



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

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(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

Eric J. Holcomb  
Governor

Brian C. Rockensuess  
Commissioner

7/3/2024

## VIA ELECTRONIC MAIL

Toney Oil Company, LLC  
396 North Main Street  
Marengo, IN 47140  
Attention: Eric Toney  
[Etoney2007@gmail.com](mailto:Etoney2007@gmail.com)

Re: **Review of ELTF Eligibility Application for UST Decommissioning or Replacement 50% Cost Reimbursement**

Toney Oil Company, LLC  
East Goodman Ridge Road  
Marengo, IN 47140  
FID# 50117

Dear Eric Toney:

On June 21, 2024, the Indiana Department of Environmental Management (IDEM) received your Excess Liability Trust Fund (ELTF) eligibility application for 50% reimbursement of costs related to decommissioning or replacement of **four (4) UST(s) (25,000-gallon total capacity)** at the above referenced facility.

**Your application for UST decommissioning is approved.**

*Costs for decommissioning / removal of the unregulated ASTs located above the UST pit to facilitate UST Closure will not be eligible for reimbursement.*

Per IDEM records, **ten (10)** tank(s) total are owned by the applicant, as billed at all facilities. Statutory fiscal year (July 1 to June 30) reimbursement maximums apply based on number of tanks owned. At the time the cost claim is received, IDEM will confirm your ownership category. Costs for eligible projects will be reviewed on a first in, first out basis. Claims unable to be reimbursed due to reaching the annual reimbursement cap will be placed in queue for immediate processing for payment July 1 of the subsequent year up to the statutory limit.

As part of the review process for the ELTF claim, IDEM staff may contact vendors and contractors directly to discuss submitted invoices and the work completed. It is preferable to have one ELTF claim application for costs related to the entire project. If necessary to comply with claim submission requirements under 328 IAC 1, removal/closure costs can be submitted in one ELTF claim once the closure report is approved, and replacement/installation costs can be submitted in a second ELTF claim once the tanks are properly registered with IDEM.

The 50% Reimbursement ELTF Cost Claim Application for UST Decommissioning / Replacement must be submitted on State Form [#57322](#). The fillable form and associated application instructions can be found on the IDEM Forms page (<https://www.in.gov/idem/forms/>). IDEM requires appropriate backup documentation for all costs submitted in your ELTF cost claim. A minimum of 3 bids are encouraged to aid in a demonstration that the submitted expenses are both reasonable and cost effective.

Please note the following regarding UST decommissioning:

- While the specified tanks have been deemed eligible for this program, this is not an approval or pre-approval of costs. Any cost information included in your eligibility application is for informational purposes only.
- Closure report criteria must be met.
- Field costs incurred before the date of this letter are not eligible for reimbursement.
- Fifty percent (50%) of reasonable and cost-effective expenses necessary to decommission USTs will be reimbursed at ELTF rates, where applicable.
- IDEM requires a line-item breakdown of labor and other costs on contractor invoices.
- Any tank(s) decommissioned, as defined by IC 13-11-2-50, prior to eligibility determination are not eligible for decommissioning / removal through this program.

❖ *Reimbursable items include:*

1. Ground penetrating radar (GPR) to image the sub-surface to verify the utility lines and UST systems.
2. Removal and disposal of orphan/unknown tanks discovered in the excavation pit for the regulated USTs during closure.
3. Removal and proper disposal of UST and piping.
4. Proper disposal of contaminated sludge.
5. Backfill necessary to replace tank void.
6. Concrete/asphalt replacement for the area disturbed by UST removal.
7. Closure report costs for the IDEM approved closure report.

If you are replacing an UST, please note the following:

- This provision of the Indiana Code allows replacing the decommissioned tank with an aboveground storage tank (AST) as defined in IC 13-11-2-0.4 or an UST as defined in IC 13-11-2-241.
- Reinstallation costs will not be reimbursed prior to decommissioning of the UST to be replaced and receipt of an approved closure report.
- Fifty percent (50%) of reasonable and cost-effective costs for replacement tanks, as specified in *Section 4 - Proposed Reinstallation of Regulated Tanks* of your application, will be reimbursed to ELTF rates, where applicable.

- If the location for installation is unknown or deviates from the current locality of UST system(s) on site, these affiliated costs will be subject to a demonstration of reasonableness and cost effectiveness. Based upon the demonstration provided, it is possible only one area of excavation and resurfacing will be approved.
  - Costs for replacement tanks will not be considered for reimbursement until the tanks are properly registered with IDEM utilizing State Form [#45223](#), Notification for Underground Storage Tanks or State Form [#57335](#), Notification for Aboveground Storage Tanks.
  - **IDEM requires a detailed accounting of costs.** Please request separate invoicing for ineligible costs such as fuel dispenser, nozzle, and pump island components.
- ❖ *Reimbursable items include:*
1. Decommissioning items listed above.
  2. Purchase and delivery of the replacement tank to the facility.
  3. Installation of the replacement UST system to below the shear valve.
  4. Installation of the regulated AST.
  5. Preparation of new notification form to register installed tanks.

New releases discovered during decommissioning or replacement projects must be reported to the Petroleum Remediation Section (PRS). Eligible costs for over-excavation and disposal of contaminated soil may be submitted for reimbursement under an ELTF Eligible Leaking UST (LUST) Incident Number. Once a LUST Incident Number has been assigned and the ISC has been received by IDEM, a supplemental ELTF Eligibility Application ([#55459](#)) will need to be submitted in order for claimed costs under the LUST Incident to be considered for reimbursement. Claims submitted under the LUST Incident **should not** include any Decommissioning or Replacement costs applicable to the 50% reimbursement program.

Pursuant to IC 13-23-9-4, you may appeal this determination by filing a written request for review with the Indiana Office of Administrative Law Proceedings (OALP) not later than fifteen (15) days after the date of this determination if delivered by email, or not later than eighteen (18) days after the date of this determination if delivered exclusively via U.S. Mail. Pursuant to IC 4-21.5-3-7, you may request that the Office of Administrative Law Proceedings conduct a hearing to review this determination, under IC 4-21.5, in its entirety, or you may limit your request for review to specific portions of the determination. The request for review should be sent to:

Office of Administrative Law Proceedings  
100 North Senate Avenue  
Government Center North  
Suite N802  
Indianapolis, IN 46204

Failure to properly submit a request for review within the time period described above waives your right to administrative review of this determination pursuant to IC 4-21.5-3-7 and your right to judicial review of the determination pursuant to IC 4-21.5-5-4. The request for review must contain the following information:

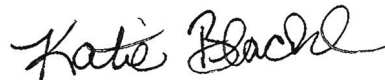
1. A statement of facts demonstrating that: you are the person to whom this determination is specifically directed; you are aggrieved or adversely affected by this determination; or you are entitled to review as a matter of law.
2. Identification of the specific portions of the determination to be reviewed and the legal basis for your challenge to this determination should be included in your request for review. In addition, your request should include the name, address and telephone number of the entity or individual to whom this determination is specifically directed. A copy of this letter should be attached to the request for review.
3. A copy of the request for review should be sent to:

ELTF Administrator  
c/o Timothy E. Veatch, Petroleum Branch Chief  
Indiana Department of Environmental Management  
100 North Senate Avenue-Room 1101  
Indianapolis, Indiana 46204

If you do appeal this determination, you will be notified by the Office of Administrative Law Proceedings regarding your cause number and prehearing date.

This determination is based upon review of the documentation presented to IDEM as well as documents previously submitted and made available to the ELTF Program. If additional information or documentation is subsequently provided, IDEM reserves the right to modify this determination as the situation may warrant. If you have any questions concerning this matter, please contact Ms. Kate Robinson via email [krobinso@idem.in.gov](mailto:krobinso@idem.in.gov) or phone at (317) 233-2511.

Sincerely,



Katie Blackburn  
Section Chief  
UST Operations  
Office of Land Quality  
[kblackbu@idem.in.gov](mailto:kblackbu@idem.in.gov)

cc: IDEM Office of Legal Counsel – Attention: Ms. Julie Lang  
([JLang@idem.in.gov](mailto:JLang@idem.in.gov))  
IDEM Petroleum Remediation Section – Attention: Ms. Nawal Hopkins  
([NHopkins@idem.IN.gov](mailto:NHopkins@idem.IN.gov))  
Specialty Earth Sciences, LLC – Attention: Mr. Cory Smith  
([csmith@sesciences.com](mailto:csmith@sesciences.com))

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