

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

MARTIN & BAYLEY, INC.,)	
)	
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	2520 W Iles Ave
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 6th day of February, 2026.

MARTIN & BAYLEY, 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
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MARTIN & BAYLEY, INC.)	
Petitioner,)	
)	
v.)	PCB No. _____
)	(UST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

PETITION FOR REVIEW OF ILLINOIS EPA LUST DECISION

NOW COMES Petitioner, MARTIN & BAYLEY, INC. 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, modifying a corrective action budget, stating as follows:

1. Petitioner owns a self-service fueling station known as Meier Grocery in Crossville, County of White, Illinois, assigned LPC#1930155021.
2. On December 16, 2009, a release was reported from two underground storage tanks at the site, and the incident was assigned Incident Number 2009-1397.
3. Subsequently, the tanks were removed as a part of early action and then site investigation was conducted.
4. On July 8, 2025, a corrective action plan and budget was submitted composed of three field activities; (1) re-sample early action wall sample 11, (2) collect soil gas-vapor sample adjacent to early action wall sample 11, and (3) re-sample the groundwater at monitoring well 3. The budget estimated \$18,193.20, of which \$15,003.24 was consulting personnel costs.
5. On November 7, 2025, the Illinois EPA project manager requested and was given a 60-day extension of the decision deadline.
6. On January 8, 2026, the Illinois EPA project manager informed Petitioner's

consultant that the Agency would be modifying the plan to remove field activities related to early action wall sample 11. In other words, the first two of the three aforementioned activities were believed to be unnecessary at this time, although a benzene exceedance located at early action wall sample 11 would need to be addressed in the next submittal. Petitioner's consultant responded that the modification would eliminate three hours of field work for the Senior Project Manager and 3 hours of field work for the Senior Tech.

7. On January 9, 2026, the Illinois EPA emailed Petitioner's consultant, but the Illinois EPA issued its decision later that day without an opportunity to respond. A true and correct copy of the decision is attached hereto as Exhibit A.

8. The Agency modified the plan by eliminating activities related to early action wall sample 11, stating that "these activities, while technically acceptable, exceed the minimum requirements of the Act." (Ex. A, at p. 1) "While it is technically acceptable that these activities be performed, payment from the Fund is not approved. (Ex. A, at 2)

9. The Agency modified the budget by making 15 deductions, of which Petitioner asks the Board to reverse four.

10. The seventh deduction cuts \$4,394.32 for all the Senior Project Manager's costs to design and prepare of the corrective action plan. The Agency decision letter claims that these costs are unreasonable as submitted, but these costs were substantially incurred by the time the corrective action plan was submitted, and it was only months later that the Agency decided to modify the plan and therefore the budget was reasonable as submitted.

11. The tenth deduction cuts \$627.76 for the Senior Project Manager to correspond with the Agency, the Client, the Property owner and provide IEPA field notifications. The

Agency decision letter erroneously claims these are indirect costs improperly billed as direct costs. These were budgeted as fieldwork costs for corrective action activities for this specific incident, and not as anything analogous to interest, finance or insurance costs disallowed as indirect costs and therefore as a matter of law this deduction is erroneous.

12. The eleventh deduction cuts \$941.64 for all of the costs developing and updating TACO data and parameters. The Agency decision letter claims that these costs are unreasonable as the TACO calculations were not utilized correctly, while at the same time the Agency reviewer utilized the TACO calculations in evaluating the corrective action plan. It is not reasonable to cut all the costs to create data the Illinois EPA obviously found useful in the submittal.

13. The thirteenth deduction cuts \$1,380.96 for all of the costs to prepare the application for payment. The Agency decision letter states “the budget forms have already been completed and will be added as part of the LUST Claim.” In order to present a LUST Claim, an owner/operator must first have an item approved in a budget, so it is unclear what this means. Furthermore, the primary work in submitting a reimbursement claim is in documenting the costs and providing back-up for the Agency audit.

14. The Illinois EPA determination was received on January 16, 2026, which is less than thirty-five days from today and therefore this appeal is timely.

WHEREFORE, Petitioner MARTIN & BAYLEY, 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 aforementioned 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.

MARTIN & BAYLEY, INC.
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
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Illinois Environmental Protection Agency

2520 West Iles Avenue • P.O. Box 19276 • Springfield, Illinois • 62794-9276 • 217-782-3397

JB Pritzker, Governor

James Jennings, Acting Director

(217) 524-3300

CERTIFIED MAIL

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JAN 09 2026

Landon Bayley
Martin & Bayley, Inc.
1311A West Main Street
Carmi, IL 62821

Re: 1930155021 -- White County
Crossville / Maier's Grocery (Huck's #131)
109 South State Street
Leaking UST Incident 20091397
Leaking UST Technical File

Dear Mr. Bayley:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated July 8, 2025, was received by the Illinois EPA on July 14, 2025. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

The Illinois EPA requires modification of the plan; therefore, the plan is conditionally approved with the Illinois EPA's modifications. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act (Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)):

1. The plan proposed to re-sample the early action wall sample 11 at a depth of 6 feet below ground surface with sampling and analysis between the 5-10-foot sampling interval.

However, these activities, while technically acceptable, exceed the minimum requirements of the Act. The Illinois EPA's TACO calculations indicated that all the chemicals of concern encountered in early action wall sample 11 can be excluded from consideration except for benzene as it relates to the soil component of groundwater ingestion exposure route.

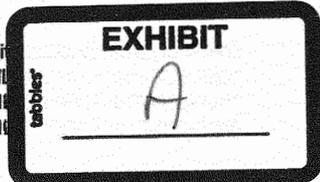
2. The plan proposed a soil gas-vapor sample be collected adjacent to the early action wall sample 11 to a depth of 5 feet below ground surface.

However, these activities, while technically acceptable, exceed the minimum requirements of the Act. The re-sampling of the monitoring well MW-3 will likely resolve this issue since

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1101 Eastport Plaza Dr., Suite 100, Collinsville, IL 62234 • 618-346-5120
595 S. State Street, Elgin, IL 60123 • 847-608-3131
412 SW Washington Street, Suite D, Peoria, IL 61602 • 309-671-3022

115 S. LaSalle Street, Suite 1100, Springfield, IL 62762
9511 Harrison Street, Des Plaines, IL 60018
2309 W. Main Street, Suite 116, Marion, IL 62959
4302 N. Main Street, Rockford, IL 61103

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the chemicals of concern found within MW-3 are expected to have naturally attenuated and will require no further remediation.

Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, the budget is modified pursuant to Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A have been approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of payment from the 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.

If the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c) of the Act).

NOTE: The plan proposes activities that are technically acceptable as modified in this letter. However, for the purpose of payment from the Underground Storage Tank Fund, some of the activities are in excess of those necessary to meet the minimum requirements of the Act and regulations. Owners and operators are advised that they may not be entitled to full payment for this reason. The Illinois EPA will review your complete request for partial or final payment from the Fund after it is submitted to the Illinois EPA. In addition, please note that amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be paid.

The activities in excess of those necessary to meet the minimum requirements of the Act and regulations are referenced in Attachment A. While it is technically acceptable that these activities be performed, payment from the Fund is not approved.

Further, pursuant to 35 Ill. Adm. Code 734.145, it is required that the Illinois EPA be notified of field activities prior to the date the field activities take place. This notice must include a description of the field activities to be conducted; the name of the person conducting the activities; and the date, time, and place the activities will be conducted and shall be made to EPA.FieldNotifications@illinois.gov. This notification of field activities must be provided at least two weeks prior to the scheduled field activities.

Pursuant to Sections 57.7(b)(4) and 35 Ill. Adm. Code 734.305 and 734.335(c), the Illinois EPA requires that a Corrective Action Completion Report that achieves compliance with applicable remediation objectives be submitted on or before July 9, 2026 to:

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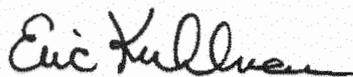
Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
2520 West Iles Avenue
Post Office Box 19276
Springfield, IL 62794-9276

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

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

If you have any questions or need further assistance, please contact the undersigned at (217) 785-5715 or at eric.kuhlman@illinois.gov.

Sincerely,



Eric Kuhlman
Project Manager
Leaking Underground Storage Tank Section
Bureau of Land

SP:

Attachments: Attachment A
Appeal Rights

c: Carol Rowe, CWM Company, Inc. (electronic copy), cwm@cwmcompany.com
BOL File

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, Suite 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
2520 West Iles Avenue
PO Box 19276
Springfield, IL 62794-9276
(217) 782-5544

Attachment A

Re: 1930155021 -- White County
Crossville / Maier's Grocery (Huck's #131)
109 South State Street
Leaking UST Incident 2091397
Leaking UST Technical File

SECTION 1

Based on the modifications in Section 2 of this Attachment A, the following amounts have been approved:

\$0.00	Drilling and Monitoring Well Costs
\$201.56	Analytical Costs
\$0.00	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$6,410.92	Consulting Personnel Costs
\$365.80	Consultant's Materials Costs

Handling charges will be determined at the time 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 Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

SECTION 2

1. \$1,883.31 for Drilling 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).

The plan proposed drilling costs for resampling Early Action Wall Sample 11 that exceeds the minimum requirements necessary to comply with the Act. Such costs are not eligible for payment from the Fund since the chemical exceedances found within Early Action Wall Sample 11 can be excluded using the IEPA's TACO calculations.

2. \$8.48 for costs that are based on mathematical errors. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(bb). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Please be aware, there is a discrepancy in the Total Analytical Costs and the Budget form in the amount of \$8.48. The Budget Summary form shows the amount being \$858.15 and the Total Analytical Costs is in the amount of \$849.67. Therefore, the Illinois EPA deducted \$8.48 from the Total Analytical s on the Budget Summary form.

3. **\$130.79 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).**

The plan proposed laboratory analysis costs for BETX soil sample with MTBE that exceeds the minimum requirements necessary to comply with the Act. Such costs are not eligible for payment from the Fund since the chemical exceedances found within Early Action Wall Sample 11 can be excluded using the IEPA's TACO calculations.

4. **\$425.00 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).**

The plan proposed laboratory analysis costs for materials for a soil gas-vapor sample that exceeds the minimum requirements necessary to comply with the Act. Such costs are not eligible for payment from the Fund since an evaluation of the Indoor Inhalation Exposure Route is not required as this time.

5. **\$15.39 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).**

The plan proposed laboratory analysis costs for purge-and-trap sample used to resample Early Action Wall Sample 11 that exceeds the minimum requirements necessary to comply with the Act. Such costs are not eligible for payment from the Fund since the chemical exceedances found within Early Action Wall Sample 11 can be excluded using the IEPA's TACO calculations.

6. **\$76.93 for costs 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).**

The plan proposed laboratory analysis costs for sample shipping per sampling event used to resample Early Action Wall Sample 11 that exceeds the minimum requirements necessary to comply with the Act. Such costs are not eligible for payment from the Fund since the chemical exceedances found within Early Action Wall Sample 11 can be excluded using the IEPA's TACO calculations.

7. \$4,394.32 for Consulting Personnel 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(dd).

The budget proposed 28 hours for the Senior Project Manager to design and prepare the Corrective Action Plan Amendment; however, the Illinois EPA believes these costs to be unreasonable since there are only 3-4 pages that appear to contain new information when compared with previously submitted plans. Therefore, the Illinois EPA has deducted all such costs.

8. \$470.82 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).

The plan proposed consulting personnel costs for resampling Early Action Wall Sample 11 that exceeds the minimum requirements necessary to comply with the Act. Such costs are not eligible for payment from the Fund since the chemical exceedances found within Early Action Wall Sample 11 can be excluded using the IEPA's TACO calculations.

However, in an email dated January 8, 2026 between Matt Saladino of CWM Company, Inc. and Eric Kuhlman of Illinois EPA, it was agreed that 3 hours would be removed from the total costs for the field activities proposed for resampling Early Action Wall Sample 11 and for the collection and analysis of the soil gas-vapor sample proposed.

9. \$306.00 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).

The plan proposed consulting personnel costs for resampling Early Action Wall Sample 11 that exceeds the minimum requirements necessary to comply with the Act. Such costs are not eligible for payment from the Fund since the chemical exceedances found within Early Action Wall Sample 11 can be excluded using the IEPA's TACO calculations.

However, in an email dated January 8, 2026 between Matt Saladino of CWM Company, Inc. and Eric Kuhlman of Illinois EPA, it was agreed that 3 hours would be removed from the total costs for the field activities proposed for resampling Early Action Wall Sample 11 and for the collection and analysis of the soil gas-vapor sample proposed.

10. \$627.76 for Consulting Personnel 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(dd).

The plan proposed 4 hours for the Senior Project Manager to correspond with Illinois EPA, their client, the property owner, and IEPA field notifications. Such costs are ineligible for

payment from the Fund since such costs are indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs.

11. \$941.64 for Consulting Personnel 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(dd).

The plan proposed 6 hours for Senior Project Manager for TACO Tier 2 Clean-Up Objectives development and updating data parameters. However, the Illinois EPA is of the opinion that had the TACO calculations been utilized correctly then there would have been no need to propose additional soil sampling and analysis adjacent to early action wall sample 11 since most, if not all, of the exposure routes would have been addressed. Therefore, the Illinois EPA believes that the Consulting Personnel Costs associated with development and update of the TACO Tier 2 Clean-Up Objectives should be deducted since they were not utilized.

12. \$470.82 for Consulting Personnel 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(dd).

The plan proposed 3 hours for Senior Project Manager for contaminant transport modelling and assessment of contamination levels/plume. However, the groundwater modelling calculations submitted are incorrect since the "old" hydraulic conductivity value was used in the calculations and the groundwater contamination should have been modelled in a radial pattern. As such, additional groundwater modelling calculations and several TACO drawings will need to be updated and submitted for technical review.

13. \$1,380.96 for Consulting Personnel 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(dd).

The budget proposed 16 hours for the Senior Account Technician to prepare the Corrective Action Reimbursement Claim; however, the Illinois EPA believes the number of hours proposed are too high, when you consider that the budget forms have already been completed and will be added as part of the LUST Claim. Therefore, the Illinois EPA has deducted all such costs.

14. \$75.00 for Consultant's Materials 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).

The plan proposed consultant's materials costs for PID for monitoring during drilling and sampling activities that exceeds the minimum requirements necessary to comply with the Act. Such costs are not eligible for payment from the Fund since soil investigation activities were not approved in the plan.

15. \$7.70 for vehicle costs that lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities and associated materials or services exceeding the minimum requirements necessary to comply with 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 \$0.70 per mile when sufficient documentation has not been submitted for vehicle costs. Based on the round-trip mileage from the consultant's office to the site location of 404 miles per trip and a total of 1 trip, a proposed allowable reimbursement amount is \$282.80. Based on this, \$7.70 is being deducted from the consultant's materials costs portion of the budget.