

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

JEET SINGH d/b/a )  
AMAN FOOD & GAS, )  
Petitioner, )  
v. ) PCB \_\_\_\_\_ )  
(LUST Permit Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

**NOTICE OF FILING AND PROOF OF SERVICE**

To: Don Brown, Clerk  
Illinois Pollution Control Board  
60 E. Van Buren St., Ste. 630  
Chicago, IL 60605

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
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 THE AGENCY LUST DECISION, a copy of which is herewith served upon the attorneys of record in this cause.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon counsel of record of all parties to this cause by enclosing same in envelopes addressed to such attorneys with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office Mailbox in Springfield, Illinois on the 3<sup>rd</sup> day of February, 2023.

Respectfully submitted,  
JEET SINGH d/b/a AMAN FOOD & GAS,  
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  
217-299-8484  
pdshaw1law@gmail.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JEET SINGH d/b/a AMAN FOOD & GAS,	)	
Petitioner,	)	
	)	
v.	)	PCB _____
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**PETITION FOR REVIEW OF AGENCY LUST DECISION**

NOW COMES Petitioner, JEET SINGH d/b/a AMAN FOOD & GAS, pursuant to Section 57.7(c)(4) of the Illinois Environmental Protection Act, 415 ILCS 5/57.7(c)(4), and hereby appeals the Agency's final decision, disapproving the budget for corrective action activities, stating as follows:

1. Petitioner owns a service station in Moline, County of Rock Island, Illinois, which has been assigned LPC #1610455194.
2. On March 3, 2014, Petitioner reported releases from three underground storage tanks at the site, which were subsequently removed. Incident Number 2014-0247 was assigned to the releases.
3. After performing early action and site investigation work, Petitioner submitted a corrective action plan to the Agency, which was approved August 6, 2019. In relevant part the corrective action plan called for six-inch concrete as an engineered barrier.
4. Corrective action activities were subsequently performed and on August 2, 2021, a Corrective Action Completion Report was submitted to the Agency.
5. On December 3, 2021, the Corrective Action Completion Report was rejected by the Agency with directions that the engineered barrier "be enlarged" to cover additional areas

including those surrounding the fuel pumps and under the canopy.

6. Based upon the Agency's decision, Petitioner's consultant submitted a Corrective Action Budget Amendment, which would enlarge the engineered barrier with an additional 1,525 square feet of six-inch concrete. The enlarged area spans into areas of severely deteriorated and concrete that would need to be repaved to qualify as an engineered barrier. The budget estimated \$9,256.46 for expanding the engineered barrier.

7. On June 1, 2022, the Agency approved the budget.

8. On August 29, 2022, Petitioner's consultant filed another Corrective Action Budget Amendment because the previously approved \$3.23 per square foot rate for replacing the concrete could not attract any contractors. As a result, the work was put out for bid, and the winning bid price for the engineered barrier area was \$14.00 per square foot. The submittal documented the inability to attract contractors to install the engineered barrier for \$3.23 per square foot, as well as the bidding process. The budget estimated \$30,706.90 to install the additional engineered barrier, which included the costs associated with conducting the bidding process pursuant to applicable Board regulations.

9. On December 28, 2022, the Agency rejected the budget in its entirety. A true and correct copy of the Agency decision letter is attached hereto as Exhibit A. In relevant part, the explanation given is:

**Pursuant to 35 Ill. Adm. Code 734, 840(a), payment for costs associated with concrete, asphalt, and paving installed as an engineered barrier, other than replacement concrete, asphalt, and paving, must not exceed the Subpart H maximum payment amount for four inches of asphalt. The budget proposes additional costs associated with the placement of six inches of concrete to be used as an engineered barrier. The applicable costs associated with the placement of the engineered barrier were approved in the previous budget.**

10. Pursuant to Section 57.7(c)(3)(C) of the Illinois Environmental Protection Act, the reasonableness of costs of corrective action may be determined through any bidding process adopted by the Board. (415 ILCS 5/57.7(c)(3)(C)) Those regulations are contained in Section 734.855 of the Board's Underground Storage Tank regulations. (35 Ill. Adm. Code § 734.855) Those regulations make clear that bidding is "an alternative to the maximum payment amounts set forth in this Subpart H . . . ." Id.

11. There is not a single reference in the Agency determination letter to the applicable Board regulations concerning the bidding process, nor even the slightest acknowledgment that bidding was the basis for the budget submittal. Therefore, there is no dispute that all of the requirements of the bidding process were met, and as a matter of law the maximum payment amounts in Subpart H are not applicable. (35 Ill. Adm. Code § 734.855)

12. Furthermore, the Agency previously approved six-inches of concrete as an engineered barrier in the prior budget, and to the extent the Agency determination letter seeks to reinstate the previous budget, that budget approved the placement of concrete, not asphalt.

13. The subject Agency determination letter was received by certified mail on January 3, 2023, which is less than 35 days from the date this appeal is being filed, and therefore timely.

WHEREFORE, Petitioner, JEET SINGH d/b/a AMAN FOOD & GAS, prays that: (a) the Agency produce the Record; (b) a hearing be held; (c) the Board find the Agency erred in its decision, (d) the Board direct the Agency to approve the budget as submitted, (e) the Board award payment of attorney's fees; and (f) the Board grant Petitioner such other and further relief as it deems meet and just.

JEET SINGH d/b/a AMAN FOOD & GAS,  
Petitioner

By its attorneys,  
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



# 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

7021 2720 0002 0464 1996

DEC 28 2022

Balbir Kaur  
Aman Food and Gas  
5048 Coventry Court  
Davenport, IA 52807

Re: 1610455194 – Rock Island County  
Moline/Aman Food and Gas  
1830 5<sup>th</sup> Avenue  
Leaking UST Incident 20140247  
Leaking UST Technical File

Dear Mr. Kaur:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan Budget (budget) submitted for the above-referenced incident. This budget, dated August 29, 2022, was received by the Illinois EPA on August 31, 2022. 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 budget is rejected for the reason listed in Attachment A (Sections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b)).

All future correspondence must be submitted to:

Illinois Environmental Protection Agency  
Bureau of Land – #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
P.O. 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.



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If you have any questions or need further assistance, please contact the undersigned at (217) 785-8378 or at [Bradley.Dilbaitis@illinois.gov](mailto:Bradley.Dilbaitis@illinois.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Dilbaitis". The signature is fluid and cursive, with the first name "Brad" and last name "Dilbaitis" clearly distinguishable.

Brad Dilbaitis  
Project Manager  
Leaking Underground Storage Tank Section  
Bureau of Land

SP:TB **Ts**

Attachments: Attachment A  
Appeal Rights

c: Carol Rowe, CWM Company, Inc. (electronic copy)  
BOL File

Attachment A

Re: 1610455194 – Rock Island County  
Moline/Aman Food and Gas  
1830 5<sup>th</sup> Avenue  
Leaking UST Incident 20140247  
Leaking UST Technical File

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

The budget proposes additional costs for the placement of an engineered barrier that violate 35 Ill. Adm. Code 734.840(a). Costs associated with activities that violate any provision of the Act or Illinois Pollution Control Board, Office of the State Fire Marshal, 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).

In addition, the budget lacks supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). The documentation/information in the Illinois EPA's possession does not support the requests in the budget. Therefore, the costs are not approved pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd) because they are unreasonable.

Pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.850(b), owners and operators seeking payment must demonstrate to the Illinois EPA that the amounts requested in the budget are reasonable.

Furthermore, the budget proposes additional costs for placement of an engineered barrier that exceed the cost of installing an engineered barrier constructed of asphalt four inches in depth. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(ss).

*Pursuant to 35 Ill. Adm. Code 734.840(a), payment for costs associated with concrete, asphalt, and paving installed as an engineered barrier, other than replacement concrete, asphalt, and paving, must not exceed the Subpart H maximum payment amount for four inches of asphalt. The budget proposes additional costs associated with the placement of six inches of concrete to be used as an engineered barrier. The applicable costs associated with the placement of the engineered barrier were approved in the previous budget.*



### Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

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

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

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

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