

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BROADUS OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB No. 10-48
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE

John T. Therriault
Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Robert M. Riffle
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, IL 61602

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274

PLEASE TAKE NOTICE that I have today caused to be filed the Respondent's MOTION FOR LEAVE TO FILE RESPONDENT'S CLOSING BRIEF *INSTANTER* with the Illinois Pollution Control Board, a copy of which is served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

Dated: May 10, 2013

Scott B. Sievers
Attorney Registration No. 6275924
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

BY: 

Scott B. Sievers
Special Assistant Attorney General

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BROADUS OIL COMPANY,)	
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v.)	PCB No. 10-48
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
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MOTION FOR LEAVE TO FILE RESPONDENT’S CLOSING BRIEF *INSTANTER*

NOW COMES the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by and through its attorney, Special Assistant Attorney General Scott B. Sievers, and for Respondent’s Motion for Leave to File Respondent’s Closing Brief *Instanter* states the following:

1. On February 26, 2013, Hearing Officer Carol Webb entered an order providing that the Respondent’s brief in this action was due by May 8, 2013.
2. While the undersigned was able to file the Respondent’s brief by the May 8 deadline in another action that was heard on the same day as the instant action, the undersigned was unable to also file the Respondent’s brief by May 8 due to unforeseen interruptions and a workload that was greater than anticipated. The undersigned informed Hearing Officer Webb by e-mail on May 8 of his intentions to file the instant motion, with Petitioner’s counsel copied on the e-mail.
3. Consequently, the Respondent requests leave to file *instanter* Respondent’s Closing Brief, the original copy of which is attached.
4. The undersigned has conferred with counsel for the Petitioner, and Petitioner’s counsel has no objection to the instant motion.

WHEREFORE, the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, prays that this honorable Board ALLOW the Respondent's MOTION FOR LEAVE TO FILE RESPONDENT'S CLOSING BRIEF *INSTANTER*.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

Dated: May 10, 2013

Scott B. Sievers
Attorney Registration No. 6275924
1021 North Grand Avenue East
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RESPONDENT'S CLOSING BRIEF

NOW COMES the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by and through its attorney, Special Assistant Attorney General Scott B. Sievers, and for Respondent's Closing Brief states the following:

I. STANDARD OF REVIEW

Section 57.3 of the Environmental Protection Act, 415 ILCS 5/1 *et seq.*, provides for the establishment of the Illinois Leaking Underground Storage Tank Program, which is to be administered by the Office of the State Fire Marshal and the Respondent, the Illinois Environmental Protection Agency. 415 ILCS 5/57.3. Section 57.7(c)(4) of the Act provides, in pertinent part, that "[a]ny action by the Agency to disapprove or modify a plan or report ... shall be subject to appeal to the [Pollution Control] Board in accordance with the procedures of Section 40." 415 ILCS 5/57.7(c)(4).

The standard of review under Section 40 of the Act is whether the application, as submitted to the Agency, would not violate the Act and Board regulations. *Freedom Oil Co. v. Illinois EPA*, PCB No. 10-46, slip op. at 13 (Aug. 9, 2012). In appeals of final Agency

determinations, the burden of proof rests upon the petitioner. *Id.* The standard of proof in LUST appeals is the preponderance of the evidence, meaning that a proposition is proved by a preponderance when it is more probably true than not. *Id.*

II. STATEMENT OF FACTS

A. Background

On November 18, 2009, the Illinois Environmental Protection Agency received a proposed Corrective Action Budget Amendment (“November 2009 Budget”) from the Petitioner for a LUST site in Streator, Illinois. (Admin. R. at 1616-1626, 1630.) The budget sought \$3,959.86 in personnel costs, \$78,947.73 in field purchases and other costs, and \$5,847.39, for a total of \$88,754.98. (Admin. R. at 1619.)

On December 8, 2009, Illinois EPA rejected the Corrective Action Plan Budget. (Admin. R. at 1630-1633.) Illinois EPA rejected the budget for two reasons. *Id.* First, the budget included soil disposal and backfill costs that exceeded the maximum payment amounts and were not reasonable. *Id.* Second, the budget included costs for corrective action that were inconsistent with the associated technical plan. *Id.*

On April 12, 2010, the Petitioner filed the Petition for Review And Hearing/Appeal at issue in this action. *Id.*

Also on April 12, 2010, Illinois EPA received a Corrective Action Plan Budget Amendment Justification. (“April 2010 Budget” or “subsequent budget”) (Admin. R. at 1636-1645.) This subsequent budget sought approval of the same sort of costs as that in the November 2009 Budget with the exception of the handling charges and personnel costs. (Admin. R. at 1636-1645.) The April 2010 Budget sought \$64,007.48. (Admin. R. at 1641.)

On April 15, 2010, Illinois EPA approved the April 2010 Budget in full. (Admin. R. at 1649-51.)

B. The Hearing

On February 26, 2013, Hearing Officer Carol Webb conducted a hearing in this action in Springfield, Illinois. (Tr. at 4.) Allan Green, president of Midwest Environmental Consulting and Remediation Services (“MECRS”), testified on behalf of the Petitioner. (Tr. at 8.) Brian Bauer of Illinois EPA testified on behalf of the Respondent. (Tr. at 19.)

At the outset of the hearing, the Petitioner’s attorney stated that the Petitioner’s Petition for Review And Hearing/Appeal sought \$88,754.98. (*See* Tr. at 5.) However, he stated that the majority of that claim had been addressed in a subsequent submittal. (Tr. at 5.) Consequently, the Petitioner’s attorney stated that what remained at issue in the appeal was \$5,847.39 in handling charges and \$3,959.86 in personnel costs. (*See* Tr. at 5.) The Respondent’s attorney, the undersigned, concurred that the parties’ dispute had been narrowed to those two figures. (*See* Tr. at 6.)

In its Post-Hearing Brief, the Petitioner now only seeks the \$3,959.86 in personnel costs, apparently abandoning its claim for handling charges. (Petr’s Post-Hr’g Br. at 4.)

1. Petitioner Witness Allan Green.

Green testified that he was the president of Midwest Environmental Consulting and Remediation Services, which was contracted by the Petitioner to oversee investigation/remediation of an existing LUST site in Streator, Illinois. (Tr. at 8.) The Petitioner had a gas station with an existing LUST incident that had impacted several neighboring properties. (Tr. at 8.)

Green testified that Sam Hale of Illinois EPA had been the project manager assigned to the project, and Cliff Wheeler was his supervisor. (Tr. at 9-10, 12-13.)

Green identified Respondent's Exhibit B as the budget that is the subject of this case. (Tr. at 14-17.) Green testified that this budget sought costs for excavation and transportation, disposal of soil, backfilling, and removal of clean overburden. (Tr. at 17.) Green said the budget also included \$3,959.86 in personnel costs for "the time that was spent between the city, their attorneys, the off-site property owner, and their attorneys, and then the IDOT for their highway authority agreement, and then reimbursement time and certification on that issue." (Tr. at 11-12.)

Green then identified Respondent's Exhibit E as a budget subsequently submitted after the November 2009 Budget that is the subject of this case. (Tr. at 15.) Green testified that this subsequent April 2010 Budget has been approved in full. (Tr. at 15-16.) Green identified his signature on a two-page letter that accompanied his budget. (Tr. at 16.) Green wrote the letter to address a mathematical error. (Tr. at 16.) Green testified that this subsequent budget included the same excavating, transportation, disposal, backfilling, and overburden work as that in the November 2009 Budget. (Tr. at 17-18.) In this subsequent budget, Green did not seek personnel costs or handling costs. (Tr. at 16.) Consequently, because the subsequent budget had been approved in full as to those costs, only the handling charges and personnel costs in the November 2009 Budget remained in dispute. (*See* Tr. at 18-19.)

2. Respondent Witness Brian Bauer

Brian Bauer testified that he is employed as a project manager within the Leaking Underground Storage Tank section of the Illinois Environmental Protection Agency. (Tr. at 19-20.) Bauer has a bachelor's degree in biology from Northland College and a master's degree in

environmental studies from the University of Illinois at Springfield. (Tr. at 20.) Bauer has been employed in Illinois EPA's LUST section for more than 20 years. (Tr. at 20.) As a project manager, Bauer oversees the approval and remediation of corrective action plans, site investigation plans, and completion reports, which includes the review of submitted budgets and plans. (Tr. at 21.) He has reviewed hundreds of plans and budgets. (Tr. at 22.) In the last three or four years, Bauer's duties have involved oversight of the reimbursement portion of the LUST program. (Tr. at 21.)

Bauer¹ testified that he was familiar with the December 8, 2009 decision of Illinois EPA to reject the November 2009 Corrective Action Plan Budget. (Tr. at 22; Resp.'s Ex. A; Admin. R. at 1630-1633.) Bauer reviewed the file. (Tr. at 32-33, 35.) Bauer explained that the Sam Hale identified on the second page of the decision had been a project manager in the LUST section but was dead. (Tr. at 22-23.) The December 2009 decision was signed by LUST Section Unit Manager Clifford L. Wheeler, whom Bauer said had retired from Illinois EPA and subsequently died. (Tr. at 23.)

Bauer testified that Attachment A to Respondent's Exhibit A—Illinois EPA's December 8, 2009 decision—set forth the reasons for denial of the submittal in this case. (Tr. at 22-23.) Bauer testified that Respondent's Exhibit B was the Corrective Action Budget Amendment that Illinois EPA denied in its December 8, 2009 decision in Respondent's Exhibit B. (Tr. at 24.)

¹ The Post-Hearing Brief of Petitioner complains that Bauer "had no first-hand familiarity and/or personal involvement." (Petr's Post-Hr'g Br. at 4.) However, the Respondent named in this action is a government agency that is only capable of testifying through one of its officers or employees. Bauer testified as Illinois EPA's witness in this representative capacity, and the law recognizes such representative witnesses. *See, e.g.*, Ill. S.Ct. R. 206(a)(1) (representative deponents); Ill. S.Ct. R. 237(b) (appearance at trial of officer, director, or employee of a party).

Bauer testified that a budget submitted to Illinois EPA could be denied in whole even though part of the budget was acceptable. (Tr. at 27-28, 34.) Thus, if one part of a budget violated or conflicted with regulations, the whole budget could be denied or rejected. (Tr. at 28; *see* Tr. at 34.) When a budget is denied in whole or in part, Bauer testified that the explanation set forth for Illinois EPA's rejection may not necessarily be detailed to every particular line of that budget but instead may be a generalized statement as to the basis for the rejection. (Tr. at 36.) When a budget includes costs for corrective action, those costs can include a number of costs, including personnel costs and handling charges. (Tr. at 36-37.)

Bauer addressed components of the rejected budget. (Tr. at 24; *see* Admin. R. at 1619; Resp.'s Ex. B at 1619.)

First, Bauer explained that Illinois EPA approved handling charges when they are submitted for payment but does not approve them as part of a budget. (Tr. at 24, 26.) "We don't approve a dollar amount in the budget for handling charges." (Tr. at 31.) Handling charges are approved separately from budgets. (Tr. at 31.) The approved charges are based upon what is in a submission for reimbursement at the time the bills are submitted. (Tr. at 24.) Bauer identified Respondent's Exhibit C as regulations that he relies upon in his job and that he has relied upon in dealing with handling charges. (Tr. at 25.) Bauer testified that a provision in paragraph (b) of Respondent's Exhibit C read that the budget requirements excluded handling charges, and that this was the basis for Illinois EPA's denial of requests for handling charges in budget submittals. (Tr. 26.) Handling charges are based upon a sliding scale set forth in the regulations. (Tr. at 31.)

Bauer identified Respondent's Exhibit D as another portion of the regulations he relies upon in the course of his job. (Tr. at 26-27.) Bauer understood from the regulations that various

costs are not approved for reimbursement under the LUST program. (Tr. at 27.) Illinois EPA does approve budgets seeking reimbursement for excavation, disposal, and backfill. (Tr. at 27.) However, Bauer testified that Illinois EPA does not approve budgets that include restoration of water, restoration of electric, or for compactors and the like based upon the regulations in Respondent's Exhibit D. (*See* Tr. at 27.)

Bauer identified Respondent's Exhibit E to be a Corrective Action Plan Budget Amendment Justification. (*See* Tr. at 28.) That exhibit is stamped as having been received on April 12, 2010. (Resp.'s Ex. E; Admin. R. at 1637.) Bauer testified that on page 1643, this budget addressed excavating and transportation, disposal, backfill, and overburden. (Tr. at 28.) Bauer also testified that on page 1622 of Respondent's Exhibit B—the November 2009 Budget at issue—it also included costs for excavation, transportation, disposal, backfill, and overburden. (Tr. at 28-29.) Bauer testified that the two budgets appeared to be addressing the same amount of yardage of excavation for transportation, disposal, backfill, and overburden. (Tr. at 29.) Bauer said he compared the figures on page 1622 of the disputed budget in Respondent's Exhibit B of 166.7 yards for trench backfill and 1,494.23 yards for backfill and that they were the same totals as that on Respondent's Exhibit E, the April 2010 budget. (*See* Tr. at 29.) Bauer testified that Exhibit E, the April 12, 2010 budget, had been approved for the full amount. (Tr. at 29.) Bauer testified that the paragraph in the attachment to Illinois EPA's decision rejecting the November 2009 budget for inclusion of corrective action costs that were inconsistent with the associated technical plan comprised personnel costs, including hours for negotiations for off-site excavation access. (Tr. at 37-38.) The subsequent April 2010 Budget did not include handling charges or personnel costs, but if it had included the personnel costs set forth in Respondent's Exhibit B—

the November 2009 Budget on appeal—Bauer said it was possible that they would have been paid. (Tr. at 30.)

Bauer testified that Illinois EPA provides forms for submittal of various LUST documentation, including budgets. (Tr. at 30-31.) At the time that the rejected budget summary and budget total were submitted, the Illinois EPA form did not include handling charges as a line item. (See Tr. at 31).

III. ARGUMENT

A. **The Board should affirm the Respondent's December 2009 decision rejecting the Petitioner's November 2009 budget, as the Petitioner has failed to meet its burden to prove that its budget would not have violated the Act and Board regulations because its budget did violate several provisions.**

In the instant case, the November 2009 Budget submitted by the Petitioner was rejected because the budget included (1) soil disposal and backfill costs that exceeded the maximum payment amounts and were not reasonable and (2) costs for corrective action that were inconsistent with the associated technical plan. (Admin. R. at 1633.)

The November 2009 Budget sought costs for the excavation, transportation, and disposal of 1,660.93 cubic yards of contaminated soil as well as costs for the same volume of backfill. (Admin. R. at 1622 (166.7 cubic yards plus 1,494.23 cubic yards).) That budget sought those costs at the rate of \$60.35 per cubic yard for excavation, transportation, and disposal, and at the rate of \$21.17 per cubic yard for backfill, among other costs. (Admin. R. at 1622.) Those rates were erroneously high, as Allan Green of MECRS later noted in a letter submitted to Illinois EPA. (Admin. R. at 1637-38.) As Green's letter stated, those rates should have been \$58.59 for the excavation, transportation, and disposal and \$20.56 for the backfilling. (Admin. R. at 1638.)

Thus, Illinois EPA correctly rejected the November 2009 Budget for including excessive soil disposal and backfill costs which were ineligible for payment and were not approved because they were unreasonable. (Admin. R. at 1633.) Nonetheless, and as addressed below, Illinois EPA approved a subsequent April 2010 Budget for those same costs but at the correct rates.

In addition to the soil excavating and backfill costs, the November 2009 Budget sought costs to “Restore water,” “Restore Electric,” and “Compactor.” (Admin. R. at 1622.) Section 734.630 of the Board’s regulations sets forth costs that are ineligible for payment. 35 Ill. Adm. Code 734.630. Those include:

- w) Costs associated with the **compaction** and density of testing of backfill material;
- ...
- pp) Costs incurred as a result of the destruction of, or damage to, any equipment, fixtures, structures, **utilities**, or other items during corrective action activities ... ;
- ...
- vv) Costs associated with the repair or replacement of potable **water** supply lines ... ;
- ww) Costs associated with the replacement of underground structures or **utilities**, including but not limited to septic tanks, utility vaults, sewer lines, **electrical** lines, telephone lines, cable lines, or **water** supply lines ... [.]

35 Ill. Adm. Code 734.630(w), (pp), (vv) & (ww) (emphasis added). Illinois EPA’s Bauer testified that, based upon this Section 734.630, Illinois EPA does not approve budgets that include restoration of water, restoration of electric, compactors, and the like. (*See* Tr. at 27; Resp.’s Ex. D.)

The November 2009 Budget also sought \$5,847.39 in handling charges. (Admin. R. at 1619.) However, subsection 734.335(b) of the Board’s regulations requires that a corrective action plan budget “must include ... an estimate of all costs associated with the development, implementation, and completion of the corrective action plan, **excluding handling charges.**” 35

Ill. Adm. Code 734.335(b) (emphasis added). Consistent with this regulation, Bauer testified that, while Illinois EPA does approve handling charges when bills are submitted for reimbursement, it does not approve them as part of a budget. (Tr. at 24-26, 31.) Bauer testified that handling charges are based upon a sliding scale in the regulations. (Tr. at 31.) Section 734.865 of the Board's regulations provides that "[p]ayment of handling charges must not exceed the amounts set forth in Section 734.635 of this Part," and Section 734.635 provides that "[h]andling charges are eligible for payment only if they are equal to or less than the amount determined by the following table:

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost
\$0 - \$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"

35 Ill. Adm. Code 734.635. Thus, Illinois EPA acted properly in not approving the Petitioner's handling charges as part of the November 2009 Budget because, while the Board's regulations provide for the payment of handling charges on a sliding scale based upon the subcontractor or field purchase cost, the regulations exclude handling charges from corrective action plan budgets.

The November 2009 Budget also included \$3,959.86 in personnel costs. (Admin. R. at 1619.) Bauer testified that, when a budget includes costs for corrective action, those costs can include a number of costs, including personnel costs. (Tr. at 36-37.) Green testified that the budget also included \$3,959.86 in personnel costs for "the time that was spent between the city, their attorneys, the off-site property owner, and their attorneys, and then the IDOT for their highway authority agreement, and then reimbursement time and certification on that issue." (Tr. at

11-12 (emphasis added).) The November 2009 Budget included personnel costs specifically for “Offsite access negotiation.” (Admin. R. at 1620.) Bauer testified that the second basis for Illinois EPA’s rejection of the November 2009 Budget—for inclusion of corrective action costs that were inconsistent with the associated technical plan—comprised personnel costs, including hours for negotiations for off-site excavation access. (Tr. at 37-38.)

Section 57.7(c)(3) of the Act provides that, in approving a corrective action plan, Illinois EPA will determine “that the costs associated with the plan are reasonable, will be incurred in the performance of site investigation or corrective action, and will not be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of this Title.” 415 ILCS 5/57.7(c)(3). Furthermore, Subsection 734.510(b) of the Board’s regulations provides, in pertinent part, that Illinois EPA’s financial review of a corrective action plan “must include ... costs associated with any materials, activities, or services that are included in the budget.” 35 Ill. Adm. Code 734.510(b). Thus, after it reviewed the November 2009 Budget containing excluded handling charges; personnel costs related to erroneously high excavation, transportation, disposal, and backfill costs; and ineligible costs for a compactor and for restoring electric and water, Illinois EPA properly rejected the budget pursuant to Section 57.7(c)(3) of the Act and Subsection 734.510(b) of the Board’s regulations. The Petitioner has failed to come forward with any authority that it can bypass the budget requirements set forth in the Act and Board regulations and still obtain payment so long as its costs have been reasonably and necessarily incurred, as it apparently asserts in its Post-Hearing Brief of Petitioner.

Furthermore, Section 734.505(b) of the Pollution Control Board’s regulations provides in pertinent part that the Respondent “has the authority to approve, reject, or require modification of

any plan, budget, or report it reviews.” 35 Ill. Adm. Code 734.505(b). On information and belief, no provision of the Act or of the Board’s regulations requires the Respondent to modify or otherwise approve in part a plan, budget, or report that contains a portion that would violate the Act or Board regulations if it were approved, and the Post-Hearing Brief of Petitioner does not come forward with any authority to the contrary. Consequently, and as Brian Bauer explained at hearing, if one part of a budget submitted to Illinois EPA violated or conflicted with regulations, the whole budget could be denied or rejected even though part of the budget was acceptable. (Tr. at 27-28; *see* Tr. at 34.)

However, as acknowledge at the outset of the hearing in this action, the vast majority of the Petitioner’s original \$88,574.98 claim has been satisfied. (Tr. at 5-6.) The only portions of the original claim that remained at hearing were the \$5,847.39 in handling charges and the \$3,959.86 in personnel costs. (Admin. R. at 1619; Tr. at 5-6.) For the reasons noted above, the Board should find that Illinois EPA acted properly in not approving the handling charges as part of the November 2009 Budget, while the Petitioner should be heartened that Illinois EPA nonetheless will approve its handling charges consistent with Board regulations when it receives a submittal for reimbursement. As for the personnel costs, while they were appropriately rejected in the November 2009 Budget when the entire budget was rejected, the possibility remains that Illinois EPA would approve them if submitted as part of a budget amendment that does not violate the Act or Board regulations. (Tr. at 30.) However, Illinois EPA properly rejected the entire November 2009 Budget, including its personnel costs, because that budget both violated the Act and the Board’s regulations.

IV. CONCLUSION

The Petitioner has the burden of proving that the November 2009 Budget would not violate the Act and Board regulations. *Freedom Oil Co., supra*. In the case at bar, the Petitioner has failed to prove that this budget would not violate general provisions of the Act and of Board regulations regarding budgets and costs and well as specific Board regulations concerning the proper rates for excavating, transporting and disposing contaminated soil and for backfill; for ineligible costs for restoring water and electric and for a compactor; and for handling charges, among others. As the Petitioner has failed to meet its burden of proof, the Respondent's December 8, 2009 decision to reject the Petitioner's November 2009 Budget should be affirmed.

WHEREFORE, the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, prays that that this honorable Board DENY the Petitioner's appeal and AFFIRM the Respondent's December 8, 2009 decision.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

Dated: May 10, 2013

Scott B. Sievers
Attorney Registration No. 6275924
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(217) 782-5544

BY:



Scott B. Sievers
Special Assistant Attorney General

Broadus Oil Company v. Illinois Environmental Protection Agency
Pollution Control Board No. 10-48

CERTIFICATE OF SERVICE

Scott B. Sievers, Special Assistant Attorney General, herein certifies that he has served a copy of the foregoing **MOTION FOR LEAVE TO FILE RESPONDENT'S CLOSING**

BRIEF INSTANTER upon:

John T. Therriault
Assistant Clerk
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100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Robert M. Riffle
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Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
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Springfield, IL 62794-9274

by electronic service and by mailing true copies thereof to the addresses referred to above in envelopes duly addressed bearing proper first class postage and deposited in the United States mail at Springfield, Illinois, on May 10, 2013.

Respectfully submitted,

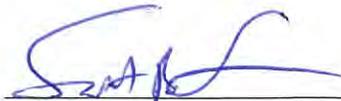
ILLINOIS ENVIRONMENTAL
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BY:



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