

ILLINOIS POLLUTION CONTROL BOARD
December 4, 2025

MARINE BANK SPRINGFIELD TRUST)	
#53-0051,)	
)	
Petitioner,)	
)	
v.)	PCB 24-81
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

INTERIM OPINION AND ORDER OF THE BOARD (by A. Tin):

This case arises from Marine Bank Springfield Trust #53-0051's (Marine Bank) petition seeking Board review of a May 28, 2024 determination by the Illinois Environmental Protection Agency (IEPA) regarding its leaking underground storage tank (UST) site at 9520 State Route 29, Cantrall, Sangamon County. In that determination, IEPA conditionally approved Marine Bank's corrective action plan (CAP) with modifications and also modified its CAP budget. On February 26, 2025, Marine Bank moved for summary judgment. IEPA filed its response stating it has no objection to the motion.

For the reasons below, the Board finds that there are no genuine issues of material fact, and that Marine Bank is entitled to judgment as a matter of law. The Board sets deadlines for Marine Bank to file a statement of legal fees and IEPA to respond. Marine Bank must explain why the fees may be eligible for reimbursement and argue why the Board should exercise its discretion to direct IEPA to reimburse those fees.

In this interim opinion and order, the Board first reviews the procedural history of the case and summarizes Marine Bank's petition. Then it sets forth the undisputed facts and legal background. Thereafter, it provides its discussion and decision to grant Marine Bank's motion for summary judgment. Finally, the Board reaches its conclusions and issues its order. Today's decision comes as an interim opinion and order because further information is required regarding Marine Bank's request for legal fees.

PROCEDURAL HISTORY

On June 27, 2024, Marine Bank filed a petition for review of IEPA's May 28, 2024 modifications to the 2024 CAP budget. The Board accepted the petition for hearing on July 11, 2024. IEPA filed the administrative record on July 24, 2024 (R.). On February 11, 2025, Marine Bank moved to supplement the record, which the hearing officer granted on February 18, 2025 (S.R.). On February 26, 2025, petitioner filed a motion for summary judgment (Mot.). On April 2, 2025, IEPA filed a response to petitioner's motion (Resp.).

SUMMARY OF PETITION FOR REVIEW

Marine Bank filed a timely appeal of IEPA's May 28, 2024 final decision modifying the 2024 CAP budget for the site in Cantrall, Illinois. The petition alleges that IEPA improperly deducted \$8,884.41 from the budget in violation of Sections 57.7(c)(3), (c)(4) of the Illinois Environmental Protection Act (415 ILCS 5/57.7) (Act) and applicable Board regulations. The deductions were for: Senior Project Manager time, covering review and analysis of soil samples (\$887.70) and consultant field work (\$1,183.60); concrete placement as an engineered barrier (\$3,992.88); and preparation and implementation of a groundwater ordinance (\$2,820.23).

The petition requests that the Board order IEPA to produce the administrative record, hold a hearing, find that the Agency erred in modifying the CAP budget, direct payment of improperly deducted amounts, award attorney's fees, and grant such other relief deemed just.

UNDISPUTED FACTS

Marine Bank is a land trust that owns a former self-service fueling station in the Village of Cantrall, Sangamon County, Illinois. R.006. On February 4, 2003, a release was reported from four underground gasoline storage tanks and assigned Incident Number 2003-0135. R.001. The tanks were removed in March 2003 as part of early corrective action. R.007. Site investigation activities were subsequently conducted, culminating in a Site Investigation Completion Report approved by the IEPA on October 17, 2005. R.006.

In the years that followed, Marine Bank submitted multiple CAPs to address contaminated soil. IEPA either rejected some plans or approved them without the associated budgets. R.214. On January 18, 2021, Marine Bank submitted a CAP and budget to resample the site to determine whether contamination had naturally attenuated over the prior twelve years. IEPA approved this plan and budget on May 19, 2021. R.006, R.426.

Corrective action work was performed, and on April 7, 2023, a subsequent CAP and budget was submitted, reporting that while contamination had attenuated in some areas, exceedances of applicable site remediation objectives remained. R.009, R.013. The plan proposed additional soil borings and a geotechnical sample to update the Tiered Approach to Corrective Action Objectives (TACO) calculations. R.013-14, R.427. On August 1, 2023, the IEPA approved the plan but made deductions to the budget, including \$845.40 for six hours of Senior Project Manager work reviewing analytical results, bore logs, and tabulating analyses. R.206, R.209.

The approved corrective action was performed, and a subsequent CAP dated February 2, 2024, reflected revised TACO calculations and new remediation objectives. R.210, R.218-19. Multiple soil samples still exceeded the remediation objectives, and additional measures were proposed, including installation of an engineered concrete barrier and the use of an Environmental Land Use Control (ELUC) and a groundwater ordinance for offsite property protection. R.221-23. The budget submitted for these corrective actions was estimated at \$22,725.26. R.258.

On or about May 17, 2024, the IEPA reviewed the plan and requested additional information regarding the groundwater ordinance. R.429, 431; S.R.001. On May 22, 2024, the IEPA indicated that the draft ordinance was insufficient and would not approve related budget costs until additional assurances were provided. S.R.002. A signed ELUC was subsequently provided on May 23, 2024. S.R.005. On May 28, 2024, the IEPA approved the CAP but modified the budget by cutting \$8,884.41 across four items, including senior project manager time, consultant field work, concrete placement, and costs for obtaining the groundwater ordinance. R.432, 435-37.

IEPA has not disputed any of the underlying facts described above and has stated it has no objection to Petitioner's Motion for Summary Judgment. Resp. at 2.

LEGAL BACKGROUND

The Board now sets forth the legal framework governing CAPs and budgets. The Act and the Board's regulations govern both CAPs and associated budgets for USTs. 415 ILCS 5/57.7 (2024); 35 Ill. Adm. Code 734.335. Owners or operators must submit CAPs to the IEPA, including a budget accounting for all costs to implement and complete the corrective action. 415 ILCS 5/57.7(b)(3) (2024). The Act authorizes IEPA to review submitted plans and budgets to determine whether the proposed corrective actions are necessary and whether estimated costs are reasonable. 415 ILCS 5/57.7(c)(3), (c)(4) (2024).

The Board promulgated regulations detailing procedures for review and approval of CAPs and budgets. 35 Ill. Adm. Code 734.500-510. Subpart H establishes maximum payment amounts for specific corrective action activities, such as soil sampling, consultant field work, and concrete installation. Costs within these amounts are presumptively reasonable, though applicants may propose alternatives, including competitive bidding or demonstrating unusual circumstances. 35 Ill. Adm. Code 734.800-734.875.

Standard of Review

The Board reviews whether a petitioner's submission to IEPA demonstrates compliance with the Act and the Board's rules. *Illinois Ayers Oil Co. v. IEPA*, PCB 03-214, slip op. at 8 (April 1, 2004); *Kathe's Auto Service Center v. IEPA*, PCB 96-102, slip op. at 13 (Aug. 1, 1996). The Board's review is generally limited to the record before IEPA at the time of its determination. *Freedom Oil Co. v. IEPA*, PCB 03-54, 03-56, 03-105, 03-179, 04-04 (cons.), slip op. at 11 (Feb. 2, 2006). The Board does not apply a deferential "manifest weight of the evidence" standard but instead reviews the record to ensure the submission demonstrates compliance with the Act. *Illinois Ayers*, PCB 03-214, slip op. at 15. IEPA's denial letter frames the issues on appeal. *Pulitzer Cmty. Newspapers, Inc. v. IEPA*, PCB 90-142 (Dec. 20, 1990).

Statutory and Regulatory Authorities

The Board first addresses the statutory framework governing CAPs, then considers the Board's implementing regulations.

Act Provisions

Section 57.7(c)(3) of the Act provides that when approving any site investigation or CAP and budget, IEPA must ensure that costs are not for “site investigation or corrective action activities in excess of those required to meet the minimum requirements of this Title.” 415 ILCS 5/57.7(c)(3) (2024). The Act provides the overarching legal standard, while the Board’s regulations detail procedural and substantive requirements for early action and budget approval.

Board Regulations

The Board’s regulations are organized to address payment procedures and other corrective action activities. Owners/operators may seek payment from the Underground Storage Tank Fund (Fund), established under Section 57.11 of the Act (415 ILCS 5/57.11), in accordance with Subpart F. Subpart F establishes payment procedures from the Fund. Applicants must provide an accounting of costs and proof of payment for subcontractor costs, which IEPA reviews for completeness and consistency with prior submissions. 35 Ill. Adm. Code 734.605(b)(9)-(10), 734.610(a)(1), (c). Costs without documentation or deemed unreasonable are ineligible. 35 Ill. Adm. Code 734.630(cc), (dd). The regulatory framework distinguishes between the budget stage, when costs are estimated, and the payment stage, when actual costs are verified.

Distinction Between Budget and Payment Stages

IEPA has authority to review both budgets and applications for payment. See 415 ILCS 5/57.7(c) (2024), 35 Ill. Adm. Code 734.500, 734.600. At the budget stage, IEPA reviews estimated costs for necessity and reasonableness, without verifying actual expenditures. 35 Ill. Adm. Code 734.335(b); 415 ILCS 5/57.7(b)(3) (2024). Once a budget is approved, it sets the maximum amount eligible for payment from the Fund. 35 Ill. Adm. Code 734.605(g); 415 ILCS 5/57.8(a)(1).

At the payment stage, the applicant must submit documentation of actual costs incurred, which IEPA may review and verify against the approved budget. 35 Ill. Adm. Code 734.605, 734.610; 415 ILCS 5/57.8(a)(6)(B) (2024).

Payment from the Fund is limited to the actual documented costs, up to the approved budget; any overpayment is not allowed, and costs exceeding the approved budget generally are not reimbursable unless specifically authorized under the Board’s regulation. 35 Ill. Adm. Code 734.605, 734.610; 415 ILCS 5/57.8(a)(1), (5).

With this legal framework in mind, the Board turns to the standard for summary judgment applicable in this case.

Summary Judgment

Summary judgment is a procedural mechanism for resolving cases where the material facts are undisputed, and the moving party is entitled to judgment as a matter of law. The following legal standards guide the Board's review of a motion for summary judgment.

As an initial matter, summary judgment is appropriate when the pleadings, depositions, admissions, affidavits, and other record items show no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. Adames v. Sheahan, 233 Ill. 2d 276, 295, 909 N.E.2d 742, 753 (2009); Dowd & Dowd, Ltd. v. Gleason, 181 Ill. 2d 460, 483, 693 N.E.2d 358, 370 (1998); 35 Ill. Adm. Code 101.516(b). A genuine issue of material fact precluding summary judgment exists when "the material facts are disputed, or, if the material facts are undisputed, reasonable persons might draw different inferences from the undisputed facts." Adames, 233 Ill. 2d at 296, 909 N.E.2d at 753; Adams v. Northern Illinois Gas Co., 211 Ill. 2d 32, 43, 809 N.E.2d 1248, 1256 (2004).

In evaluating such motions, the record "must be construed strictly against the movant and liberally in favor of the opponent." Adames, 233 Ill. 2d at 295-96, 909 N.E.2d at 754; Purtill v. Hess, 111 Ill. 2d 229, 240, 489 N.E.2d 867, 871 (1986). Summary judgment is a drastic remedy and should be granted only when the right of the moving party is clear and free from doubt. Adames, 233 Ill. 2d at 296, 909 N.E.2d at 754; Purtill, 111 Ill. 2d at 240, 489 N.E.2d at 871. Even though the nonmoving party is not required to prove its case at the summary judgment stage, it must present a factual basis that would arguably entitle it to judgment. Gauthier v. Westfall, 266 Ill. App. 3d 213, 219, 639 N.E.2d 994, 999 (2d Dist. 1994).

Additionally, although inferences may be drawn from undisputed facts, where reasonable persons could draw divergent inferences, the trier of fact must resolve the issue, and summary judgment should be denied. Makowski v. City of Naperville, 249 Ill. App. 3d 110, 119, 617 N.E.2d 1251 (1993); Loyola Academy v. S & S Roof Maintenance, Inc., 146 Ill. 2d 263, 272, 586 N.E.2d 1211 (1992); Pyne v. Witmer, 129 Ill. 2d 351, 358, 543 N.E.2d 1304 (1989).

DISCUSSION

Applying the foregoing legal framework, the Board turns to Marine Bank's motion for summary judgment on the \$8,884.41 in disputed costs. The relevant facts are undisputed: Marine Bank submitted a CAP with a supporting budget and documents, and IEPA has not challenged the accuracy or reasonableness of the estimated costs.

Legal Analysis

Marine Bank asserts that the deducted costs were improperly disallowed because IEPA approved the CAP activities but refused to approve the corresponding budgeted costs. The petitioner asserts that the submitted budget and supporting documentation establish the costs as reasonable and consistent with the approved plan. See City of Benton Fire Department v. IEPA, PCB 17-01, slip op. at p. 5 (Feb. 22, 2018); Dersch Energies v. IEPA, PCB 17-3, slip op. at pp. 17-18 (Aug. 11, 2022). IEPA does not dispute these facts, and it does not oppose summary judgment.

Under the Act, a budget is defined as “an accounting of all costs associated with the implementation and completion of the corrective action plan.” 415 ILCS 5/57.7(b)(3). Board regulations provide that costs within the maximum payment amounts or otherwise documented as necessary are presumptively reasonable. 35 Ill. Adm. Code 734.800–734.875. Each category of the disputed costs satisfies these requirements. Senior Project Manager review costs were previously directed by IEPA to be included in the next budget, with all required documentation submitted. Consultant field work costs are consistent with planning, oversight, and coordination activities permitted by the regulations. Concrete placement costs fall within the Subpart H maximum payment amounts, which are presumptively reasonable, and IEPA’s request for proof of actual contractor costs is unsupported. Groundwater ordinance costs are proper because IEPA’s new requirement that the ordinance be obtained before budgeting is not supported by the Act or regulations, and the submitted drafts meet statutory requirements.

Ruling

Because the facts are undisputed, IEPA does not oppose summary judgment, and the costs comply with statutory and regulatory standards, the Board finds no genuine issue of material fact. Accordingly, the \$8,884.41 in disputed costs are proper, reasonable, and fully recoverable under the CAP, and summary judgment is granted in favor of Marine Bank.

Legal Fees

Having resolved the dispute arising from IEPA’s partial modification of Marine Bank’s corrective action budget, the Board next turns to Marine Bank’s request for reimbursement of legal fees.

Section 57.8(l) of the Act provides that corrective action excludes “legal defense costs,” which include “legal costs for seeking payment . . . unless the owner operator prevails before the Board in which case the Board may authorize payment of legal fees.” 415 ILCS 5/57.8(l) (2024). The Board has required the reimbursement of legal fees from the UST Fund where the petitioner has prevailed in appealing the Agency’s rejection of a budget. See Illinois Ayers Oil Co. v. IEPA, PCB 03-214 (Aug. 5, 2004).

Marine Bank seeks reimbursement of its legal fees in this matter. See Pet. at 5; Mot. at 22. The record does not now include the amount of these fees or Marine Bank’s argument that they would be reimbursable under Section 57.8(l) of the Act. 415 ILCS 5/57.8(l) (2024). In its order below, the Board directs Marine Bank to file a statement of legal fees that may be eligible for reimbursement and its arguments that the Board should exercise its discretion to direct IEPA to reimburse those fees from the UST Fund. The order also sets a deadline for IEPA to respond.

CONCLUSION

Based on the undisputed facts, applicable statutory and regulatory provisions, and the Board’s review, Marine Bank is entitled to judgment as a matter of law. The Board notes that the administrative record was produced, and the matter was accepted for hearing, but no hearing on the merits has taken place because a motion for summary judgment is pending. IEPA erred in

modifying the CAP budget, and the \$8,884.41 in disputed costs are reasonable and properly included in the approved plan. Accordingly, the Board grants summary judgment in favor of Marine Bank and directs IEPA to approve the disputed budgeted items for eligibility for payment from the Fund in accordance with Board regulations. The Board reserves consideration of the petitioner's request for attorney's fees, with further proceedings to assess such fees consistent with Board rules and statutory authority.

This interim opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board grants Marine Bank's Motion for Summary Judgment.
2. The Board reverses the IEPA's May 28, 2024 decision modifying the CAP budget submitted by Marine Bank and directs the IEPA to approve the \$8,884.41 in disputed budget items for eligibility for payment from the Fund, consistent with the approved CAP, Board regulations, and the Act.
3. The Board directs Marine Bank to file a statement of legal fees that may be eligible for reimbursement and its arguments why the Board should exercise its discretion to order reimbursement of legal fees from the UST fund. Marine Bank must file the request by Monday, January 5, 2026, which is the first business day following the 30th day after the date of this order. The Agency may file a response within 14 days after being served with Marine Bank's statement.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above interim opinion and order on December 4, 2025, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board