



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PARKER’S GAS & MORE, INC.	)	
Petitioner,	)	
	)	
v.	)	PCB 2019-079
	)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
Respondent.	)	

**PETITIONER’S MOTION FOR SUMMARY JUDGMENT**

NOW COMES Petitioner, PARKER’S GAS & MORE, INC., by its undersigned counsel, moves for summary judgment pursuant to Section 101.516(b) of the Board’s Procedural Rules (35 Ill. Adm. Code § 101.516(b)), stating as follows:

**ISSUE PRESENTED**

Whether a portion of the backfill material which was provided at no cost violated either 415 ILCS 5/57.7(c)(3) or 35 Ill. Adm. Code 734.630(cc) such as to justify setting a rate for that portion of the backfill material and deducting it from the application for payment.

**STATEMENT OF UNDISPUTED FACTS**

Parker’s Gas & More was the owner/operator of a service station in the City of Clayton, County of Adams, Illinois, which was assigned LPC# 0010105006. (R.0001; R.0006) In 1995, an incident was reported from three underground storage tanks at the property, and assigned Incident Number 95-1012. (R.001) On July 18, 2007, the Office of the State Fire Marshal determined that Petitioner was eligible to seek payment for corrective action costs. (R.0001)

On February 13, 2015, a corrective action plan was submitted to the Agency, which

proposed the excavation, transportation and disposal of petroleum contaminated soil located on-site and off-site. (R.006) In addition, applicable site remediation objectives would be achieved by the additional use of a highway authority agreement, land use restriction and groundwater ordinance. (R.006) After the contaminated soil was removed, the excavation was to be backfilled with an estimated 5,230 yds<sup>3</sup> of backfill material obtained from an off-site source. (R.0027) This would be in addition to the estimated 2,175 yds<sup>3</sup> of overburden material that could be returned to the excavation. (R.0026)

The corrective action plan was accompanied by a budget which estimated total corrective action costs at \$709,246.73. (R.0195) Of particular relevance to this appeal was the Remediation and Disposal budget:

**Excavation, Transportation, and Disposal of contaminated soil . . .:**

<b>Number of Cubic Yards</b>	<b>Cost per Cubic Yard (\$)</b>	<b>Total Cost</b>
<b>5,230.00</b>	<b>69.25</b>	<b>\$362,177.50</b>

**Backfilling the Excavation:**

<b>Number of Cubic Yards</b>	<b>Cost per Cubic Yard (\$)</b>	<b>Total Cost</b>
<b>5,230.00</b>	<b>24.30</b>	<b>\$127,089.00</b>

**Overburden Removal and Return:**

<b>Number of Cubic Yards</b>	<b>Cost per Cubic Yard (\$)</b>	<b>Total Cost</b>
<b>2,175.00</b>	<b>7.91</b>	<b>\$17,204.25</b>

(R.0199 (totaling \$506,470.75))

On May 20, 2015, the Agency approved the corrective action plan and budget without any modifications or deductions. (R.0215) Thereafter, Petitioner's consultant performed the soil

abatement activities proposed in the corrective action plan. (R.0357 - R.0358) The Corrective Action Progress Report stated that “5,175.67 yds<sup>3</sup> of contaminated soil were abated, 2175 yds<sup>3</sup> of overburden was returned to the excavation and 5244.91 yds<sup>3</sup> of backfill materials were placed in the resulting excavation during the May/June 2018 soil abatement activities.” (R.0358

On August 13, 2018, Petitioner’s consultant submitted the Corrective Action Billing Application for the work performed, totaling \$577,244.80. (R.0268; R.0281) Reimbursement for remediation and disposal of soils was sought as follows:

**Excavation, Transportation, and Disposal of contaminated soil . . . :**

<b>Number of Cubic Yards</b>	<b>Cost per Cubic Yard (\$)</b>	<b>Total Cost</b>
<b>5,175.67</b>	<b>69.25</b>	<b>\$358,415.15</b>

**Backfilling the Excavation:**

<b>Number of Cubic Yards</b>	<b>Cost per Cubic Yard (\$)</b>	<b>Total Cost</b>
<b>5,244.91</b>	<b>24.30</b>	<b>\$127,451.31</b>

**Overburden Removal and Return:**

<b>Number of Cubic Yards</b>	<b>Cost per Cubic Yard (\$)</b>	<b>Total Cost</b>
<b>2,175.00</b>	<b>7.91</b>	<b>\$17,204.25</b>

(R.0294 (totaling \$503,070.71))<sup>1</sup>

Thus, the work was completed below the amount approved in the budget, though the internal items varied:

---

<sup>1</sup> The handwritten notes and highlighting throughout the Billing Package are by reason and belief those of the Agency reviewer, presumably Melissa Owens.

	<u>Budget</u>	<u>Application</u>	<u>Difference</u>
<b>Excavating:</b>	\$362,177.50	\$358,415.15	(\$3,762.35)
<b>Backfilling:</b>	\$127,089.00	\$127,451.31	\$362.31
<b>Overburden:</b>	\$17,204.25	\$17,204.25	-----
<b>TOTAL:</b>	\$506,470.75	\$503,070.71	(\$3,400.04)

There is no indication in the record that the \$362.31 difference in the backfilling estimate was relevant to the Agency's decision herein. The consultant noted that if this was an issue, the original budget did not utilize the 1.05 swell factor multiplier allowed by Board regulations<sup>2</sup> and asked the Agency to allow whatever slight adjustment believed necessary. (R.0223)

Instead, this appeal arises from 26 loads of washout rock received from Clinard Ready Mix, Inc. (R.0222) Clinard Ready Mix, Inc. did not charge for this material, but the loads were weighed at Corp Product Services for \$460.00. (R.0222; R.0266) The loads were hauled by Beaird Transport, Inc. (R.0327 - R.0330) The load tickets for washout rock totaled 520.16 tons. (R.0320 - R.0323; see also Exhibit A hereto for summary of load tickets) According to the Board's conversion formula, the washout rock was just 780.24 yds<sup>3</sup> of the 5,244.91 yds<sup>3</sup> of the backfill used, which is just under fifteen percent.<sup>3</sup>

In summary, a portion of the backfill material was essentially free, though the washout rock still needed to be weighed, transported and placed in the excavation.

---

<sup>2</sup> The volume of soil "must be determined by the following equation using the dimensions of the resulting excavation: (Excavation Length x Excavation Width x Excavation Depth) x 1.05." (35 Ill. Adm. Code 734.825(a)(1))

<sup>3</sup> "A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards." (35 Ill. Adm. Code 734.825(b)(1))

The Agency did not solicit additional information concerning the washout rock, but proceeded to establish a price for the washout rock in order to deduct that amount from reimbursement. As an initial matter, the Agency miscalculated the tonnage for the washout rock. For clarity, Exhibit A itemizes the twenty-six loads and shows that they totaled 520.16 tons. See Exhibit A. The Agency concluded that the washout rock weighed a total of 520.195 tons. (R.0294) Then the Agency assumed that the price of washout rock would be the same as the fill purchased from Florence Quarry (\$6.70 per ton) (R.0263) and subject to the same sales tax as well (7.75%). (R.0294; R.0263) The Agency apparently selected Florence Quarry because its costs were greater than that of backfill from the Richfield Quarry (\$5.00 per ton; and 6.50% sales tax rate). (R.259 - R.261) In summary, assuming the washout rock weighed 520.195 tons and assuming it had been purchased for the same price as the fill from the Florence Quarry, the Agency concluded that the washout rock was worth \$3,755.42. (R.0294 (Agency review notes)) There are no communications in the record indicating that this deduction had been discussed with the consultant.

On November 15, 2018, the Agency approved the application for payment in part by reimbursing \$572,925.56 of the \$577,244.80 requested. (R.0483) The Agency cut \$3,755.42 for costs of Remediation and Disposal for the following reason:

**520.195 tons at \$6.70 per ton plus 7.75% sales tax are being cut from the Backfill line item because they were provided free of charge.**

(R.0486)

On December 21, 2018, Petitioner timely filed a petition asking the Board to review the Agency determination. (See Board Order of Jan. 17, 2019)

**LEGAL STANDARDS AND SCOPE OF REVIEW**

The Agency's refusal to pay or authorize only partial payment may be appealed to the Board. See 415 ILCS 5/57.8(i). The question posed herein is "whether the application, as submitted to the Agency, would not violate the Act and Board regulations." Metropolitan Pier & Exposition Authority v. IEPA, PCB 10-73, slip op. at 51 (July 7, 2011). This does not entail review of every statute, regulation and interpretation thereof, for "on appeal before the Board, the Agency's denial letter frames the issue." Evergreen FS v. IEPA, PCB 11-51, slip op. at 16 (June 21, 2012) This denial letter must give written notification of the specific type of information the Agency needed to complete its review, an explanation of the legal provisions that might be violated if the application for payment is approved, and a statement of the specific reasons why those legal provisions may be violated. (35 Ill. Adm. § 734.610(d))

Within the context of issues identified in the Agency decision letter, Petitioner has the burden of proof in these proceedings. Evergreen FS v. IEPA, PCB 11-51, slip op. at 16 (June 21, 2012) The standard of proof in UST appeals is a "preponderance of the evidence." Id. "A proposition is proved by a preponderance of the evidence when it is more probably true than not." Id.

The Illinois Pollution Control Board has promulgated rules for summary judgments: "If the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law, the Board will enter summary judgment." (35 Ill. Adm. Code § 101.516(b)) This motion for summary judgment is based upon the record filed by Agency, accompanied by a document identified in the next section which Petitioner requests the Board to

take official notice. A party opposing a motion for summary judgment may not rest on its pleadings, but must "present a factual basis which would arguably entitle [it] to a judgment."

Gauthier v. Westfall, 266 Ill. App. 3d 213, 219 (2d Dist. 1994).

**OFFICIAL NOTICE**

Pursuant to 35 Ill. Adm. Code 101.630, Petitioner requests that the Board take Official Notice of Exhibit B hereto, which is the IEPA Instructions for the Budget and Billing Forms (4/2009). The Board may take official notice of "matters of which the circuit courts of this State may take judicial notice; and generally recognized technical or scientific facts with the Board's specialized knowledge." (35 Ill. Adm. Code § 101.630(a))

Exhibit B was downloaded from the Agency website and is the Agency's Instructions for the Budget and Billings form that was admitted into evidence in at least three previous Board decisions. City of Benton Fire Department v. IEPA, PCB 17-01, slip op. at p. 2 (Feb. 22, 2018); Abel Investments v. IEPA, PCB 16-108, slip op. at 11 (Dec. 15, 2016); Knapp v. IEPA, PCB 16-103, slip op. 2 (Sept. 22, 2016).<sup>4</sup> While the Instructions for the Budget and Billing Forms appear to have been admitted in each of those cases without the Board taking official notice, the Board has taken official notice of other budget and billing forms. See Knapp, PCB 16-103, slip op. at 8 FN2 (Sept. 22, 2016) (Analytical Costs Form). While Agency forms cannot supersede

---

<sup>4</sup> Exhibit B was downloaded from the Agency's Budget and Billing Forms page. See <https://www2.illinois.gov/epa/topics/cleanup-programs/lust/budget-and-billing-forms> (last downloaded June 27, 2016). While older instructions remain on the Agency's website, the particular Instructions dated 2009 appear to have been removed and replaced with Instructions dated October 2016. The 2009 Instructions would have been the version in place when the Agency approved the relevant budget on May 20, 2015.



Board regulations, they “have regulatory weight” because Board regulations require use of forms prescribed and provided by the Agency. Id. at p. 6 (citing 35 Ill. Adm. Code 734.135(a)).

**ARGUMENT**

Since the issue in this appeal is framed by the Agency decision letter, the statements and explanations in the letter are paramount. The decision letter states that 520.195 tons of backfill were provided free of charge in violation of Section 734.630(cc) of the Board regulations (35 Ill. Adm. Code § 734.630(cc)), and Section 57.7(c)(3) of the Act (415 ILCS 5/57.7(c)(3)).

In doing so, the Agency exceeded its scope of review for payment applications, as the cost came within budget. Furthermore, none of the legal provisions cited would be violated. Section 57.7 of the Act governs plans and budgets, not applications for payment. (415 ILCS 5/57.7) Section 734.630(cc) of the Board's regulations pertain to incomplete payment applications, and the Agency did not identify any missing information in its denial letter. In addition, Petitioner disputes that backfilling was free for the reason that costs associated with transportation and placement of the backfill, as well as expenses associated with weighing the backfill material were involved. Finally, the Agency's remedy of assessing a fabricated backfill charge is without legal basis and illogical.

**I. THE AGENCY EXCEEDED ITS SCOPE OF REVIEW OF PAYMENT SOUGHT WITHIN THE BUDGET.**

When the Agency approves a plan and budget, such approval "shall be considered final approval for purposes of seeking and obtaining payment from the Underground Storage Tank Fund if the costs associated with the completion of any such plan or less than or equal to the amounts approved in such budget." (415 ILCS 57/57.7(c)(1)) Accordingly, the Agency's scope of permitted review is limited when payment is sought:

**In no case shall the Agency conduct additional review of any plan which was completed within the budget, beyond auditing for adherence to the corrective action measures in the proposal.**

(415 ILCS 5/57.8(a)(1))

Here, the budget for remediation and disposal was \$506,470.75 (R.0199), while the application for payment sought reimbursement for \$503,070.71 (R.0294). While the request was within budget, the Agency improperly made a “\$3,755.42, deduction for costs for Remediation and Disposal.” (R.0486) The Agency’s review at the payment stage was statutorily limited to ensuring that corrective action measures adhered to the plan. Anything else is “beyond the scope of review that the Agency may undertake when payment is sought for ‘any approved plan and budget.’” Evergreen FS v. IEPA, PCB 11-51, slip op. at 21 (June 21, 2012).

The work adhered entirely to the corrective action measures in the approved plan. The Agency’s decision letter did not claim that the remediation and disposal costs were not approved in the budget nor that the costs were inconsistent with the corrective action plan. Instead, the decision letter complains about the means and methods used to complete the plan: the backfill material should have been purchased from the Florence Quarry.

The importance of this limitation on the Agency’s review is that once the corrective action work has been performed, imposing new limitations on means and methods by which the work is performed imposes a severe injustice, as recognized by former Chairman Glosser in a previous dissent:

**Clearly the statute envisions that once a corrective action plan and budget are in place, no further substantive review is taken. If IEPA is allowed to perform “a full review” at the reimbursement stage, owners and operators**

**performing clean up are at risk, and what happened in this case could happen again. That is, an owner or operator could follow an approved plan and budget, only to be told that IEPA has found a reason not to reimburse them for those actions, which IEPA already approved and agreed to reimburse. The legislature did not intend such result and the plain language of the statute does not allow such a result.**

Estate of Gerald D. Slightom v. IEPA, PCB 2011-025 (Glosser, Dissenting), *rev'd* 2015 IL App (4th) 140593.

Because the Agency's review of the payment application did not identify any corrective action measures performed that were inconsistent with the approved plan and since the costs were within the approved budget, the Agency should have approved the application of payment.

**II. NONE OF THE LEGAL PROVISIONS CITED IN THE AGENCY DECISION LETTER WOULD BE VIOLATED IF PAYMENT WAS APPROVED.**

The Agency is required to approve payment applications unless a provision of the Act or the Board's regulations might be violated. The Agency has identified two provisions:

First, the Agency decision letter stated that "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." (R.0486). As a matter of law Section 57.7(c)(3) of the Act would not be violated because that provision contains the legal standards applicable for review of site investigation plans and budgets and corrective action plans and budgets. (415 ILCS 5/57.7(c)(3)) The Agency's

authority to review payment applications is contained in Section 57.8 of the Act, which provides an entirely different framework. (415 ILCS 5/57.8; Cf. Knapp Oil Co. v. IEPA, PCB 16-103, slip op. at 9 (Sept. 22, 2016) (containing brief summary of the plan, budget and reimbursement process in finding that the Agency had failed to recognize the relevant distinctions).

Second, the Agency stated that the “costs for Remediation and Disposal . . . lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630 (cc).” (R.0486) This is also legally incorrect. Board regulations specify the documents required for a payment application in 35 Ill. Adm. Code § 734.605(b)), and the Agency’s review of the application requires it to determine “[w]hether the application contains all of the elements and supporting documentation required by Section 734.605(b) of this Part” (35 Ill. Adm. Code § 734.610(a)(1)) If there is any information missing, the Agency decision letter must provide “[a]n explanation of the specific type of information . . . that the Agency needs to complete the review.” (35 Ill. Adm. Code § 734.610(d)(1)) There is no missing information identified in the Agency decision letter and nothing in the Agency’s decision letter even suggests there is information that could be supplied to permit Agency review.

Instead, the Agency complained that some backfill was “provided free of charge” based upon documentation contained in the billing package. (R.0222) That is, the Agency apparently believed that supporting documentation raised a an issue, but ultimately did not and could not find any legal provision that “may be violated if the application for payment is approved.” (35 Ill. Adm. Code § 734.610(d)(2)) It is not necessary to expect that every issue the Agency may flag will be addressed by a statute or regulation, but if none can be located, then the application for payment must be granted. Petitioner’s burden of proof in this proceeding is merely to

establish that no provision identified by the Agency would be violated if the application was approved, and that burden is met.

**III. BACKFILLING THE EXCAVATION WITH THE WASHOUT ROCK WAS NOT FREE NOR DID ITS COST VIOLATE ANY LEGAL STANDARD.**

Less than fifteen percent of the backfill material used was washout rock. (R.0222) This material needed to be acquired, hauled to scales for weighing, transported to the job site and placed in the excavation. The Agency Instructions for the Budget and Billing Forms make it clear that the cost of the material itself is only one component of the cost of backfilling an excavation:

**Backfilling the Excavation: Include in the “Cost per Cubic Yard (\$)” all costs associated with the purchase, transportation, and placement of clean material used to backfill the excavation resulting from the removal and disposal of soil, including but not limited to all non-consulting personnel (subcontractors), trucker/equipment operator labor, trucker/equipment operator travel and per diems, truck charges, visqueen truck liner, backhoe charges, equipment, equipment mobilization, backfill material (clay, sand, gravel), barriers, cones, tape, permit fees, traffic control, and other materials and related expenses.**

(Ex. A, at p. 8)

While there was no charge for the washout rock itself, all of the associated costs of backfilling were incurred, including the cost of scales to weigh the washout rock and of the

various other backfill materials that were incorporated into the excavation with the washout rock.

The gravaman of the Agency's issue here appears to be that less than 15% of the backfill material was free (or mostly free), but there are no regulatory rates for backfill material costs as a separate item. Backfill material itself can consist of any combination of soil, sand, clay and rock, which are collectively used to fill the excavation, which poses the question of why one portion of the backfill material is to be evaluated for cost and none other. Ultimately, all of the labor and materials necessary to backfill an excavation will vary in cost from place to place, posing various trade-offs in terms of time, cost and quality. So long as the backfill work is certified by a licensed professional engineer and is equal to or less than the budget approved by the Agency, the backfill material used cannot be second-guessed after buried in the ground.

**IV. THE AGENCY'S REMEDY OF ASSESSING A FABRICATED BACKFILL CHARGE IS ILLOGICAL AND WITHOUT LEGAL BASIS.**

Because the Agency believed that all backfill material must have a cost, the Agency attempted to calculate the cost washout rock as if it had been purchased at one of the quarries. These calculations are inaccurate and opportunistically utilize more expensive backfill material from the Florence Quarry to maximize the penalty assessed and ignoring that handling charges would have been available in such hypothetical circumstances. This appeal has not been brought to seek an accounting of costs. The Agency does not have authority to set rates for washout rock. See 5 ILCS 100/5-25 (ratemaking must be authorized by law and executed through rulemaking). Setting a rate for the washout rock was an error, and the further errors and misjudgments in setting a rate are the expected consequence of acting outside of a pre-established regulatory

framework.

Furthermore, the Agency's fabricated charge penalizes the use of recycled material that may be available when time come to backfill the excavation because such material is free or relatively inexpensive. It is the public policy of the State of Illinois "to promote the conservation of natural resources and minimize environmental damage by . . . encouraging and effecting the recycling and reuse of waste materials." (415 ILCS 5/20(b)) Not only did the use of the washout rock from the ready-mix company not violate the Act or regulations promulgated thereunder, but such an interpretation that discouraged use of recycled concrete would be inconsistent with the statutory purpose.

**CONCLUSION**

Petitioner has met its burden of proving by a preponderance of the evidence that no legal provision cited in the Agency's decision letter would be violated if the payment application was approved. Accordingly, Petitioner prays that this motion for summary judgment be granted, the Agency be directed to approve the payment application in full, the Board award payment of legal costs herein, and the Board grant Petitioner such other and further relief as it deems meet and just.

PARKER'S GAS & MORE, 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

**EXHIBIT A**  
(Tons of Washout Rock)

**R.0320**

19.9 T	18.94 T
18.44T	18.13 T
18.42 T	19.57 T
16.82 T	19.52 T

Subtotal: 149.74 T

**R.0321**

19.64 T  
22.94 T

Subtotal: 42.58 T

**R.0322**

20.6 T	18.37 T
27.23 T	17.92 T
18.42 T	20.93 T
21.98 T	20.06 T

Subtotal: 165.51 T

**R.0323**

18.52 T	18.84 T
20.1 T	20.68 T
17.64 T	20.66 T
24.49 T	21.4 T

162.33 T

**TOTAL: 520.16 T**

(Source: R.0320 - R.0323)

## Instructions for the Budget and Billing Forms

The Illinois Environmental Protection Agency (Illinois EPA) has revised the *Budget and Billing Forms* for payment from the Underground Storage Tank Fund (Fund). The Illinois EPA's new forms shall be used for all budgets and applications for payment for all sites subject to 35 Illinois Administrative Code (35 Ill. Adm. Code) 734, 732, or 731, except as noted below. The *Budget and Billing Forms* reflect the amendments to 35 Ill. Adm. Code 732 and the adoption of 35 Ill. Adm. Code 734. When using these forms, please follow the instructions for each particular form that pertains to your site.

### Maximum Payment Amounts

The Illinois EPA will only approve payment from the Fund for corrective action costs actually incurred up to the maximum amounts listed in Subpart H, Appendix D, and Appendix E of 35 Ill. Adm. Code 732 or 734—unless bidding is used or the unusual or extraordinary circumstance provisions are followed. The Subpart H, Appendix D, and Appendix E maximum payment amounts will be adjusted for inflation each year on the first day of July of that year. The first adjustment was made on July 1, 2006. The maximum amounts that are applicable for costs submitted in a budget are the amounts in effect on the date the Illinois EPA receives the budget. Please note that, once the Illinois EPA approves a cost, the applicable maximum payment amount for that cost may not be increased by proposing the cost in a subsequent budget (35 Ill. Adm. Code 732.870(d) or 734.870(d)). The maximum amounts that are applicable for costs not approved in a budget by the Illinois EPA, such as early action costs, are the amounts in effect on the date the costs were incurred.

### Signature Requirements

For owners and operators other than individuals, a duly authorized representative must sign the forms on behalf of the owner or operator. For the following entities, the duly authorized representative must be one of the following persons:

1. For a corporation, a principal executive officer of at least the level of vice president, or a person authorized by a resolution of the board of directors to sign the applicable document if a copy of the resolution, certified as a true copy by the secretary of the corporation, is submitted with the document.
2. For a sole proprietorship, the sole proprietor.
3. For a partnership, a general partner.
4. For a municipality, state, federal, or other public agency, the head of the agency or a ranking elected official.
5. For a limited liability company, a member for a member-managed company and either a manager or a member for a manager-managed company.
6. For a land trust, a beneficiary of the land trust who meets the definition of "owner" or "operator" under 35 Ill. Adm. Code 731, 732, or 734.

### Budgets

Title XVI of the Environmental Protection Act requires owners or operators budget prior to seeking payment from the Fund, except in the case of costs



## Electronic Filing: Received, Clerk's Office 05/24/2021

with early action activities. Owners or operators of sites subject to 35 Ill. Adm. Code 731 are not required to submit budgets.

For owners or operators conducting site investigation pursuant to 35 Ill. Adm. Code 734, the certification that the costs of the Stage 1 investigation will not exceed the amounts set forth in Subpart H, Appendix D, and Appendix E serves as the budget for the Stage 1 site investigation. The actual costs for conducting the Stage 1 site investigation must be submitted on budget forms concurrently with the results of the Stage 1 site investigation and the next *Site Investigation Plan* and budget (submitted on its own budget forms) or with the *Site Investigation Completion Report* if the site investigation is complete. Likewise, the actual costs for conducting the Stages 2 and/or 3 site investigation must be submitted on budget forms concurrently with the results of the previous site investigation and the next *Site Investigation Plan* and budget (submitted on its own budget forms) or with the *Site Investigation Completion Report* if the site investigation is complete. When preparing budget forms, complete and submit only the pages that apply. If multiple budgets are included in one submittal, only one budget certification form is required.

Budget amendments to an approved budget must be submitted on the same forms as the original budget was submitted. Any new budgets for new activities shall be submitted on the Illinois EPA's new *Budget and Billing Forms*. These new forms should not be combined with other versions of *Budget and Billing Forms* and vice versa.

An original and one copy of the complete **budget** for sites subject to 35 Ill. Adm. Code 734 or 732 must be submitted with an associated plan. The forms may be copied; however, one form must include original signatures. The original and one copy should be mailed to:

Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking UST Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276

### **Applications for Payment**

If an owner or operator has received approval of a budget on old forms, the corresponding application for payment must be submitted on the old forms. Any new budgets for new activities and corresponding applications for payment shall be submitted on the Illinois EPA's new *Budget and Billing Forms*. These new forms should not be combined with other versions of *Budget and Billing Forms* and vice versa.

When submitting an application for payment, an accounting of all costs must be provided (i.e., invoices and receipts). Invoices and receipts must contain enough documentation to support the amount requested for payment from the Fund. Any costs not substantiated by invoices or receipts will not be paid. Invoices and receipts must include the date the work was performed and a breakdown of all costs with documentation of activities conducted and materials purchased. For example, an invoice from the accredited laboratory noting the date of sample collection, number of samples analyzed, amount charged, etc. is required for payment of analytical costs. If

Electronic Filing: Received, Clerk's Office 05/24/2021

the invoices and receipts do not contain detailed information, additional documentation must be submitted providing the required information. Invoices and receipts must also provide adequate documentation that the work approved in the applicable plan and budget was conducted.

Proof of payment of subcontractor costs can be shown in one of three ways:

1. Cancelled checks – photocopy of fronts and backs of cancelled checks.
  - a. One payment per site to one payee for the entire amount of one invoice with a note indicating the date of the invoice and the invoice number being paid.
  - b. One payment per site to one payee for the entire amount of several invoices with a note indicating the dates of the invoices, invoice numbers, and the amounts being paid on said invoices.
  - c. Payment to one payee for multiple sites for the entire amount of several invoices with a note indicating the sites involved, including incident numbers, dates of the invoices, invoice numbers, and the amounts being paid on said invoices.
2. Lien waivers with the name of the company, invoices(s) being paid, date payment took place, and the amount(s) paid on said invoice(s) along with necessary signatures.
3. Affidavits with the name of the company, invoice(s) being paid, date payment took place, and the amount(s) paid on said invoice(s) along with necessary signatures.

Please note that an application for payment for site classification pursuant to 35 Ill. Adm. Code 732 cannot be submitted until a *Site Classification Completion Report* has been approved or approved with modifications by the Illinois EPA. Likewise, an application for payment for the previous stage of site investigation pursuant to 35 Ill. Adm. Code 734 cannot be submitted until either a *Site Investigation Plan* and budget for the next stage of investigation or a *Site Investigation Completion Report* (if further investigation is not required) has been approved or approved with modifications by the Illinois EPA.

The complete **application for payment** with original signatures for sites subject to 35 Ill. Adm. Code 734, 732, or 731 should be mailed to:

Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking UST Claims Unit  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276

Electronic Filing: Received, Clerk's Office 05/24/2021

Pursuant to:	732 734	732 734	732 734	732 734	731 732 734	732	732	732 734	731 732 734
A complete budget or application for payment must include all of the forms listed below, as applicable:	Early Action Bill Package	Free Product Removal Budget	Free Product Removal Bill Package	Site Investigation or Classification Budget	Site Investigation or Classification Bill Package	Low Priority Budget	Low Priority Bill Package	Corrective Action (High Priority) Budget	Corrective Action (High Priority) Bill Package
General Information for the Budget and Billing Forms	P	B	P	B	P	B	P	B	P
Budget Summary		B		B		B		B	
Billing Summary	P		P		P		P		P
Drilling and Monitoring Well Costs Form	P	B	P	B	P			B	P
Analytical Costs Form	P	B	P	B	P	B	P	B	P
Remediation and Disposal Costs Form	P	B	P	B	P	B	P	B	P
Non-Consulting Personnel Costs Summary Sheet	P	B	P					B	P
Remediation Materials Costs Summary Sheet	P	B	P					B	P
UST Removal and Abandonment Costs Form	P		P					B	P
Paving, Demolition, and Well Abandonment Costs Form	P		P					B	P
Consulting Personnel Costs Form	P	B	P	B	P	B	P	B	P
Consultant's Materials Costs Form	P	B	P	B	P	B	P	B	P
Bid Summary and Contractor Certification Forms	P	B		B		B		B	
Handling Charges Form	P		P		P		P		P
Owner/Operator and Professional Engineer/Geologist Budget Certification Form		B		B		B		B	
Eligibility and Deductibility Determination	P	B	P	B	P	B	P	B	P
Payment Certification Form	P		P		P		P		P
Owner/Operator and Professional Engineer/Geologist Billing Certification Form	P		P		P		P		P
Private Insurance Coverage Questionnaire	P		P		P		P		P
Private Insurance Affidavit	P		P		P		P		P
W-9 Form	P		P		P		P		P
Women and Minority Business Enterprises Form	P		P		P		P		P
Copies of all bills and receipts for which payment is sought	P		P		P		P		P

P = Application for Payment only  
 B = Budget only

**General Information for the Budget and Billing Forms**

Complete the form with the requested information.

On the first page of the form, there is an area to designate the applicable regulations and the site activities for which the package is being submitted. If the site activities involved are those of a Stage 1 site investigation pursuant to 35 Ill. Adm. Code 734, the only submittal is that of actual costs. If the site activities involved are those of a Stage 2 and/or 3 site investigation pursuant to 35 Ill. Adm. Code 734, you must select from the drop-down box whether the submittal is that of actual costs (for work done during the previous stage of investigation) or a proposed budget.

On the second page of the form, include information pertaining to payment from the Fund (if eligible), such as where payment checks should be sent. Please note that only owners or operators of USTs are eligible for payment from the Fund. Therefore, payment can only be made to an owner or operator of the USTs. The Illinois EPA is not required to and will not recognize an assignment or other delegation of payment as justification for issuing payment to anyone other than the owner or operator. The address, as completed on this form, will be used as the mailing address for payment checks and any final determination letters regarding payment from the Fund.

When submitting an application for payment, you must always include a completed and signed W-9 form. In an effort to speed up review of your claim, it is suggested that the W-9 form always be submitted with every application for payment. As noted on the form, your name should be entered as shown on your income tax return.

Lastly, at the end of page 2 is a table to be completed by listing tanks that have ever been or are presently located at the site. Please note that there is only enough space for entry of one incident number. Therefore, if more than one incident number was assigned to a particular tank, multiple lines of the table must be used to list the additional incident numbers (as well as to indicate whether there was a release and, if so, the type of release associated with that incident number). For a tank with multiple incident numbers, it should somehow be indicated that the information pertains to the same tank. An example follows:

Product Stored in UST	Size (gallons)	Did UST have a release?	Incident No.	Type of Release Tank Leak / Overfill / Piping Leak
unleaded gasoline	10,000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	888888	overfill
(same UST as above)		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	999999	piping leak
(same UST as above)		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	20000000	tank leak
diesel fuel	500	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	20000000	tank leak

Click, as instructed, if additional rows of the table are needed.

**Budget Summary**

Select the regulations (either Part 734 or Part 732) that apply to the owner or operator of the USTs for which the release was reported. The corresponding column headings will appear.

PART 734:

If Part 734 is selected, in each column, as appropriate, select from the drop-down box one of the following:

- “Proposed” if the budget is a proposed budget,
- “Actual” if the budget is a summary of actual costs incurred during the previous stage of site investigation, or
- “N/A” (not applicable) if the budget doesn’t apply to that particular column heading.

Enter budget summary information in only the columns that apply to the budget at-hand. For example, if the proposed budget pertains to Stage 2 Site Investigation costs and accompanying it are actual costs of the Stage 1 Site Investigation, then “N/A” should be selected for columns labeled “Free Product,” “Stage 3 Site Investigation,” and “Corrective Action.” Then, under the column labeled “Stage 1 Site Investigation,” “Actual” should be selected from the drop-down box, and actual costs of the Stage 1 site investigation should be entered on the appropriate lines. Under the column labeled “Stage 2 Site Investigation,” “Proposed” should be selected from the drop-down box, and proposed costs for Stage 2 of the site investigation should be entered on the appropriate lines. Following is an example, in part:

Choose the applicable regulation:  734  732

<b>734</b>	Free Product	Stage 1 Site Investigation	Stage 2 Site Investigation	Stage 3 Site Investigation	Corrective Action
	N/A	Actual	Proposed	N/A	N/A
Drilling and Monitoring Well Costs Form	\$	\$ 2,000.00	\$ 2,000.00	\$	\$
Analytical Costs Form	\$	\$ 1,000.00	\$ 1,000.00	\$	\$

Stage 1 site investigation budgets must always be submitted as actual costs incurred. The actual costs must be submitted with a proposed Stage 2 Site Investigation Plan, a Stages 2 and/or 3 Site Investigation Plan, or a Site Investigation Completion Report (if no additional site investigation is required after Stage 1).

The actual costs of Stage 2 (if Stage 2 was needed) must be submitted with the proposed Stage 3 Site Investigation Plan or Site Investigation Completion Report (if no additional work is required after Stage 2). The actual costs of Stage 3 (if Stage 3 was needed) must be submitted with a Site Investigation Completion Report. Please note that, if contingency work is proposed (to either complete a stage or carry out the next stage), costs of the contingency work must be submitted as proposed costs. See the Site Investigation Process [flowchart](#) and accompanying [explanation](#) for information about the various combinations of stages that may be encountered.



List the total dollar amount from each of the forms listed, as applicable. The "Total" will be automatically calculated.

**PART 732:**

If Part 732 is selected, budget summary information should be entered in only the column that applies to the budget at-hand. List the total dollar amount from each of the forms listed, as applicable. The "Total" will be automatically calculated.

## **Billing Summary**

The total amounts from each individual form should be entered in the appropriate box. Please note that early action activities or corrective action conducted pursuant to 35 Ill. Adm. Code 731 neither requires nor allows for pre-approval of costs in a budget. Therefore, the first column of this form "\$ Amount Approved in the Budget" will not be completed for Part 731 or early action applications for payment.

## **Drilling and Monitoring Well Costs Form**

### **Section 1 – Drilling**

Include in the "Rate per Foot (\$)" drilling charge for advancement of a boring or the installation of a well all costs associated with advancing the boring including but not limited to all drilling labor (including driller, driller assistant or laborer, etc.), drill rig time, drill rig and operator travel time and per diem, driller mileage, mobilization, decontamination, Shelby tubes, soil boring abandonment, all remediation compound injection costs (including slurry preparation and mixing equipment), bentonite, boring surface patches, and concrete saw.

An indication must be made as to why each boring is being advanced (i.e., defining the extent of contamination, classification boring, installation of monitoring wells, investigation of migration pathways, injection of a remediation compound) and the drilling type (either hollow-stem auger/conventional [HSA], push-driven technologies [PUSH], or Injection).

If the Subpart H minimum payment amount applies, then the box should be checked indicating such. Upon doing so, the field for "Total Drilling Costs" zeroes out so that the total drilling costs can be entered manually. In addition, an asterisk appears, indicating that the total drilling costs have been adjusted to reflect one or more Subpart H minimum payment amounts. (More than one might apply if the proposed budget or actual costs budget includes more than one round of drilling.)

When the Subpart H minimum payment amount box is not checked, the "Total Drilling Costs" are automatically calculated.

### **Section 2 – Monitoring/Recovery Wells**

Include in the "Rate per Foot (\$)" charge all costs associated with the installation of a monitoring or recovery well (excluding drilling) including but not limited to costs associated with labor to install wells, all well materials (such as well casings, risers, screens, caps and plugs, filter packs, annular seals, surface seals, sand, gravel,

bentonite, concrete, well covers, and locks), and labor and equipment (including groundwater pump) for well development done by the driller.

## Analytical Costs Form

Include in the "Cost (\$) per Analysis" charge all costs associated with sample handling and analysis of each sample including but not limited to laboratory personnel, sample handling, sample preparation, all aspects of the laboratory analysis, sample jars and other sampling containers, sample kits, sample disposal fees, and reporting of sampling results. Include the number of samples for each parameter and the actual cost per analysis (up to the maximum total amount per sample listed in Appendix D of 35 Ill. Adm. Code 732 or 734).

For laboratory analyses not included in Appendix D, the Illinois EPA will determine reasonable maximum payment amounts on a site-specific basis.

Include in the soil sampling equipment charge all costs associated with sampling equipment including but not limited to EnCore sampler, purge-and-trap sampler, or equivalent sampling device.

Include in the sample shipping charge all costs associated with sample shipping including but not limited to transportation and/or delivery of samples to the laboratory (e.g., FedEx, UPS, or any other courier service), ice, coolers, and bubble wrap. The maximum total amount per sample listed in Appendix D is the maximum total amount for shipping all samples (soil and groundwater) collected in a calendar day.

## Remediation and Disposal Costs Form

### Section A – Conventional Technology

#### **Excavation, Transportation, and Disposal of contaminated soil and/or the 4-foot backfill material removal during early action activities:**

Include in the "Cost per Cubic Yard (\$)" all costs associated with the excavation, transportation, and disposal of contaminated soil and/or backfill material exceeding the applicable remediation objectives including but not limited to all non-consulting personnel (subcontractors); trucker/equipment operator labor; trucker/equipment operator travel and per diems; truck charges; visqueen truck liner; backhoe charges; equipment (including concrete breaker); equipment mobilization; skid steer; concrete/asphalt excavation, transportation, and disposal; landfill charges; decontamination; barriers; cones; tape; permit fees; traffic control; and other materials and related expenses.

The volume of soil removed and disposed must be determined by the following equation using the dimensions of the resulting excavation:

Soil [(Excavation Length in feet x Excavation Width in feet x Excavation Depth in feet of contaminated soil) ÷ 27] x 1.05 bulking factor

A conversion factor of 1.5 tons/cubic yard will be used to convert tons to cubic yards.

The volume of soil removed from within four feet of the outside dimensions of the UST and disposed pursuant to early action provisions must be determined in accordance with Appendix C of 35 Ill. Adm. Code 732 or 734.

**Backfilling the Excavation:**

Include in the "Cost per Cubic Yard (\$)" all costs associated with the purchase, transportation, and placement of clean material used to backfill the excavation resulting from the removal and disposal of soil, including but not limited to all non-consulting personnel (subcontractors), trucker/equipment operator labor, trucker/equipment operator travel and per diems, truck charges, visqueen truck liner, backhoe charges, equipment, equipment mobilization, backfill material (clay, sand, gravel), barriers, cones, tape, permit fees, traffic control, and other materials and related expenses.

The volume of backfill material must be determined by the following equation using the dimensions of the backfilled excavation:

Soil [(Excavation Length in feet x Excavation Width in feet x Excavation Depth in feet of contaminated soil) ÷ 27] x 1.05 bulking factor

A conversion factor of 1.5 tons/cubic yard will be used to convert tons to cubic yards.

The volume of backfill material used to replace soil removed from within four feet of the outside dimensions of the UST and disposed pursuant to early action provisions must be determined in accordance with Appendix C of 35 Ill. Adm. Code 732 or 734.

**Overburden Removal and Return:**

Include in the "Cost per Cubic Yard (\$)" all costs associated with the removal and subsequent return of soil that does not exceed the applicable remediation objectives but whose removal is required in order to conduct corrective action, including but not limited to all non-consulting personnel (subcontractors), trucker/equipment operator labor, trucker/equipment operator travel and per diems, truck charges, visqueen truck liner, backhoe charges, equipment, equipment mobilization, barriers, visqueen, cones, tape, permit fees, traffic control, and other materials and related expenses.

The volume of soil removed and returned must be determined by the following equation using the dimensions of the excavation resulting from the removal of soil:

Overburden Soil [(Excavation Length in feet x Excavation Width in feet x Excavation Depth in feet of non-contaminated soil) ÷ 27]

A conversion factor of 1.5 tons/cubic yard will be used to convert tons to cubic yards.

**Section B – Alternative Technology**

This section must be used for any remediation technology other than conventional technology. Alternative technology includes but is not limited to soil vapor extraction, land-farming, bio-piles, low-temperature thermal desorption, air sparging, bio-sparging, in-situ bioremediation, chemical oxidation, or dual-phase extraction. Other alternative technologies may be proposed.

Include a time and materials breakdown of all costs. Include in the "Total Cost of the System" all costs including but not limited to all non-consulting personnel (subcontractors), equipment, materials, construction, installation, operation and maintenance, system shutdown and closure, and other expenses of the proposed remediation system. Maximum payment amounts for costs associated with alternative technology will be determined by the Illinois EPA on a site-specific basis.

Also include the information listed in the *Remediation System Information* document.

The volume of soil to be treated in-situ must be determined by the following equation:

Soil [(Length in feet x Width in feet x Depth in feet of contaminated soil) ÷ 27]

A conversion factor of 1.5 tons/cubic yard will be used to convert tons to cubic yards.

All materials, equipment, field purchases, and subcontractor costs must be listed on the *Remediation Materials Costs Summary Sheet* and *Non-Consulting Personnel Costs Summary Sheet*, and the totals from those forms should be placed on the "Total Cost of the System" line in Section B. All professional consultant time (design time, oversight time, etc.) must be listed on the *Consulting Personnel Costs Form*.

### **Section C – Groundwater Remediation and/or Free Product Removal System**

This section must be used if a groundwater remediation and/or free product removal system (such as pump-and-treat or dual-phase vapor extraction) is proposed in a plan.

Include a time and materials breakdown of all costs. Include in the "Total Cost of the System" all costs including but not limited to all non-consulting personnel (subcontractors), equipment, materials, construction, installation, operation and maintenance, system shutdown and closure, and other expenses of the proposed removal system. Maximum payment amounts for costs associated with the proposed removal system will be determined by the Illinois EPA on a site-specific basis.

Also include the information listed in the *Remediation System Information* document.

All materials, equipment, field purchases, and subcontractor costs must be listed on the *Remediation Materials Costs Summary Sheet* and *Non-Consulting Personnel Costs Summary Sheet*, and the totals from those forms should be placed on the "Total Cost of the System" line in Section C. All professional consultant time (design time, oversight time, etc.) must be listed on the *Consulting Personnel Costs Form*.

### **Section D – Groundwater and/or Free Product Removal and Disposal**

This section must be used if groundwater or free product is removed via vacuum truck or other similar method from a groundwater monitoring well, recovery well, or container (such as a drum).

Include in the "Cost per Gallon (\$)" all costs associated with the removal, transportation, and disposal of free product or contaminated groundwater including but not limited to all

non-consulting personnel (subcontractors), truck driver labor, mobilization, vac truck, mileage, equipment, materials, disposal fees, and other related expenses.

If the Subpart H minimum payment amount applies, then the box should be checked indicating such. Upon doing so, the field for "Total Cost" zeroes out so that the total groundwater and/or free product removal and disposal cost can be entered manually. In addition, an asterisk appears, indicating that the total groundwater and/or free product removal and disposal cost has been adjusted to reflect the Subpart H minimum payment amount. (More than one might apply if the proposed budget or actual costs budget includes more than one round of groundwater and/or free product removal and disposal.)

When the Subpart H minimum payment amount box is not checked, the "Total Cost" is automatically calculated.

### **Section E – Drum Disposal**

This section must be used whenever a solid or liquid waste generated as a result of corrective action (e.g., soil borings, water bailed for well development or sampling, or hand-bailed free product) is disposed in a 55-gallon drum.

Include in the "Cost per Drum (\$)" all costs associated with drum disposal including but not limited to drum purchase, drum dolly, transportation, truck charge and mobilization, truck driver labor, and disposal fees.

If the Subpart H minimum payment amount applies, then the box should be checked indicating such. Upon doing so, the field for "Total Drum Disposal Costs" zeroes out so that the total drum disposal costs can be entered manually. In addition, an asterisk appears, indicating that the total drum disposal costs have been adjusted to reflect the Subpart H minimum payment amount. (More than one might apply if the proposed budget or actual costs budget includes more than one round of drum disposal.)

When the Subpart H minimum payment amount box is not checked, the "Total Drum Disposal Costs" are automatically calculated.

### **Non-Consulting Personnel Costs Form**

(Note: For this form to function properly, Adobe Reader 8.0 is required.)

This form should only be used to list personnel costs that are not associated with professional consulting services. Professional consulting services (that is, services performed by the primary consulting firm) must be listed separately on the Consulting Personnel Costs Form. Do not include costs that are part of maximum payment amounts listed in the *Maximum Payment Amounts* sheets.

- a. **Employee Name** – List the name of the employee (required for application for payment only).
- b. **Personnel Title** – List the title of the employee. Personnel titles must be comparable to the task being performed.

- c. **Hours** – List the number of hours worked or proposed to be worked for that particular task.
- d. **Rate (\$)** – List the hourly rate of the employee. Personnel costs must be based upon the work being performed, regardless of the title of the person performing the work.
- e. **Total Cost** – Enter the total dollar amount requested for each task (Hours X Rate).
- f. **Task** – Complete an individual line item for each task conducted. The following are some examples of tasks: remediation system installation, operation and maintenance, or alternative technology remediation construction. Provide additional details to supplement this information; for example, the details may include the number of trips for operation and maintenance, number of hours for each trip, and how often trips are proposed.
- g. **Cumulative Total of Non-Consulting Personnel Costs Summary Sheet(s)** – Enter the total non-consulting personnel costs (the sum of all tasks).

### Remediation Materials Costs Summary Sheet

(Note: For this form to function properly, Adobe Reader 8.0 is required.)

Include all costs for materials, equipment, and field purchases associated with a groundwater remediation and/or free product removal system and/or alternative technology. Such costs include but are not limited to remediation compounds, nutrients for in-situ bioremediation, and soil vapor extraction equipment.

- a. **Materials, Equipment, or Field Purchase** – List all the materials, equipment, and field purchases used or proposed to be used that are not part of maximum payment amounts listed in the *Maximum Payment Amounts* sheets.
- b. **Time or Amount Used** – List, if applicable, the amount of time or the number of individual items used.
- c. **Rate (\$)** – List the rate at which an item is charged.
- d. **Unit** – List the unit of the rate charged, which may be hourly, daily, weekly, monthly, yearly, etc. or may be based upon an activity such as per foot, cubic yard, square foot, gallon, etc.
- e. **Total Cost/Item** – List the total cost of the material, equipment, or field purchase.
- f. **Subcontractor** – If a service is provided by a subcontractor, list the name of the subcontractor.
- g. **Cumulative Total of Remediation Materials Costs Summary Sheet(s)** – Enter the total cost of all materials, equipment, and field purchases.

### UST Removal and Abandonment Costs Form

This section applies to UST removal, abandonment, and disposal activities.

Include in the "Cost (\$)" all costs associated with the excavation, removal, disposal, and/or abandonment of UST systems including but not limited to all non-consulting personnel (subcontractors), mobilization, equipment, materials, decontamination, barriers, cones, tape, PID, slurry, disposal fees, permit fees, and other related expenses.

Please list all tanks that have been removed from or abandoned at the site for which payment from the Fund is requested. The maximum total amount payable per UST is based on the UST volume, as prescribed in the regulations.

## **Paving, Demolition, and Well Abandonment Costs Form**

### **Section A – Concrete and Asphalt Placement/Replacement**

This section must be used for costs associated with concrete, asphalt, and paving installed as an engineered barrier, as well as for costs associated with the replacement of concrete, asphalt, and paving.

Include in the "Cost (\$) per Square Foot" all costs associated with concrete, asphalt, and paving placement or replacement, including but not limited to all non-consulting personnel (subcontractors), placement or replacement labor, per diems, equipment, materials and delivery, base preparation/compaction/leveling, surface preparation and equipment, forms, and other related expenses. In addition, include in the accompanying plan or report documentation of the material (either asphalt, paving, or concrete), the depth of material, and the square footage of the asphalt, paving, or concrete being placed or replaced.

### **Section B – Building Destruction or Dismantling and Canopy Removal**

This section must be used for costs associated with the destruction or the dismantling and reassembly of above grade structures.

Include in the "Unit Cost (\$)" all costs including but not limited to all personnel (primary consultant and subcontractors), per diems, equipment, mobilization, truck charges, backhoe charges, materials, asbestos abatement, barriers, cones, tape, permit fees, and other related expenses. Payment will be determined on a time and materials basis.

The total cost for the destruction or the dismantling and reassembly of above grade structures must not exceed \$10,000 per site. A time and materials breakdown of all costs must be submitted with the application for payment.

### **Section C – Well Abandonment**

This section must be used for the abandonment of monitoring or recovery wells that are abandoned pursuant to regulations promulgated by the Illinois Department of Public Health at 77 Ill. Adm. Code 920.120. Please note that each monitoring well must be listed individually.

## Electronic Filing: Received, Clerk's Office 05/24/2021

Include in the "Cost (\$)" per Foot" all costs including but not limited to all personnel (primary consultant and subcontractors), labor, per diems, transportation, equipment (including jackhammer), mobilization, bentonite, concrete, and other related expenses.

### Consulting Personnel Costs Form

(Note: For this form to function properly, Adobe Reader 8.0 is required.)

Include all costs associated with professional consulting services (that is, services provided by the primary consulting firm). Personnel not directly part of the primary consulting firm must be listed on the *Non-Consulting Personnel Costs Form*.

In the "Personnel Title" fields, use the titles listed at Appendix E of 35 Ill. Adm. Code 732 or 734. The highest maximum hourly rate for each personnel title listed in Appendix E may be proposed in the budget, but the amount billed in the application for payment must be based upon the degree, licensing, and experience requirements identified in Appendix E.

Include in the "Rate (\$)" the costs associated with professional consulting services provided by the primary consulting firm including but not limited to plan, budget, and report preparation, application-for-payment preparation, certifications, project oversight, and field activities.

A separate line should be used for each employee performing tasks in each remediation category.

- a. **Employee Name** – List the name of the employee (required for application for payment only).
- b. **Personnel Title** – Select the title of the employee using the personnel titles listed in Appendix E of 35 Ill. Adm. Code 732 or 734 (also listed in the *Maximum Payment Amounts/Personnel Titles and Requirements* document). Personnel titles must be comparable to the task being performed.
- c. **Hours** – List the number of hours worked or proposed to be worked for that particular task.
- d. **Rate (\$)** – List the hourly rate of the employee. The rate may not exceed the maximum hourly rate listed in the applicable *Maximum Payment Amounts/Personnel Titles and Requirements* document. Personnel costs must be based upon the work being performed, regardless of the title of the person performing the work.
- e. **Total Cost** – Enter the total dollar amount requested for each task (Hours X Rate).
- f. **Remediation Category** – Select the appropriate remediation category abbreviation from the *Remediation Categories List* document that is applicable to each phase of corrective action that has been or is proposed to be performed.
- g. **Task** – Complete an individual line item for each task conducted. The following are some examples of tasks: preparation of CAP and budget, site investigation fieldwork, operation and maintenance, alternative technology oversight, or



alternative technology remediation design. Provide additional details to supplement this information; for example, the details may include the number of trips for operation and maintenance, number of hours for each trip, and how often trips are proposed.

- h. **Cumulative Total of Consulting Personnel Costs Form(s)** – Enter the total consulting personnel costs (the sum of all tasks).

Multiple pages of the form must be used if additional space is needed.

## Consultant's Materials Costs Form

(Note: For this form to function properly, Adobe Reader 8.0 is required.)

Include on the form the costs associated with materials provided by the professional consulting service (that is, the primary consulting firm) including but not limited to lodging and per diems, mileage (or vehicle), private utility locator, permit fees, well survey fees, NFR Letter recording fees, manifests, copies, and other equipment and supplies (such as PID, FID, explosimeter, DO/ORP/pH meters, hand augers, cameras/photo development, gloves, plastic bags, decon kit [for consultant's nondisposable field equipment], equipment to survey wells, peristaltic pump, purge pump, rope, bailers, measure wheel, transducer, data logger, water level indicator/interface probe, plastic tubing, metal detector, and barricades).

- a. **Materials, Equipment, or Field Purchase** – List all the materials, equipment, and field purchases used or proposed to be used that are not part of maximum payment amounts listed in the *Maximum Payment Amounts* sheets.
- b. **Time or Amount Used** – List, if applicable, the amount of time or the number of individual items used.
- c. **Rate (\$)** – List the rate at which an item is charged.
- d. **Unit** - List the unit of the rate at which an item is charged, if applicable. The unit may be hourly, daily, weekly, monthly, yearly, etc. The unit and unit rate may also be based on an activity such as per foot, cubic yard, square foot, gallon, etc.
- e. **Total Cost** – List the total cost of materials, equipment, or field purchase.
- f. **Remediation Category** – Enter the appropriate remediation category abbreviation from the *Remediation Categories List* document that is applicable to each phase of corrective action that has been or is proposed to be performed.
- g. **Description/Justification** – Enter a description of the materials, equipment, or field purchase and/or justification for its use.
- h. **Cumulative Total of Consultant's Materials Costs Form(s)** – Enter the total costs of all materials, equipment, and field purchases.

Multiple pages of the form must be used if additional space is needed.

## Bid Summary Form

As an alternative to the maximum payment amounts set forth in Subpart H, Appendix D, and Appendix E of 35 Ill. Adm. Code 734 or 732, one or more payment amounts may be determined via bidding in accordance with 35 Ill. Adm. Code 734.855 or 732.855. Each bid must cover all costs included in the maximum payment amount that the bid is replacing.

The following items must be provided to the Illinois EPA with the associated budget:

1. A copy of the scope of work provided to the subcontractors requesting bids;
2. Copies of **all** bids received (a minimum of three bids is required unless unusual or extraordinary circumstances apply), accompanied by completed and signed *Contractor Certification Forms* and bid details; and
3. A completed and signed copy of the *Bid Summary Form*.

## Contractor Certification Form

Whenever a job is bid, completed and signed *Contractor Certification Forms* must accompany the *Bid Summary Form*. Bid details should be attached.

## Handling Charges Form

Handling charges for field purchases and subcontractor billings must be calculated based on the table below. **Handling charges do not need to be submitted in a budget.** Submit copies of invoices and/or receipts of the subcontractor charges and/or field purchase with an application for payment. Include a breakdown of the date the work was conducted, as well as documentation of all activities and materials purchases, with invoices and/or receipts. If the invoices and receipts do not contain this information, submit additional documentation providing this information.

<b>Subcontract and Field Purchase Cost</b>	<b>Eligible Handling Charges as a Percentage of Cost</b>
\$1 - \$5,000	12%
\$5,001 - \$15,000	\$600 + 10% of amt. over \$5,000
\$15,001 - \$50,000	\$1,600 + 8% of amt. over \$15,000
\$50,001 - \$100,000	\$4,400 + 5% of amt. over \$50,000
\$100,001 - \$1,000,000	\$6,900 + 2% of amt. over 100,000

## Miscellaneous Forms

The following forms should be completed, signed, and submitted, as applicable:

- [Owner/Operator and Licensed Professional Engineer/Geologist Budget Certification Form](#)
- [Owner/Operator and Licensed Professional Engineer/Geologist Billing Certification Form](#)
- [Payment Certification Form](#)
- [Private Insurance Coverage Questionnaire and Private Insurance Affidavit](#)

- Federal Taxpayer Identification Number and Legal Status Disclosure Certification Requirements
- Women and Minority Business Enterprises Form
- Personnel Weekly Work Sheet
- Materials Weekly Work Sheet

## Reference Documents

The following reference documents should be used, as applicable, when completing budgets and/or applications for payment:

- Personnel Title Descriptions and Duties Summary
- Remediation Categories List
- Remediation System Information
- Maximum Payment Amounts (March 1, 2006 through June 30, 2006)
- Maximum Payment Amounts (July 1, 2006 through June 30, 2007)
- Maximum Payment Amounts (July 1, 2007 through June 30, 2008)