

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

ILLICO INDEPENDENT OIL CO.,)
Petitioner,)
v.) PCB _____
) (LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

NOTICE OF FILING AND PROOF OF SERVICE

To:	John T. Therriault, Acting Clerk	Division of Legal Counsel
	Illinois Pollution Control Board	Illinois Environmental Protection Agency
	100 West Randolph Street	1021 North Grand Avenue East
	State of Illinois Building, Suite 11-500	P.O. Box 19276
	Chicago, IL 60601	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 (d), 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 22nd day of June, 2017.

Respectfully submitted,
ILLICO INDEPENDENT OIL CO.,
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLICO INDEPENDENT OIL CO.,)	
Petitioner,)	
)	
v.)	PCB _____
)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

PETITION FOR REVIEW OF AGENCY LUST DECISION

NOW COMES Petitioner, ILLICO INDEPENDENT OIL CO., 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, modifying a plan and budget, stating as follows:

1. Petitioner has owned and operated an active service station in the City of Peoria, County of Peoria, Illinois, which has been assigned LPC # 1430655263.
2. On December 3, 1992, releases were reported from five underground storage tanks at the site, consisting of three 12,000 gallon gasoline tanks, one 12,000 gallon diesel fuel tank, and one 6,000 gallon kerosene tank. These releases were assigned Incident Number 1992-0569.
3. On November 15, 1993, the Office of the State Fire Marshal issued an eligibility and deductibility determination finding the owner/operator eligible for reimbursement for corrective action costs for the five tanks.
4. Ownership of the property and the tanks changed hands over the years, and in December 14, 2015, Illico Independent Oil Company, through its consultant submitted a corrective action plan and budget, which proposed in relevant part to remove the five underground storage tanks and their associated piping, and with access gained by the removal of

the tanks, excavate and dispose of surrounding soils contaminated above site-specific Tier 2 site remediation objectives.

5. On December 30, 2015, the Office of the State Fire Marshal issued an eligibility and deductibility determination to Illico Independent Oil Company finding it eligible for corrective action costs for the five tanks.

6. Starting in January of 2016, the five tanks and associated pipes were removed, and pumped of remaining residual free product. Residual highly contaminated groundwater and groundwater exhibiting a sheen was encountered in the excavation pit and removed with a vacuum pump. Contaminated soils in excess of the site-specific Tier 2 soil remediation objectives were removed and confirmation soil samples were taken.

7. Due to the continuing presence of contamination revealed at the time of the tank removals, Incident Number 2016-0095 was reported.

8. On November 29, 2016, the Illinois EPA rejected the corrective action plan solely for the reason that the reviewer questioned whether the soils were shown to be above Tier 2 remediation objectives.

9. On January 16, 2017, Petitioner, through its consultant submitted a new corrective action plan and budget, pursuant to 415 ILCS 5/57.7(e), which authorizes the filing of a corrective action plan and budget after corrective action is performed.

10. The submittal provided new analytical support for the conclusion that soil contamination immediately adjacent to the underground storage tank pit is above site-specific Tier 2 remediation objectives, and information about corrective action activities performed.

11. On May 17, 2017, the Illinois EPA issued its decision, modifying the corrective

action plan and budget. A true and correct copy of the letter is attached hereto as Exhibit A.

12. While the letter contains numerous modifications, the issue raised in this appeal is modification number 12, and those modifications to the plan and budget premised on it:

The owner/operator shall not remove the underground storage tanks (USTs), piping, and pump islands because the owner/operator has not demonstrated that the USTs, piping, and pump islands must be removed to access backfill/soil that contains contaminants at concentrations greater than the Tier 2 remediation objectives.

13. Pursuant to Board regulations, eligible corrective action costs expressly include:

The removal and disposal of any UST if a release of petroleum from the UST was identified and IEMA was notified prior to its removal, with the exception of any UST deemed ineligible by the OSFM;

(35 Ill. Adm. Code § 734.625(a)(12))

14. Each tank removed in the budget had a release reported prior to its removal and had been deemed eligible by the OSFM. Accordingly, neither the Act, nor the Board regulations, would be violated by approving the removal of these tanks.

15. While eligibility for the cost of removing and disposing of underground storage tanks is not conditioned on demonstrating need to access contaminated soils, in the alternative, removal of the tanks was necessary to eliminate the source of the contaminated soils and to access and remove soils contaminated above the Tier 2 site remediation objectives.

16. In addition, while pump islands are not considered underground storage tanks in the Board's regulations, no special costs were incurred in relation to any because reimbursement was only sought for replacement of concrete. There is no rational basis to preclude removal of pump islands above soil to be removed, while approving payment for concrete replacement above soil to be removed.

17. The subject Illinois EPA letter was received by certified mail on May 19, 2017, which is 34 days from the date this appeal is being filed, and therefore timely.

WHEREFORE, Petitioner, ILLICO INDEPENDENT OIL CO., 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 remove modification #12 from the Corrective Action Plan, and all associated modifications to the plan and budget based upon it, (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.

ILLICO INDEPENDENT OIL CO.,
Petitioner

By its attorneys,
LAW OFFICE OF PATRICK D. SHAW

By: /s/ Patrick D. Shaw

Patrick D. Shaw
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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

BRUCE RAUNER, GOVERNOR

ALEC MESSINA, DIRECTOR

(217) 524-3300

CERTIFIED MAIL

MAY 17 2017

7014 2120 0002 3286 8729

Mr. David Golwitzer
Illico Independent Oil Co.
2201 Woodlawn Rd., Suite 600
Lincoln, IL 62656

Re: LPC #1430655263 – Peoria County
Peoria/Illico Independent Oil Co.
3712 N. University St.
Leaking UST Incident #923441
Leaking UST Technical File

Dear Mr. Golwitzer:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan and Corrective Action Plan Budget submitted for the above-referenced incident. The Corrective Action Plan dated 01/16/2017 was received by the Illinois EPA on 01/17/2017. The Corrective Action Plan Budget is located in ATTACHMENT 2 of the Corrective Action Plan.

Pursuant to Subsections 57.7(b)(2) and 57.7(c) of the Environmental Protection Act [(415 ILCS 5) (Act)] and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.505(b) and 734.510(a), the Corrective Action Plan is modified. The Illinois EPA has determined that the modifications listed in Attachment A of this letter are necessary to demonstrate compliance.

Pursuant to Subsections 57.7(b)(3) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b), the Corrective Action Plan Budget is modified. Based on the modifications listed in Section 2 of Attachment B of this letter, the Corrective Action Plan Budget is approved for the amounts listed in Section 1 of Attachment B of this letter. However, it should be noted that the amount of payment from the Underground Storage Tank Fund (Fund) may be limited by Subsections 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.

Pursuant to Subsection 57.8(a)(5) of the Act, if payment from the Fund will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended Corrective Action Plan Budget must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs that have not been approved prior to the issuance of an NFR Letter will not be paid from the Fund.

Pursuant to 35 Ill. Adm. Code 734.145, the owner/operator must notify the Illinois EPA of the corrective action field activities prior to the date the field activities take place. This notification must include a description of the field activities to be conducted; the name of the person

4302 N. Main St., Rockford, IL 61103 (815)987-7760
595 S. State, Elgin, IL 60123 (847)608-3131
2125 S. First St., Champaign, IL 61820 (217)278-5800
2009 Mall St., Collinsville, IL 62234 (618)346-5120

9511 Harrison St., Des Plaines, IL 60016 (847)400-4000
412 S.W. Washington St., Suite D, Peoria, IL 61602 (309)671-1000
2309 W. Main St., Suite 116, Marion, IL 62959 (317)952-7310
100 W. Randolph, Suite 10-300, Chicago, IL 60601 (312)467-7000

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conducting the field activities; and the date, time, and place the field activities will be conducted. This notification may be done by facsimile or electronic mail and must be provided at least two weeks prior to the scheduled field activities.

Pursuant to Subsections 57.7(b), 57.12(c), and 57.12(d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires that a Corrective Action Completion Report be submitted within 30 days after completion of the Corrective Action Plan to:

Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
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/operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

If you have any questions or need assistance, please contact Trent Benanti at (217) 524-4649.

Sincerely,



Michael T. Lowder
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

Attachments (3): Attachment A
Attachment B
Appeal Rights

c: BOL File

Attachment A

Re: LPC #1430655263 – Peoria County
Peoria/Illico Independent Oil Co.
3712 N. University St.
Leaking UST Incident #923441
Leaking UST Technical File

The modifications listed below are necessary to demonstrate compliance.

- 1) The Corrective Action Plan contains errors. Please contact Trent Benanti at (217) 524-4649 for more details, and correct the errors.
- 2) The indicator contaminants for Leaking UST Incident #923441 shall be benzene, toluene, ethylbenzene, and total xylenes (collectively referred to as BTEX) and polynuclear aromatic hydrocarbons (PNAs).
- 3) The mass-limit acreage shall be 2 acres.
- 4) The exposure interval for the mass-limit volatilization factor (T_{M-L}) for the industrial-commercial population shall be 25 yr. The exposure interval for the mass-limit volatilization factor (T_{M-L}) for the construction worker population shall be 1 yr.
- 5) The dry soil bulk density (ρ_b) shall be 1.684 g/cm^3 .
- 6) The Tier 2 remediation objectives for benzene for the outdoor inhalation exposure route for the residential, industrial-commercial, and construction worker populations shall be 16,400 $\mu\text{g/kg}$, 31,400 $\mu\text{g/kg}$, and 44,200 $\mu\text{g/kg}$, respectively.
- 7) The calculated soil saturation limits for toluene, ethylbenzene, and total xylenes shall be 1,607,000 $\mu\text{g/kg}$, 1,009,000 $\mu\text{g/kg}$, and 806,000 $\mu\text{g/kg}$, respectively.
- 8) The Tier 2 remediation objectives for ethylbenzene, total xylenes, and naphthalene for the soil component of the groundwater ingestion exposure route shall be 83,000 $\mu\text{g/kg}$, 806,000 $\mu\text{g/kg}$, and 26,000 $\mu\text{g/kg}$, respectively.
- 9) The Tier 2 remediation objectives for total xylenes for the outdoor inhalation exposure route for the residential, industrial-commercial, and construction worker populations shall be 806,000 $\mu\text{g/kg}$, 806,000 $\mu\text{g/kg}$, and 600,000 $\mu\text{g/kg}$.
- 10) The Tier 2 remediation objective for naphthalene for the outdoor inhalation exposure route for the construction worker population shall be 11,000 $\mu\text{g/kg}$.
- 11) The owner/operator shall remove the soil samples collected from SB-4, SB-5, SB-9, SB-10, MW-6, and MW-7 from TABLE I.

- 12) The owner/operator shall not remove the underground storage tanks (USTs), piping, and pump islands because the owner/operator has not demonstrated that the USTs, piping, and pump islands must be removed to access backfill/soil that contains contaminants at concentrations greater than the Tier 2 remediation objectives.
- 13) The owner/operator may excavate, transport, and dispose of 280 yd³ of soil.
 - a) The owner/operator may excavate, transport, and dispose of the bottom 3' of soil in the green zone. See FIGURE 2 and FIGURE 3.
 - b) The owner/operator shall return the top 5' of soil in the green zone to the excavation. See FIGURE 2 and FIGURE 3.
 - c) The owner/operator may excavate, transport, and dispose of the bottom 4' of soil in the blue zone. See FIGURE 2 and FIGURE 3.
 - d) The owner/operator shall return the top 4' of soil in the blue zone to the excavation. See FIGURE 2 and FIGURE 3.
 - e) The owner/operator shall not excavate, transport, and dispose of the backfill/soil in the orange zone because the owner/operator has not demonstrated that the backfill/soil in the orange zone contains contaminants at concentrations greater than the Tier 2 remediation objectives. See FIGURE 2 and FIGURE 3.
- 14) Where the excavation is 8' deep, the owner/operator shall collect samples from the excavation floor.
 - a) The Corrective Action Plan states that the contractor was able to excavate to 8' below ground surface (BGS) without making significant contact with the saturated zone.
- 15) The owner/operator shall return 313 yd³ of soil to the excavation.
 - a) The owner/operator shall return the top 5' of soil in the green zone to the excavation. See FIGURE 2 and FIGURE 3.
 - b) The owner/operator shall return the top 4' of soil in the blue zone to the excavation. See FIGURE 2 and FIGURE 3.
- 16) The owner/operator may purchase, transport, and place 280 yd³ of clean backfill. See items #12, #13, and #15 above.

- 17) The owner/operator may replace 1,956 ft² of concrete.
 - a) The owner/operator may replace 616 ft² of concrete over the green zone. See FIGURE 2 and FIGURE 3.
 - b) The owner/operator may replace 1,340 ft² of concrete over the blue zone. See FIGURE 2 and FIGURE 3.
 - c) The owner/operator shall not replace 2,670 ft² of concrete over the orange zone because the owner/operator has not demonstrated that the USTs, piping, and pump islands must be removed to access backfill/soil that contains contaminants at concentrations greater than the Tier 2 remediation objectives. See FIGURE 2 and FIGURE 3.
- 18) The owner/operator shall demonstrate that the concentrations of the organic contaminants of concern remaining in the soil will not exceed the attenuation capacity of the soil.
- 19) The proposed institutional controls shall cover the modeled extent of the groundwater contamination.
 - a) FIGURE 5A and FIGURE 5B, which were attached to the email dated 04/08/2016, show the modeled extent of the groundwater contamination. According to said site maps, the modeled extent of the groundwater contamination includes more than N. University St., W. War Memorial Dr., and 3721 N. University St. However, the Corrective Action Plan states that the owner/operator will pursue Highway Authority Agreements (HAAs) with the City of Peoria and the Illinois Department of Transportation (IDOT) for N. University St. and W. War Memorial Dr. In addition, the owner/operator will demonstrate an inability to obtain access to 3721 N. University St. despite best efforts.
 - b) The proposed institutional controls shown on FIGURE 2 do not cover the modeled extent of the groundwater contamination.
- 20) The owner/operator shall submit the Corrective Action Completion Report to the Illinois Environmental Protection Agency (Illinois EPA) on a current version of the technical form. The owner/operator shall fill out the technical form, save the technical form to his/her local drive, print the technical form, and sign the technical form. The owner/operator shall not retype the technical form.
 - a) The owner/operator submitted the Corrective Action Plan to the Illinois EPA on an outdated version of the technical form.
 - b) The owner/operator retyped the technical form.

- 21) The owner/operator may abandon the following monitoring wells after receipt of the No Further Remediation (NFR) Letter: MW-2, MW-3, MW-4R, MW-5, MW-6, MW-7, MW-9, MW-10, MW-11, MW-12, MW-13, and MW-14.
- a) Monitoring wells MW-1 and MW-15 cannot be located or have been destroyed.
 - b) The Illinois EPA does not have a soil boring log or monitoring well construction diagram for MW-8. Therefore, said monitoring well has not been used to investigate Leaking UST Incident #923441.

Attachment B

Re: LPC #1430655263 – Peoria County
Peoria/Illico Independent Oil Co.
3712 N. University St.
Leaking UST Incident #923441
Leaking UST Technical File

Section 1

Based on the modifications listed in Section 2 of this Attachment B, the Corrective Action Plan Budget is approved for the following amounts:

\$ 2,187.20	Drilling and Monitoring Well Costs
\$ 3,737.84	Analytical Costs
\$29,237.58	Remediation and Disposal Costs
\$ 0.00	UST Removal and Abandonment Costs
\$12,730.02	Paving, Demolition, and Well Abandonment Costs
\$29,922.32	Consulting Personnel Costs
\$ 401.90	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois Environmental Protection Agency (Illinois EPA). The amount of allowable handling charges will be determined in accordance with Subsection 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) The approved corrective action does not include removal of the underground storage tanks (USTs), piping, pump islands, or backfill/soil in the orange zone, and the Illinois EPA is unable to determine how many of the thirty-eighty budgeted soil samples are associated with removal of the USTs, piping, pump islands, and backfill/soil in the orange zone. Therefore, the Illinois EPA deducted all of the budgeted soil samples. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Underground Storage Tank Fund (Fund).
- 2) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The soil samples were collected between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for BTEX analysis shall be \$105.33/analysis.

- 3) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The soil samples were collected between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for PNA analysis shall be \$188.36/analysis.
- 4) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The soil samples were collected between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for an Encore[®] Sampler, purge-and-trap sampler, or equivalent sampling device shall be \$12.39/sampler.
- 5) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The waste characterization sample was collected between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for flash point or ignitability analysis shall be \$40.88/analysis.

The Illinois EPA reduced the unit rate for flash point or ignitability analysis to \$40.88/analysis. Pursuant to 35 Ill. Adm. Code 734.630(zz), costs that exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H are ineligible for payment from the Fund. In addition, such costs are not approved because they are not reasonable (Subsection 57.7(c)(3) of the Act).

- 6) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The waste characterization sample was collected between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for paint filter (free liquids) analysis shall be \$17.35/analysis.

The Illinois EPA reduced the unit rate for paint filter (free liquids) analysis to \$17.35/analysis. Pursuant to 35 Ill. Adm. Code 734.630(zz), costs that exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H are ineligible for payment from the Fund. In addition, such costs are not approved because they are not reasonable (Subsection 57.7(c)(3) of the Act).

- 7) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The waste characterization sample was collected between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for soil preparation for TCLP metals analysis shall be \$97.89/sample.

The Illinois EPA reduced the unit rate for soil preparation for TCLP metals analysis to \$97.89/sample. Pursuant to 35 Ill. Adm. Code 734.630(zz), costs that exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H are ineligible for payment from the Fund. In addition, such costs are not approved because they are not reasonable (Subsection 57.7(c)(3) of the Act).

- 8) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The waste characterization sample was collected between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for TCLP lead analysis shall be \$19.82/analysis.

The Illinois EPA reduced the unit rate for TCLP lead analysis to \$19.82/analysis. Pursuant to 35 Ill. Adm. Code 734.630(zz), costs that exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H are ineligible for payment from the Fund. In addition, such costs are not approved because they are not reasonable (Subsection 57.7(c)(3) of the Act).

- 9) The approved corrective action does not include removal of the USTs, piping, pump islands, or backfill/soil in the orange zone, and the Illinois EPA is unable to determine how many of the six budgeted soil sampling events are associated with removal of the USTs, piping, pump islands, and backfill/soil in the orange zone. Therefore, the Illinois EPA deducted the sample shipping costs associated with all of the budgeted soil sampling events. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.
- 10) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The soil samples were collected between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for sample shipping shall be \$61.96/soil sampling event.
- 11) The approved corrective action includes excavation, transportation, and disposal of 280 yd³ of soil. However, the Remediation & Disposal Costs Form includes costs associated with excavation, transportation, and disposal of 1,518 yd³ of soil. Therefore, the Illinois EPA deducted costs associated with excavation, transportation, and disposal of 1,238 yd³ of soil. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.

- 12) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The excavation, transportation, and disposal of soil were completed between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for excavation, transportation, and disposal of soil shall be \$70.63/yd³.

The Illinois EPA reduced the unit rate for excavation, transportation, and disposal of soil to \$70.63/yd³. Pursuant to 35 Ill. Adm. Code 734.630(zz), costs that exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H are ineligible for payment from the Fund. In addition, such costs are not approved because they are not reasonable (Subsection 57.7(c)(3) of the Act).

- 13) The approved corrective action includes the purchase, transportation, and placement of 280 yd³ of clean backfill. However, the Remediation & Disposal Costs Form includes costs associated with the purchase, transportation, and placement of 1,839 yd³ of soil. Therefore, the Illinois EPA deducted costs associated with the purchase, transportation, and placement of 1,559 yd³ of clean backfill. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.

- 14) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The purchase, transportation, and placement of clean backfill were completed between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for the purchase, transportation, and placement of clean backfill shall be \$24.78/yd³.

The Illinois EPA reduced the unit rate for the purchase, transportation, and placement of clean backfill to \$24.78/yd³. Pursuant to 35 Ill. Adm. Code 734.630(zz), costs that exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H are ineligible for payment from the Fund. In addition, such costs are not approved because they are not reasonable (Subsection 57.7(c)(3) of the Act).

- 15) The approved corrective action includes the return of 313 yd³ of soil to the excavation. However, the Remediation & Disposal Costs Form includes costs associated with the return of 114 yd³ of soil to the excavation. Therefore, the Illinois EPA added costs associated with the return of 199 yd³ of soil to the excavation.

- 16) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The overburden was returned to the excavation between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for the return of overburden to the excavation shall be \$8.06/yd³.

The Illinois EPA reduced the unit rate for the return of overburden to the excavation to \$8.06/yd³. Pursuant to 35 Ill. Adm. Code 734.630(zz), costs that exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H are ineligible for payment from the Fund. In addition, such costs are not approved because they are not reasonable (Subsection 57.7(c)(3) of the Act).

- 17) According to the Corrective Action Plan, the contractor was able to excavate to 8' below ground surface (BGS) without making significant contact with the saturated zone. Therefore, all of the budgeted groundwater removal and disposal costs are associated with removal of the USTs, piping, pump islands, and backfill/soil in the orange zone. The approved corrective action does not include removal of the USTs, piping, pump islands, or backfill/soil in the orange zone. Therefore, the Illinois EPA deducted all of the budgeted groundwater removal and disposal costs. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.

- 18) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The groundwater was removed and disposed of between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for removal and disposal of groundwater shall be \$0.84/gal.

- 19) The approved corrective action does not include removal of the USTs, piping, pump islands, or backfill/soil in the orange zone. Therefore, the Illinois EPA deducted the costs associated with removal of the USTs. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.

- 20) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The USTs were removed on 01/28/2016 and 01/29/2016. Therefore, the applicable maximum payment amount for UST removal shall be \$3,903.30/UST.

- 21) The approved corrective action includes replacement of 1,956 ft² of concrete. However, the Paving, Demolition, and Well Abandonment Costs Form includes costs associated with replacement of 4,626 ft² of concrete. Therefore, the Illinois EPA deducted costs associated with replacement of 2,670 ft² of concrete. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.

- 22) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The concrete was replaced between 07/01/2015 and 06/30/2016. Therefore, the applicable maximum payment amount for replacement of concrete shall be \$5.41/ft².

The Illinois EPA reduced the unit rate for replacement of concrete to \$5.41/ft². Pursuant to 35 Ill. Adm. Code 734.630(zz), costs that exceed the maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H are ineligible for payment from the Fund. In addition, such costs are not approved because they are not reasonable (Subsection 57.7(c)(3) of the Act).

- 23) The Illinois EPA approved well abandonment costs associated with the following wells:

Monitoring Well ID	Depth (ft)
MW-2	15.00
MW-3	16.00
MW-4R	15.00
MW-5	15.00
MW-6	18.00
MW-7	14.00
MW-9	13.09
MW-10	12.88
MW-11	13.14
MW-12	12.95
MW-13	13.34
MW-14	13.17

Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund. In addition, pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(cc), costs that lack supporting documentation are ineligible for payment from the Fund.

- 24) The approved corrective action does not include removal of the USTs, piping, pump islands, or backfill/soil in the orange zone, and the Illinois EPA is unable to determine how many of the one hundred five budgeted senior project manager hours are associated with removal of the USTs, piping, pump islands, and backfill/soil in the orange zone. Therefore, the Illinois EPA deducted all one hundred five budgeted senior project manager hours. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.
- 25) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The USTs were removed on 01/28/2016 and 01/29/2016. Therefore, the applicable maximum payment amount for a senior project manager shall be \$123.91/hr.

26) The approved corrective action does not include removal of the USTs, piping, pump islands, or backfill/soil in the orange zone, and the Illinois EPA is unable to determine how many of the eighty budgeted project manager hours are associated with removal of the USTs, piping, pump islands, and backfill/soil in the orange zone. Therefore, the Illinois EPA deducted all eighty budgeted project manager hours. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.

27) Pursuant to 35 Ill. Adm. Code 734.870(d)(2), for costs not approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred. The USTs were removed on 01/28/2016 and 01/29/2016. Therefore, the applicable maximum payment amount for a project manager shall be \$111.52/hr.

28) The Consultant's Materials Costs Form contains costs associated with the following materials, activities, and services that do not have maximum payment amounts set forth in 35 Ill. Adm. Code 734.Subpart H: mileage, field and decon equipment, photoionization detector (PID), latex gloves, water level indicator, No Further Remediation (NFR) Letter recording costs, magnetic locator, and disposable bailers and string. Pursuant to 35 Ill. Adm. Code 734.850(b), the maximum payment amounts for materials, activities, and services that do not have maximum payment amounts set forth in other Sections of 35 Ill. Adm. Code 734.Subpart H must be determined by the Illinois EPA on a site-specific basis, and the owner/operator must demonstrate to the Illinois EPA that the costs being sought are reasonable.

When the owner/operator has not provided supporting documentation to justify the unit rate for the mileage, the Illinois EPA will reduce the unit rate for the mileage to \$0.535/mi. The owner/operator has not provided supporting documentation to justify the unit rate for the mileage. Therefore, the Illinois EPA reduced the unit rate for the mileage to \$0.535/mi.

When the owner/operator has not provided supporting documentation to justify the unit rates for the field and decon equipment, PID, latex gloves, water level indicator, magnetic locator, and disposable bailers and string, the Illinois EPA may deduct the costs. The owner/operator has not provided supporting documentation to justify the unit rates for the field and decon equipment, PID, latex gloves, water level indicator, magnetic locator, and disposable bailers and string. Therefore, the Illinois EPA deducted the costs associated with the field and decon equipment, latex gloves, and disposable bailers and string. The Illinois EPA did not deduct the costs associated with the water level indicator and magnetic locator because the Illinois EPA determined that the costs being sought are reasonable. Please note that the Illinois EPA determined that the unit rate for the PID is reasonable. However, the Illinois EPA deducted the costs associated with the PID for the reason listed in item #31 below.

The Illinois EPA did not deduct the NFR Letter recording costs because the owner/operator will have to provide receipts as part of the billing package.

- 29) The approved corrective action does not include removal of the USTs, piping, pump islands, or backfill/soil in the orange zone, and the Illinois EPA is unable to determine how many of the seven budgeted round trips are associated with removal of the USTs, piping, pump islands, and backfill/soil in the orange zone. Therefore, the Illinois EPA deducted all seven budgeted round trips. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.
- 30) The approved corrective action does not include removal of the USTs, piping, pump islands, or backfill/soil in the orange zone., and the Illinois EPA is unable to determine how many of the budgeted field and decon equipment days are associated with removal of the USTs, piping, pump islands, and backfill/soil in the orange zone. Therefore, the Illinois EPA deducted all of the budgeted field and decon equipment days. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.
- 31) The approved corrective action does not include removal of the USTs, piping, pump islands, or backfill/soil in the orange zone, and the Illinois EPA is unable to determine how much of the budgeted PID costs are associated with removal of the USTs, piping, pump islands, and backfill/soil in the orange zone. Therefore, the Illinois EPA deducted all of the budgeted PID costs. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.
- 32) The approved corrective action does not include removal of the USTs, piping, pump islands, or backfill/soil in the orange zone, and the Illinois EPA is unable to determine how many of the budgeted latex gloves are associated with removal of the USTs, piping, pump islands, and backfill/soil in the orange zone. Therefore, the Illinois EPA deducted all of the budgeted latex gloves. Pursuant to Subsection 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b), costs that are inconsistent with the associated technical plan are ineligible for payment from the Fund.

Appeal Rights

Pursuant to Section 40 and Subsection 57.7(c)(4) of the Environmental Protection Act [(415 ILCS 5) (Act)], an underground storage tank owner/operator may appeal this final decision to the Illinois Pollution Control Board 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 of time not to exceed 90 days by written notice from the owner/operator and the Illinois EPA within the initial 35-day appeal period. If the owner/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:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois 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
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544

