71

JUL 05 2024

Bob Green
Green Oil Company
P.O. Box 800
Lincoln, IL 62656-0800

Re: 0950055007 – Knox County
Abingdon / Green Oil Company
500 North Monroe Street
Leaking UST Incident 890758
Leaking UST Technical File

Dear Mr. Green:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Budget submitted for the above-referenced incident. This budget dated March 8, 2024, was received by the Illinois EPA on March 8, 2024. Citations in this letter are from the Illinois Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

Previous corrective action plans and budgets are summarized in Attachment A of this letter. The current corrective action budget is summarized in Attachment B of this letter.

The current corrective action budget is modified pursuant to Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Illinois Administrative Code 734.505(b) or 734.510(b). Based on the modifications listed in Section 2 of Attachment C of this letter, the amounts listed in Section 1 of Attachment C of this letter are approved. Please note that the costs must be incurred in accordance with the approved corrective action plan. Also note that the amount of payment from the Underground Storage Tank Fund (Fund) may be limited by Sections 57.7(c), 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

An underground storage tank system owner or operator may appeal this final decision to the Illinois Pollution Control Board (IPCB). Appeal rights are attached.

If you have any questions or need assistance, please contact Michael Piggush via telephone at (217) 782-3101 or via email at michael.piggush@illinois.gov.

2125 S. First Street, Champaign, IL 61820 (217) 278-5800

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1101 Eastport Plaza Dr., Suite 100, Collinsville, IL 62234 (618) 346-5120

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412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022

4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

Sincerely,



Trent L. Benanti, P.E.

Unit Manager

Leaking Underground Storage Tank Section

Bureau of Land

Attachments (4):

1. Attachment A
2. Attachment B
3. Attachment C
4. Appeal Rights

Copies (3):

1. Carol Rowe / CW³M Company, Inc. (electronic copy), carol_rowe@sbcglobal.net
2. Matt Saladino / CW³M Company, Inc. (electronic copy), matts@cwmccompany.com
3. BOL File

Attachment A

Re: 0950055007 – Knox County
Abingdon / Green Oil Company
500 North Monroe Street
Leaking UST Incident 890758
Leaking UST Technical File

Previous corrective action plans and budgets are summarized as follows:

1. The Illinois EPA approved a corrective action plan and budget on August 10, 2022.
 - a. The corrective action plan is summarized as follows:
 - i. The corrective action plan stated that three soil borings would be drilled.
 - ii. The corrective action plan stated that soil samples would be obtained from each five-foot interval of each soil boring.
 - iii. The corrective action plan stated that the soil samples would be analyzed for benzene, ethylbenzene, toluene, and total xylenes (collectively referred to as BTEX).
 - iv. The purpose of the corrective action plan was to define the extent of the soil contamination more closely on the off-site property to the north in anticipation of a future corrective action plan for soil excavation and disposal.
 - b. The corrective action budget was for an amount of \$14,973.26 and included costs associated with the following activities:
 - i. Preparation of the corrective action plan and budget.
 - ii. Drilling three soil borings to 10 feet.
 - iii. Analysis of six soil samples for BTEX.
 - iv. Preparation of an application for payment.

2. The Illinois EPA approved a corrective action plan and modified a corrective action budget on March 17, 2023.
 - a. The corrective action plan is summarized as follows:
 - i. The corrective action plan stated that two condemned 10,000-gallon gasoline underground storage tanks would be removed.
 - ii. The corrective action plan stated that 2,353 cubic yards of contaminated soil would be excavated and disposed of.
 - iii. The corrective action plan stated that an unknown amount of groundwater would need to be removed from the excavation and disposed of.
 - iv. The corrective action plan stated that soil samples would be collected for every 20 feet of wall length. Based on DRAWING 0013B, 46 soil samples would be collected from the walls and floor of the excavation.
 - v. The corrective action plan stated that the soil samples would be analyzed for BTEX and methyl tertiary butyl ether (MTBE).
 - vi. The corrective action plan stated that 2,576 cubic yards of backfill material would be needed.
 - vii. The corrective action plan stated that a construction worker caution would be needed. The boundaries of the construction worker caution would be determined after completion of the proposed excavation activities.
 - viii. The corrective action plan stated that a Highway Authority Agreement (HAA) would be needed for a portion of North Monroe Street. The boundaries of the HAA would be determined after completion of the proposed excavation activities.
 - ix. The corrective action plan stated that an ordinance that effectively prohibits the installation and the use of potable water supply wells would be needed. The boundaries of the ordinance would be determined after completion of the proposed excavation activities.

- b. The corrective action budget was for an amount of \$316,488.54 and included costs associated with the following activities:
 - i. Calculation of Tier 2 soil and groundwater remediation objectives.
 - ii. Preparation of the corrective action plan and budget.
 - iii. Drilling a waste characterization soil boring to 10 feet.
 - iv. Analysis of one waste characterization sample for BTEX, MTBE, flash point / ignitability, paint filter, pH, and TCLP lead.
 - v. Removal of two 10,000-gallon gasoline underground storage tanks.
 - vi. Excavation, transportation, and disposal of 2,253 cubic yards of contaminated soil.
 - vii. Analysis of 46 soil samples for BTEX and MTBE.
 - viii. Placement of 2,576 cubic yards of backfill material.
 - ix. Preparation and execution of an HAA.
 - x. Preparation of an application for payment.
- c. The corrective action budget was approved for an amount of \$313,106.94.
 - i. Costs associated with calculation of Tier 2 soil and groundwater remediation objectives were deducted because the Illinois EPA approved such costs as part of the previous corrective action budget.
 - ii. Costs associated with boring logs / field reports were deducted because the Illinois EPA approved three hours for three boring logs as part of the previous corrective action budget, and six hours for the boring log for the proposed waste characterization soil boring was deemed unreasonable.
 - iii. Costs associated with "Agency Corr / Discussion / Document Review / Tabulate Analytical Results" were deducted because they lacked supporting documentation.

3. The Illinois EPA modified a corrective action budget on March 7, 2024.
 - a. The corrective action budget was for an amount of \$53,829.16 and included costs associated with the following activities:
 - i. Preparation of the corrective action budget.
 - ii. Removal and disposal of 15,000 gallons of groundwater. This volume was a generic estimate of the volume of groundwater that would need to be removed from the excavation.
 - iii. Canopy removal.
 - iv. Replacement of 4,572 square feet of six-inch concrete.
 - v. Preparation of an application for payment.
 - b. These costs were not included in a previous corrective action budget.
 - c. The corrective action budget was approved for an amount of \$23,274.20.
 - i. Costs associated with replacement of 4,572 square feet of concrete were deducted because there was uncertainty regarding the types and thicknesses of pavement that would be removed.
 - ii. Unit rates associated with removal and disposal of groundwater, preparation of the corrective action budget, and preparation of an application for payment were reduced because it was not clear why these costs were omitted from the previous corrective action budgets. The Illinois EPA determined it would be unreasonable to approve current unit rates for costs omitted from the previous corrective action budgets if the omission was due to owner or operator or consultant error.
 - iii. The Illinois EPA reduced the number of hours for the senior administrative assistant to compile, assemble, and distribute an application for payment from four hours to two hours.

Attachment B

Re: 0950055007 – Knox County
Abingdon / Green Oil Company
500 North Monroe Street
Leaking UST Incident 890758
Leaking UST Technical File

The current corrective action budget is summarized as follows:

1. The corrective action budget is for an amount of \$288,709.21 and includes the following costs:
 - a. Consulting personnel costs and consultant's materials costs associated with bidding.
 - b. Consulting personnel costs and consultant's materials costs associated with preparation and submittal of the corrective action budget.
 - c. Remediation and disposal costs associated with removal and disposal of 20,000 gallons of groundwater from the two 10,000-gallon gasoline underground storage tanks. During the last visit, both underground storage tanks were full of water. These costs were not included in a previous corrective action budget.
 - d. Removal costs associated with two 10,000-gallon gasoline underground storage tanks. These costs are in addition to the costs approved on March 17, 2023.
 - e. Consulting personnel costs and consultant's materials costs associated with removal of two 10,000-gallon gasoline underground storage tanks. These costs were not included in a previous corrective action budget.
 - f. Remediation and disposal costs associated with excavation, transportation, and disposal of 2,253 cubic yards for contaminated soil. These costs are in addition to the costs approved on March 17, 2023.
 - g. Remediation and disposal costs associated with 2,576 cubic yards of backfill material. These costs are in addition to the costs approved on March 17, 2023.
 - h. Consulting personnel costs and consultant's materials costs associated with preparation and submittal of an application for payment.

Attachment C

Re: 0950055007 – Knox County
Abingdon / Green Oil Company
500 North Monroe Street
Leaking UST Incident 890758
Leaking UST Technical File

Section 1

Based on the modifications in Section 2 of this attachment, the following amounts are approved:

\$0.00	Drilling and Monitoring Well Costs
\$0.00	Analytical Costs
\$20,200.00	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$9,135.78	Consulting Personnel Costs
\$475.00	Consultant's Materials Costs

Handling charges will be determined when an application for payment is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.635.

Section 2

1. The budget includes the following excavation, transportation, and disposal costs, backfilling costs, and UST removal costs that were determined via bidding:
 - a. Remediation and Disposal Costs Form > A. Conventional Technology > Excavation, Transportation, and Disposal of Contaminated Soil – 2,353.00 cubic yards @ \$68.19 per cubic yard = \$160,451.07
 - b. Remediation and Disposal Costs Form > A. Conventional Technology > Backfilling the Excavation – 2,576.00 cubic yards @ \$35.32 per cubic yard = \$90,984.32
 - c. UST Removal and Abandonment Costs Form > Gasoline > 10,000 gallons > Removed – \$2,061.57
 - d. UST Removal and Abandonment Costs Form > Gasoline > 10,000 gallons > Removed – \$2,061.57

The Illinois EPA cannot approve these costs because the Illinois EPA cannot be sure the bidding was completed in accordance with the Act and 35 Ill. Adm. Code 734.855.

Pursuant to Sections 57.1(a) and 57.7(c)(3)(B)(ii) of the Act and 35 Ill. Adm. Code 734.855(a)(2), at least 14 days prior to the date set in the invitation for opening of bids, public notice of the invitation for bids must be published by the owner or operator in a local paper of general circulation for the area in which the site is located. The owner or operator must also provide a copy of the public notice to the Illinois EPA. The public notice must be received by the Illinois EPA at least 14 days prior to the date set in the invitation for opening of bids. *The Illinois EPA did not receive the public notice at least 14 days prior to the date set in the invitation for opening of bids.*

Pursuant to Sections 57.1(a) and 57.7(c)(3)(B)(iii) of the Act and 35 Ill. Adm. Code 734.855(a)(3), bids must be opened publicly by the owner or operator in the presence of one or more witnesses at the time and place designated in the invitation for bids. Pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.855(a)(3)(C), the person opening the bids may not serve as a witness. The names of the persons opening the bids and the names of all witnesses must be recorded and submitted to the Illinois EPA on the bid summary form required under 35 Ill. Adm. Code 734.855(b). Pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.855(b), the bid summary form must be submitted to the Illinois EPA in the associated budget. Pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.135(a), all plans, budgets, and reports must be submitted to the Illinois EPA on forms provided and prescribed by the Illinois EPA. *The names of the persons opening the bids and the names of all witnesses were not submitted to the Illinois EPA. The bid summary form was not submitted to the Illinois EPA in the budget.*

Pursuant to Sections 57.1(a) and 57.7(c)(3)(B)(iii) of the Act and 35 Ill. Adm. Code 734.855(a)(3)(A), the name of each bidder, the amount of each bid, and other relevant information must be recorded and submitted to the Illinois EPA in the applicable budget in accordance with 35 Ill. Adm. Code 734.855(b). Pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.855(b), all bids must be summarized on forms prescribed and provided by the Illinois EPA. The bid summary form must be submitted to the Illinois EPA in the associated budget. Pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.135(a), all plans, budgets, and reports must be submitted to the Illinois EPA on forms provided and prescribed by the Illinois EPA. *The bid summary form was not submitted to the Illinois EPA in the budget.*

Pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.855(b), all bids must be summarized on forms prescribed and provided by the Illinois EPA. Pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.135(a), all plans, budgets, and reports must be submitted to the Illinois EPA on forms provided and prescribed by the Illinois EPA. *The contractor certification form for Carter X LLC, the winning bidder, does not contain a signature or date.*

Pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.855, each bid must cover all costs included in the maximum payment amount that the bid is replacing. *The invitation for bids lists removal and replacement of the fence on the off-site property for excavation; however, the dismantling and reassembly of above grade structures is not included in the maximum payment amount that the bid is replacing. In fact, the total costs for the dismantling and reassembly of above grade structures must not exceed \$10,000.00 per site pursuant to 35 Ill. Adm. Code 734.840(c). It is noted that the Illinois EPA approved \$6,140.76 for canopy removal in a letter dated March 7, 2024.*

2. The budget includes the following excavation, transportation, and disposal costs, backfilling costs, and UST removal costs that were determined via bidding:
 - a. Remediation and Disposal Costs Form > A. Conventional Technology > Excavation, Transportation, and Disposal of Contaminated Soil – 2,353.00 cubic yards @ \$68.19 per cubic yard = \$160,451.07
 - b. Remediation and Disposal Costs Form > A. Conventional Technology > Backfilling the Excavation – 2,576.00 cubic yards @ \$35.32 per cubic yard = \$90,984.32
 - c. UST Removal and Abandonment Costs Form > Gasoline > 10,000 gallons > Removed – \$2,061.57
 - d. UST Removal and Abandonment Costs Form > Gasoline > 10,000 gallons > Removed – \$2,061.57

The Illinois EPA cannot approve these costs for the reasons described below.

Pursuant to 35 Ill. Adm. Code 734.800(a), Subpart H of 35 Ill. Adm. Code 734 provides three methods for determining the maximum amounts that can be paid from the Fund for eligible corrective action costs. The first method for determining the maximum amount that can be paid for each task is to use the maximum amount for each task set forth in 35 Ill. Adm. Code 734.810 through 734.850 and 734.870. The second method for determining the maximum amount that can be paid for each task is bidding in accordance with 35 Ill. Adm. Code 734.855. The third method for determining the maximum amount that can be paid for each task is to determine the maximum amount for unusual or extraordinary circumstances in accordance with 35 Ill. Adm. Code 734.860.

Pursuant to 35 Ill. Adm. Code 734.870(d)(1), for costs approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum amounts must be the amounts in effect on the date the Illinois EPA received the budget in which the costs were proposed. Once the Illinois EPA approves costs, the applicable maximum amounts must not be increased, e.g., by proposing the costs in a subsequent budget.

Pursuant to 35 Ill. Adm. Code 734.870(d)(3), the owner or operator must have the burden of requesting the appropriate maximum amounts.

The owner or operator previously requested approval of the maximum amounts set forth in 35 Ill. Adm. Code 734.810 through 734.850 and 734.870, i.e., the owner or operator selected the first method for determining the maximum amounts that can be paid for each task. In a letter dated March 17, 2023, the Illinois EPA approved the maximum amounts set forth in 35 Ill. Adm. Code 734.810 through 734.850 and 734.870. The owner or operator is attempting to increase the applicable maximum amounts by proposing the costs in a subsequent budget. This is a violation of 35 Ill. Adm. Code 734.870(d)(1). Pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 734.630(i), costs associated with activities that violate any provision of the Act or Board, Office of the State Fire Marshal (OSFM), or Illinois EPA regulations are ineligible for payment from the Fund.

It is noted that these excavation, transportation, and disposal costs, backfilling costs, and UST removal costs are in addition to the maximum amounts set forth in 35 Ill. Adm. Code 734.810 through 734.850 and 734.870. If the Illinois EPA were to approve these costs, the total approved costs would exceed the maximum amounts set forth in Subpart H of 35 Ill. Adm. Code 734. Pursuant to 35 Ill. Adm. Code 734.630(zz), costs that exceed the maximum amounts set forth in Subpart H of 35 Ill. Adm. Code 734 are ineligible for payment from the Fund.

3. The budget includes the following consulting personnel costs and consultant's materials costs that are associated with bidding:
 - a. Consulting Personnel Costs Form > CCA-Field > Senior Project Manager > Bid Awards/IEPA Reporting/Documentation – 2 hours @ \$147.95 per hour = \$295.90
 - b. Consulting Personnel Costs Form > CCA-Field > Senior Project Manager > Bid Process/Advertising/Bid Letting – 4 hours @ \$147.95 per hour = \$591.80
 - c. Consulting Personnel Costs Form > CCA-Field > Senior Project Manager > Bid Specifications/Contacting Contractors for Quotes – 13 hours @ \$147.95 per hour = \$1,923.35
 - d. Consulting Personnel Costs Form > CCA-Field > Senior Project Manager > Bid Opening/Selection – 1 hour @ \$147.95 per hour = \$147.95
 - e. Consulting Personnel Costs Form > CCA-Field > Senior Admin. Assistant > Bid Process/Advertising/Bid Letting – 2 hours @ \$66.58 per hour = \$133.16
 - f. Consulting Personnel Costs Form > CCA-Field > Senior Admin. Assistant > Bid Awards/IEPA Reporting/Documentation – 3 hours @ \$66.58 per hour = \$199.74
 - g. Consultant's Materials Costs Form > CCA-Field > Postage > Bidding/IEPA Corr. and Submittal/Bidder Corr./Bid Distribution – 8 @ \$6.00 each = \$48.00

The Illinois EPA cannot approve these costs because the Illinois EPA cannot be sure the bidding was completed in accordance with the Act and 35 Ill. Adm. Code 734.855. See budget modification #1.

In addition, bidding costs for which the Illinois EPA approved the maximum amounts set forth in 35 Ill. Adm. Code 734.810 through 734.850 and 734.870 exceeds the minimum requirements necessary to comply with the Act. See budget modification #2. Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

Furthermore, bidding costs for which the Illinois EPA approved the maximum amounts set forth in 35 Ill. Adm. Code 734.810 through 734.850 and 734.870 violates a provision of the Act or Board, OSFM, or Illinois EPA regulations. See budget modification #2. Costs associated with activities that violate any provision of the Act or Board, OSFM, or Illinois EPA regulations are ineligible for payment from the Fund pursuant to Section 57.6(a) of the Act and 35 Ill. Adm. Code 734.630(i).

Appeal Rights

An underground storage tank system owner or operator may appeal this final decision to the 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, Suite 630
Chicago, IL 60605-1241
(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
P.O. Box 19276
Springfield, IL 62794-9276
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