

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

YONGXIN ENTERPRISES, INC.,)
 Petitioner,)
 v.) PCB: _____
) (LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
 Respondent.)

NOTICE OF FILING AND PROOF OF SERVICE

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|--|--|
| 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 27th day of April, 2018.

Respectfully submitted,
YONGXIN ENTERPRISES, INC.,
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

| | | |
|----------------------------|---|----------------------|
| YONGXIN ENTERPRISES, INC., |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB _____ |
| |) | (LUST Permit Appeal) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| Respondent. |) | |

PETITION FOR REVIEW OF AGENCY LUST DECISION

NOW COMES Petitioner, YONGXIN ENTERPRISES, INC., pursuant to Section 57.8(I) of the Illinois Environmental Protection Act, 415 ILCS 5/57.8(I), and hereby appeals the Agency’s final decision, refusing to pay in full an application for payment, stating as follows:

1. Petitioner is the owner or operator of a service station in the City of Sesser, County of Franklin, Illinois, which has been assigned LPC # 0550450001.
2. On June 9, 2017, a release was reported at the facility from one 10,000 gallon gasoline underground storage tank and one 4,000 gallon kerosene underground storage tank, which was assigned Incident Number 2017-0478.
3. Thereafter, Petitioner performed initial abatement measures and reported the 20-Day Certification to the Illinois Environmental Protection Agency (hereinafter “Illinois EPA”).
4. On June 16, 2017, Petitioner applied to the Office of the State Fire Marshall (hereinafter “OSFM”) for permission to remove the kerosene tank and abandon the gasoline tank in place, which was granted.
5. On July 19, 2017, the gasoline tank was properly abandoned in place and the kerosene tank was removed and properly disposed. Visibly contaminated fill material was removed as well as groundwater in the excavation that exhibited a sheen.

6. An OSFM representative was present during the removal of the kerosene tank and reported in the OSFM log that contamination was present in the tank floor, backfill, walls and pipe trench, as well as that there was groundwater in the excavation.

7. On July 5, 2017, the OSFM issued an eligibility and deductible determination finding Petitioner eligible to seek payment of costs in excess of \$5,000 for costs associated with the occurrence associated with the above gasoline and kerosene tanks.

8. On August 1, 2017, Petitioner submitted the 45-day report, which included a Stage 1 Site Investigation Plan and Budget certification. The report found that the most stringent Tier 1 remediation objectives had not been met and included analytical results showing the presence of PNAs in the native soil surrounding the kerosene tank.

9. On August 17, 2017, the Illinois EPA approved the 45-day Report.

10. However, at the same time the Illinois EPA modified the Stage 1 Site Plan to provide for sampling only around the gasoline underground storage tank and not around the kerosene underground storage tank for the purported reason that “[t]here does not appear to have been a release from the 4,000-gallon kerosene tank due to no supporting documentation of a confirmed release.”

11. The modification to the Stage 1 Site Plan has been appealed to the Board in Yongxin Enterprises, Inc. v. Illinois EPA, PCB 2018-019.

12. On November 15, 2017, Petitioner, through its consultant, submitted an application for payment for early action activities, detailing \$69,986.59 in costs.

13. On March 23, 2018, the Illinois EPA issued its final decision, cutting \$37,078.01 in early action costs. A true and correct copy of the decision is attached hereto as Exhibit A.

14. Over \$36,000 in cuts appear to be based solely on the Illinois EPA's erroneous belief that there was not a release from the kerosene tank.

15. The Agency is wrong in this belief because the 45-Day Report, which it approved, contained information confirming a release from the kerosene tank, and the OSFM independently determined there had been a release. The Agency appears to be under the erroneous belief that Tier 1 Residential soil objectives must be exceeded in order for there to have been a release. As the Board has explained, "a 'release' is not limited to exceedences of remediation objectives."

Prime Location Properties v. Illinois EPA, PCB 09-67, slip op. at p. 31 (Aug. 20, 2009)

Furthermore, during early action, the owner may remove "visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen." (415 ILCS 5/57.6(b))

16. Furthermore, the Illinois EPA erroneously conducted its review pursuant to Section 57.7 of the Act, which governs the review of plans and budgets. (415 ILCS 5/57.7(c)(3)) A review of an application for payment determines whether the costs have been expended; it is subject to Section 57.8 of the Act and Part 734 Subpart F of the Board rules. City of Benton Fire Department v. IEPA, PCB 17-01, slip op. at 5 (Feb. 22, 2018).

17. In all respects the payment application contained the documentation required of payment applications and the costs were at rates that would not exceed any Board regulation.

18. Furthermore, the Board had held that use of a digital camera is a reimbursable cost. Knapp v. Illinois EPA, PCB 2016-103, slip op at pp. 6-7 (Sept. 22, 2016). It was used herein to provide evidence of visible contamination in the excavation and the sheen on the water.

19. The subject Illinois EPA letter was received by certified mail on March 26, 2018, and therefore the appeal deadline is April 30, 2018, and this appeal is thus timely.

WHEREFORE, Petitioner, YONGXIN ENTERPRISES, INC., 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 the application for payment 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.

YONGXIN ENTERPRISES, INC.,
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
BRUCE RAUNER, GOVERNOR ALEC MESSINA, DIRECTOR

217/524-3300

CERTIFIED MAIL #

MAR 23 2018

7017 2680 0001 0213 0028

Yongxin Enterprise, Inc.
Attn: Chase Environmental Group, Inc.
111 Kate Street
Carterville, IL 62918

Re: LPC #0550450001 -- Franklin County
Sesser / Yongxin Enterprise, Inc.
Route 148
Incident-Claim No.: 20170478 -- 68867
Queue Date: November 27, 2017
Leaking UST Fiscal File

Dear Mr. Ahuja:

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 November 15, 2017 and was received by the Illinois EPA on November 27, 2017. The application for payment covers the period from June 9, 2017 to August 2, 2017. The amount requested is \$69,986.59.

On November 27, 2017, 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 \$27,908.58 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 for this claim is \$5,000.00, which was previously withheld from your payment(s). 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.

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)294-4120
412 SW Washington St., Suite D, Peoria, IL 61602
2309 W. Main St., Suite 116, Marion, IL 62959 (618)338-3388
100 W. Randolph, Suite 10-300, Chicago, IL 60606

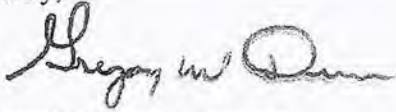


Page 2

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 Melissa Owens of my staff at (217)785-9351.

Sincerely,



Gregory W. Dunn, Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

GWD:mao



Attachments

c: Yongxin Enterprise, Inc.
Leaking UST Claims Unit

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 of time 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
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544

Attachment A
Deductions

Re: LPC #0550450001 -- Franklin County
Sesser / Yongxin Enterprise, Inc.
Route 148
Incident-Claim No.: 20170478 -- 68867
Queue Date: November 27, 2017
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. \$1,056.00, deduction for costs for Analytical, 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 addition, the costs are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and/or will 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.

In addition, the 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).

In addition, the costs are associated with the treatment or disposal of soil that does not exceed the applicable remediation objectives for the release. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(tt). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.

Finally, the costs are associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA. Such costs are ineligible for payment from the Fund pursuant to Section 57.9(a)(5) of the Act and 35 Ill. Adm. Code 734.630(x). An owner or operator is eligible to access the Fund if (among other criteria) the owner or operator notified the IEMA of a confirmed release and the costs were incurred after the notification was made.

11 BETX at \$96.00 each are being cut.

2. \$18,568.00, deduction for costs for ETD and backfill, 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 addition, the costs are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and/or will 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.

In addition, the 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).

In addition, the costs are associated with the treatment or disposal of soil that does not exceed the applicable remediation objectives for the release. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(tt). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.

Finally, the costs are associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA. Such costs are ineligible for payment from the Fund pursuant to Section 57.9(a)(5) of the Act and 35 Ill. Adm. Code 734.630(x). An owner or operator is eligible to access the Fund if (among other criteria) the owner or operator notified the IEMA of a confirmed release and the costs were incurred after the notification was made.

ETD, Backfill and Groundwater Removal are being cut.

3. \$3,981.75, deduction for costs for ETD and backfill, 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 addition, the costs are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for

justifiable activities, materials, or services. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and/or will 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.

In addition, the 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).

In addition, the costs are associated with the treatment or disposal of soil that does not exceed the applicable remediation objectives for the release. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(tt). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.

Finally, the costs are associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA. Such costs are ineligible for payment from the Fund pursuant to Section 57.9(a)(5) of the Act and 35 Ill. Adm. Code 734.630(x). An owner or operator is eligible to access the Fund if (among other criteria) the owner or operator notified the IEMA of a confirmed release and the costs were incurred after the notification was made.

Costs for removal of the kerosene UST are being cut.

4. \$2,580.60, deduction for costs for concrete, 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 addition, the costs are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and/or will 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.

In addition, the 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).

In addition, the costs are associated with the treatment or disposal of soil that does not exceed the applicable remediation objectives for the release. Such costs are ineligible

for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(tt). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.

Finally, the costs are associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA. Such costs are ineligible for payment from the Fund pursuant to Section 57.9(a)(5) of the Act and 35 Ill. Adm. Code 734.630(x). An owner or operator is eligible to access the Fund if (among other criteria) the owner or operator notified the IEMA of a confirmed release and the costs were incurred after the notification was made.

Costs for 467.50 square feet of concrete are being cut.

5. \$7,879.92, deduction for costs for Consulting Personnel, 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 addition, the costs are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and/or will 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.

In addition, the 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).

In addition, the costs are associated with the treatment or disposal of soil that does not exceed the applicable remediation objectives for the release. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(tt). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.

Finally, the costs are associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA. Such costs are ineligible for payment from the Fund pursuant to Section 57.9(a)(5) of the Act and 35 Ill. Adm. Code 734.630(x). An owner or operator is eligible to access the Fund if (among other criteria) the owner or operator notified the IEMA of a confirmed release and the costs were incurred after the notification was made.

The following Consulting Personnel items are being cut:

- a. \$125.15, 1 hour for Duane Doty as a Senior Project Manager at \$125.15 per hour for Perry Ridge Landfill profile docs for acceptance of contaminated UST backfill material.
- b. \$187.71, 1.50 hours for Duane Doty as a Senior Project Manager at \$125.15 per hour to Apply for and secure OSFM UST Removal and Abandonment Permits.
- c. \$252.80, 2 hours for Duane Doty as a Senior Project Manager at \$126.40 per hour to secure landfill acceptance of contaminated UST backfill material.
- d. \$189.60, 1.50 hours for Duane Doty as a Senior Project Manager at \$126.40 per hour to coordinate UST removal and abandonment field activities.
- e. \$379.20, 3 hours for Marvin Johnson as a Senior Project Manager at \$126.40 per hour to secure vendors and subcontractors for UST removal/abandonment and waste disposal.
- f. \$1,279.26, 11.50 hours for Duane Doty as a Geologist III at \$111.24 per hour to document UST abandonment and removal activities, sample collection, site mapping.
- g. \$1,327.20, 10.50 hours for Marvin Johnson as a Senior Project Manager at \$126.40 per hour to direct, supervise, document Early Action UST removal and abandonment activities and gather field data.
- h. \$1,200.80, 9.50 hours for Duane Doty as a Senior Project Manager at \$126.40 per hour to direct, supervise, document Early Action UST backfill abatement activities and gather field data.
- i. \$834.30, 7.50 hours for Kelly Tensmeyer as a Geologist III at \$111.24 per hour to document UST backfill abatement activities, sample collection, site mapping.
- j. \$126.40, 1.00 hour for Marvin Johnson as a Senior Project Manager at \$126.40 per hour to coordinate Early Action field activities, secure/schedule subcontractors and vendors.
- k. \$271.10, 3.30 hours for Kelly Tensmeyer as a Senior Technician at \$82.15 per hour for soil sample preparation and delivery.
- l. \$632.00, 5.00 hours for Duane Doty as a Senior Project Manager at \$126.40 per hour to direct, supervise, document Early Action excavation backfilling activities and gather field data.
- m. \$505.60, 4.00 hours for Duane Doty as a Senior Project Manager at \$126.40 per hour to direct, supervise, document Early Action concrete replacement activities and gather field data.
- n. \$252.80, 2.00 hours for Duane Doty as a Senior Project Manager at \$126.40 per hour to compile field data regarding UST abandonment/removal, backfill abatement and concrete replacement.
- o. \$126.40, 1.00 hour for Duane Doty as a Senior Project Manager at \$126.40 per hour to confirm backfill volumes and appropriate supporting documentation.
- p. \$189.60, 1.50 hours for Marvin Johnson as a Senior Project Manager at \$126.40 per hour to confirm volume of soil and water disposal.

6. \$379.20, deduction for costs for Consulting Personnel, 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 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.

In addition, the 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(dd).

3.00 hours for Duane Doty as a Senior Project Manager at \$126.40 per hour to review 45 day report with Owner/Operator are being cut.

7. \$100.00, deduction for costs for Consultant's Materials, 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 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.

In addition, the 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(dd).

2 days of PID were adjusted from \$135.00 per day to \$85.00 per day. The consultant agreed to this in an email dated March 9, 2018.

8. \$358.29, deduction for costs for Consultant's Materials, 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 addition, the costs are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(aa). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and/or will 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.

In addition, the 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).

In addition, the costs are associated with the treatment or disposal of soil that does not exceed the applicable remediation objectives for the release. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(tt). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.

Finally, the costs are associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA. Such costs are ineligible for payment from the Fund pursuant to Section 57.9(a)(5) of the Act and 35 Ill. Adm. Code 734.630(x). An owner or operator is eligible to access the Fund if (among other criteria) the owner or operator notified the IEMA of a confirmed release and the costs were incurred after the notification was made.

The following costs are being cut:

- a. \$88.29 for mileage
- b. \$270.00 for PID.

9. \$29.43, deduction for costs for Consultant's Materials, 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 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.

In addition, the 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(dd).

\$29.43 for mileage is being cut.

10. \$240.00, deduction for costs for Consultant's Materials, 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 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.

In addition, the 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(dd).

\$240.00 for a digital camera is being cut.

11. \$8.98, deduction for costs associated with any corrective action activities, services, or materials that exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. The costs associated with ice are included in the shipping rate, for which a maximum rate of \$63.20 per shipment applies. The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Ice is being cut.

12. \$1,895.84, 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.

Due to cuts above, handling is payable on \$3,025.00 for Teklab, \$3,981.75 for Earth Services, and \$3,851.94 for Beelman Ready Mix.

mao