

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

MINIT MART, LLC,	)	
Petitioner,	)	
	)	
v.	)	PCB 25-
	)	(LUST – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION	)	Extension)
AGENCY,	)	
Respondent.	)	

**NOTICE**

Don Brown, Clerk  
Illinois Pollution Control Board  
60 East Van Buren St., Suite 630  
Chicago, IL 60605  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Minit Mart, LLC  
c/o Matthew Young  
165 Flanders Road  
Westborough, MA 01581

Pinnacle Environmental Management Support  
c/o Jana Langnickel, Project Manager  
1255 S. Military Trail, Suite 210-A  
Deerfield Beach, FL 33442  
[janalangnickel@pinnacleems.com](mailto:janalangnickel@pinnacleems.com)

PLEASE TAKE NOTICE that I have today caused to be filed a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Melanie A. Jarvis  
Deputy Chief Counsel – Land Enforcement  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
[melanie.jarvis@illinois.gov](mailto:melanie.jarvis@illinois.gov)  
Dated: January 14, 2025

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

THE BREAKING POINT, INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB 25-
	)	(LUST – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION	)	Extension)
AGENCY,	)	
Respondent.	)	

**REQUEST FOR NINETY DAY EXTENSION  
OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, Melanie A. Jarvis, Assistant Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board ("Board") grant an extension of the thirty-five (35) day period for petitioning for a hearing to May 11, 2025, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA's final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On or about January 2, 2025, the Illinois EPA issued a final decision to the Petitioner.
2. On January 10, 2025, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five-day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about January 6, 2025.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five-day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Melanie A Jarvis  
Deputy Chief Counsel – Land Enforcement  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
866/273-5488 (TDD)  
[melanie.jarvis@illinois.gov](mailto:melanie.jarvis@illinois.gov)  
Dated: January 14, 2010

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on January 14, 2025, I served true and correct copies of a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** by the method(s) and to the persons identified below:

*Electronic and Mail Service*

Don Brown, Clerk  
Illinois Pollution Control Board  
60 East Van Buren St., Suite 630  
Chicago, IL 60605  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Minit Mart, LLC  
c/o Matthew Young  
165 Flanders Road  
Westborough, MA 01581

Pinnacle Environmental Management Support  
c/o Jana Langnickel, Project Manager  
1255 S. Military Trail, Suite 210-A  
Deerfield Beach, FL 33442  
[janalangnickel@pinnacleems.com](mailto:janalangnickel@pinnacleems.com)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Melanie A. Jarvis  
Deputy Chief Counsel – Land Enforcement  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
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OFFICE 954.977.3775  
FAX 866.209.4401  
[PinnacleEMS.com](http://PinnacleEMS.com)

January 10, 2025

**Illinois Environmental Protection Agency**

Bureau of Land  
1021 North Grand Avenue East  
Springfield, IL 62794-9276  
Attn: Brian Bauer

RE: Request for Extension on Deadline for Appeal  
LPC #0910605122 – Kankakee County  
Manteno / Minit Mart #643/IL4337  
9051 North Route 45  
IEMA Incident 20230681 - 75085  
Queue Date: 9/16/2024

Dear Mr. Bauer:

**Attached please find the Agency's decision letter for the above referenced claim** related to early action costs. Could you please submit the necessary form to the Pollution Control Board that will allow discussions of this review letter to exceed the 35 day deadline to file an appeal.

Should you have any questions or require additional information, you may contact me at (954) 361-0099 or at [JanaLangnickel@PinnacleEMS.com](mailto:JanaLangnickel@PinnacleEMS.com). Thank you.

Sincerely,  
PINNACLE ENVIRONMENTAL MANAGEMENT SUPPORT, INC.

A handwritten signature in cursive script, appearing to read "Jana Langnickel".

Jana Langnickel  
Program Manager



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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

JB PRITZKER, GOVERNOR

JAMES JENNINGS, ACTING DIRECTOR

(217) 524-3300

JAN 02 2025

CERTIFIED MAIL #

9589 0710 5270 0389 6317 93

Minit Mart, LLC  
c/o Matthew Young  
165 Flanders Road  
Westborough, MA 01581

RECEIVED

JAN 7 2025

Environmental Dept.

Re: 0910605122 -- Kankakee County  
Manteno/Minit Mart, LLC #643  
9051 North Route 45  
Incident-Claim No.: 20230681 -- 75085  
Queue Date: September 16, 2024  
Leaking UST Fiscal File

Dear Mr. Young:

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 September 13, 2024 and was received by the Illinois EPA on September 16, 2024. The application for payment covers the period from August 28, 2023 to July 2, 2024. The amount requested is \$30,271.87.

On September 16, 2024, 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 \$15,382.10 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.

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 Chad Herr of my staff at (217) 524-9061 or at [chad.herr@illinois.gov](mailto:chad.herr@illinois.gov).

Sincerely,

Handwritten signature of Brian P. Bauer in cursive script.

Brian P. Bauer  
Unit Manager  
Special Projects and Financial Unit  
Leaking Underground Storage Tank Section  
Bureau of Land

Attachments: Attachment A  
Appeal Rights

c: Pinnacle Environmental Management Support  
Leaking UST Claims Unit



Attachment A  
Accounting Deductions

Re: 0910605122 -- Kankakee County  
Manteno/Minit Mart, LLC #634  
9051 North Route 45  
Incident-Claim No.: 20230681 -- 75085  
Queue Date: Septembet 16, 2024  
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. \$8,947.68, 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(cc).

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.

Additionally, deduction for 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).

In accordance with 734.210(h)(2)(A), for each UST that remains in place, one boring must be drilled at the center point along each side of each UST, or along each side of each cluster of multiple USTs, remaining in place. If a side exceeds 20 feet in length, one boring must be drilled for each 20 feet of side length, or fraction thereof, and the borings must be evenly spaced along the side. The borings must be drilled in the native soil surrounding the USTs and as close practicable to, but not more than five feet from, the backfill material surrounding the USTs. Each boring must be drilled to a depth of 30 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Furthermore, in accordance with 734.210(h)(2)(B), two borings, one on each side of the piping, must be drilled for every 20 feet of UST piping, or fraction thereof, that remains in place. Each boring must be drilled to a depth of 15 feet below grade, or until groundwater or bedrock is encountered, whichever is less.



Based on the provided documentation, the maximum depth to water while drilling was six feet below ground surface. All but approximately three of the 34 soil samples were collected at 2.5' below ground surface. There is insufficient documentation to support drilling past the groundwater table. Therefore, the depths drilled exceed the minimum requirements and are unreasonable.

Furthermore, the consultant's drilling protocol does not involve use of direct push drilling until eight feet below ground surface. This is also supported by the information on the boring logs and explanation previously provided by the consultant.

In addition, because drilling below the field-interpreted groundwater table exceeds requirements and lacks sufficient documentation, combined with the shallow depth to water and the protocol of not using direct push drilling until 8 feet below ground surface, there is insufficient documentation to support the need for direct push drilling for the early action sampling.

Furthermore, based on the subcontractor's invoice, the total cost associated with direct push drilling is \$7,050.00, not the requested \$8,947.68. In accordance with Ill. Adm. Code 734.820(a), costs associated with drilling include mobilization, drilling labor, and decontamination. Utilizing a portion of other costs incurred as part of the per foot drilling rate is unreasonable.

Based on the above, the costs associated with drilling are deducted in totality.

2. \$31.70, deduction for costs for consulting personnel, which lack supporting documentation and are unreasonable. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc) and 734.630(ee). 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.

Costs associated with copying and mailing reports that were incurred after the respective reports were received by the Illinois EPA lack documentation and are ineligible for reimbursement.

3. \$98.62 for costs for personnel hours requested under the Geologist II title, 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 exceeding 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).

In addition, without supporting documentation, the personnel hours for Geologist II 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(ee). Furthermore, the request appears to be for activities and related services or materials that are unnecessary. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa).

The Illinois EPA has determined that the task descriptions provided for personnel are too vague and insufficient to ensure that they are reasonable, consistent with the associated technical plan, incurred in the performance of corrective action activities, and not used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, as required pursuant to 35 Ill. Adm. Code 734.510(b).

Costs associated with "Peer Review" by a Geologist II, in addition to three more hours by a Senior Project Manager are unreasonable, exceed requirements, and ineligible for reimbursement.

4. \$17.00, deduction for costs for Personnel Costs, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act 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.

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

6.50 Account Technician IV hours were submitted, however, the timesheet provided only shows 6.25 hours. Therefore, 0.25 hours at a rate of \$68.00/hour were deducted.

5. \$794.77, 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.

Handling charges were adjusted to reflect the above deduction(s). Please note that handling chargers were assessed based off the applicable amount outlined in Ill. Adm. Code 734.635.

### 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