BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS AYERS OIL CO.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-214
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

NOTICE OF FILING AND PROOF OF SERVICE

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
100 West Randolph Street
State of Illinois Building, Suite 11-500
Chicago, IL 60601

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

John Kim
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

PLEASE BE ADVISED THAT we are today filing with the Pollution Control Board the original and nine copies of Motion for Authorization of Payment of Attorneys' Fees as Costs of Corrective Action, a copy of which is attached hereto.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon the hearing officer and counsel of record of all parties to this cause by enclosing same in envelopes addressed to such attorneys at their business addresses as disclosed by the pleadings of record herein, with postage fully prepaid, and by depositing same in the U.S. Mail in Springfield, Illinois on the 30th day of April, 2004.

Patrick D. Shaw

MOHAN, ALEWELT, PRILLAMAN & ADAMI
1 North Old Capitol Plaza, Suite 325
Springfield, IL 62701
Tel: (217) 528-2517
Fax: (217) 528-2553

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS AYERS OIL CO.,	)	
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Petitioner,	)	
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v.	)	PCB 03-214
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

MOTION FOR AUTHORIZATION OF PAYMENT OF ATTORNEYS' FEES AS COSTS OF CORRECTIVE ACTION

NOW COMES Petitioner, ILLINOIS AYERS OIL COMPANY, by its undersigned attorneys, and pursuant to Section 57.8(l) of the Illinois Environmental Protection Act (415 ILCS 5/57.8(l)), petitions the Illinois Pollution Control Board (hereinafter "the Board") for an order authorizing payment of legal costs, and in support thereof states as follows:

1. On April 1, 2004, the Board ordered the Illinois Environmental Protection Agency (hereinafter "the Agency") to restore $29,603.19 in costs to the Petitioners' high priority corrective action plan budget and affirmed $690.00 in reductions made by the Agency.

2. Under Section 57.8(l) of the Environmental Protection Act, the legal costs for seeking payment under the Leaking Underground Storage Tank Program are reimbursable from the underground storage tank fund if the owner or operator prevails before the Board. (415 ILCS 5/57.8(l))

3. A request for reimbursement of attorney fees from the underground storage fund is properly brought as a motion for modification of a final Board order. Ted Harrison Oil Co. v. IEPA, PCB 99-127 (Oct. 16, 2003); see also Touchdown Sportswear, Inc. v. Hickory Point Mall

Co., 165 Ill. App. 3d 72, 73 (4th Dist. 1987) (holding that since court must first identify the prevailing party, attorney-fee petition properly brought as post-judgment motion).

4. "A prevailing party, for purposes of awarding attorney fees, is one that is successful on a significant issue and achieves some benefit in bringing suit." J.B. Esker & Sons, Inc. v. Cle-Pa's Partnership, 325 Ill. App. 3d 276, 280 (5th Dist. 2001); see also Community Consolidated School Dist. No 54 v. Illinois State Board of Educ., 216 Ill. App. 3d 90, 94 (1st Dist. 1991) ("To qualify as a prevailing party, a plaintiff must succeed in obtaining some relief from the defendant against whom attorney fees are sought"). The party need not necessarily succeed as to all issues. See Becovic v. City of Chicago, 296 Ill. App. 3d 236, 240 (1st Dist. 1998) (citing numerous cases in holding that party prevailed in obtaining $2,750 judgment in suit seeking $35,300).

5. The use of the word "may" indicates that the fee-shifting provision is discretionary. Ted Harrison Oil Co. v. IEPA, PCB 99-127 (Oct. 16, 2003). The Board has not previously discussed the considerations that it might employ in exercising that discretion. Under some discretionary fee-shifting statutes, a prevailing party "should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust." Hensley v. Eckerhart, 461 U.S. 424, 429 (1983) (construing 42 U.S.C. 1988(b) which provides that "the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs").

6. Fee-shifting statutes are intended to encourage litigation by providing, as part of the relief awarded, payment of the costs of maintaining the action, including attorney fees. Chicago v. Illinois Commerce Com., 187 Ill. App. 3d 468, 470 (1st Dist. 1989). The Board has

previously recognized that the adjudication of contested cases is an essential element in the formation of the policies that govern the UST reimbursement program. See Platolene 500 v. IEPA, PCB 92-9, at 12-14 (May 7, 1992). In challenging the Agency's decision, Petitioner has contributed to the body of law in which UST reimbursement decisions are based.

7. In addition, fee awards under the present provision help protect the interests of third-parties, such as adjoining landowners. If the Agency denies any portion of a corrective action as unreasonable or excessive, the owner or operator may not necessarily have an adequate pecuniary interest to challenge the Agency's decision. Instead of expending significant legal costs, the owner or operator might yield to a reduced corrective action plan and in the event that the plan is subsequently found to be insufficient, the owner or operator can point to the Agency's approval in defense. Under such circumstances, an attorney fee award encourages an appeal to the Board where complacency "would be less costly than litigation." Chicago v. Illinois Commerce Com., 187 Ill. App. 3d at 470. In seeking the restoration of costs deemed necessary to determine the extent of contamination, the Petitioner has obtained benefits both for itself and for third-parties who would have borne the risk of the Agency's cost-cutting.

8. A final justification for awarding litigation costs in this case arises from the Board's ruling on the rate sheet. The Board found that the rate sheet is an improperly promulgated rule of the type courts have found invalid. Illinois Ayers Oil Co., at p. 16. Under the Administrative Procedure Act, a party which has any administrative rule invalidated by a court for any reason "shall" be entitled to an award of the reasonable expenses of the litigation. (5 ILCS 100/10-55(c)) Had a court made the same ruling as the Board, the court would have had no discretion but to award all litigation expenses, including those unrelated to invalidation of the

rule. Citizens Organizing Project v. IDNR, 189 Ill.2d 593, 598-99 (2000). While Section 10-55(c) of the Administrative Procedure Act does not technically apply to an order entered by the Board, as opposed to a court, the existence of this statutory provision and the nature of the Board's ruling with respect to the rate sheet should compel the Board to exercise its discretion to make a similar award.

9. Attached hereto as Exhibit A is an affidavit of Fred C. Prillaman, documenting the legals in this matter, which total $44,456.49 ($42,744.50 in attorney fees and $1,711.99 in costs). This evidence satisfies Petitioner's initial burden to specify the legal services provided, including the identity of the attorney providing the legal services, an itemization of the time expended for the individual service and the hourly rate charged. J.B. Esker & Sons v. Cle-Pa's Partnership, 325 Ill. App. 3d 276, 283 (5th Dist. 2001). Thereafter, the burden shifts to the challenger to rebut the reasonableness of the fees. Shortino v. Illinois Bell Telephone Co., 279 Ill. App. 3d 769, 775 (1st Dist. 1996). However, a fee award should not be reduced simply because all requested relief was not obtained. Becovic v. City of Chicago, 296 Ill. App. 3d 236, 242 (1st Dist. 1998). Often, counsel's time will be dedicated to the litigation as a whole, making it difficult to quantify the precise number of hours for any particular claim. Cannon v. William Chevrolet/Geo, Inc., 341 Ill. App. 3d 674, 687 (1st Dist. 2003); see also Ardt v. State, 292 Ill. App. 3d 1059, 1067 (1st Dist. 1997) (where issues were complex and inextricably intertwined, court would not engage in proposed claim-chopping approach). A fee award includes the cost incurred seeking a fee award. See Citizens Organizing Project v. IDNR, 189 Ill. 2d 593, 599 (2000).

WHEREFORE, Petitioner, ILLINOIS AYERS OIL COMPANY, requests that this Board authorize the payment from the leaking underground storage tank fund the amount of $44,456.49

in attorney's fees and litigation costs to ILLINOIS AYERS OIL COMPANY, pursuant to 415 ILCS 5/57.8(l).

Respectfully submitted,

ILLINOIS AYERS OIL CO., Petitioner

By MOHAN, ALEWELT, PRILLAMAN & ADAMI

By _____
Fred C. Prillaman

By _____
Patrick D. Shaw

MOHAN, ALEWELT, PRILLAMAN & ADAMI
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STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

AFFIDAVIT OF FRED C. PRILLAMAN
VERIFYING ATTORNEY FEES

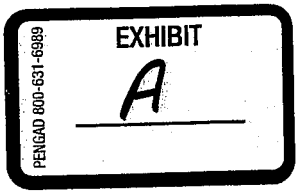
AFFIANT, Fred C. Prillaman, being first duly sworn, states as follows:

1. The statements made herein are based upon my personal knowledge, and I am competent to testify hereto.

2. I am an attorney duly licensed to practice law in the State of Illinois; and I am the attorney of record for Petitioner Illinois Ayers Oil Company in the case entitled, Illinois Ayers Oil Company v. Illinois Environmental Protection Agency, PCB 03-214 (hereinafter "Ayers II").

3. This case arises from factual and legal issues that are, in part, common with issues presented in several other cases presently before the Board to-wit: Godfrey Sunoco/Midwest Petroleum v. IEPA, 03-59, Illinois Ayers Oil Company v. IEPA, PCB 03-70 (hereinafter "Ayers I"), Clinton Oil Company v. IEPA, PCB 03-75, Willaredt Oil Company v. IEPA, PCB 03-107, Freedom Oil Company v. IEPA, PCB 03-121, Chronister Oil Co. v. IEPA, PCB 03-122, Lincoln Land FS v. IEPA, PCB 04-5, and Willaredt Oil Company v. IEPA, PCB 04-72. All of these cases except PCB 04-5 and 04-72 were already on file when the Agency issued its denial letter in Ayers II on March 28, 2003. In each of these cases, the environmental consultant for the owner/operator, in charge of preparing the corrective action plan, is C.S.D. Environmental, Inc.

4. I specifically began working on Ayers II on May 2, 2003. During the first few months, I worked on matters of commonality between the several related cases.



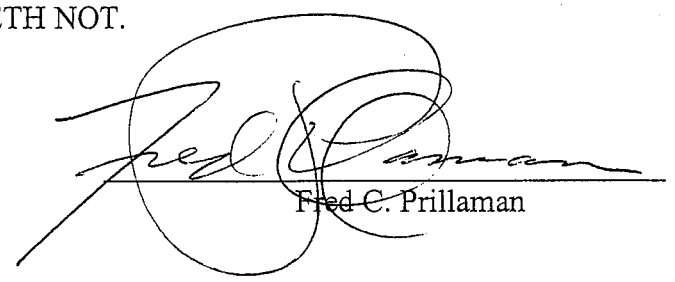
Primarily this involved attempts to persuade the Illinois Environmental Protection Agency to settle all of these cases on mutually agreeable terms.

5. On or about October 13, 2003, our office received a response from the Illinois Environmental Protection Agency that was not encouraging and for practical purposes, ended further settlement discussion. We then decided to prosecute Ayers II first because it was one of the larger cases and because it was exemplary of the related cases.

6. The legal defense costs incurred since I began working on Ayers II in May 2003 are $44,456.59, including $42,744.50 in attorney fees and $1,711.99 in associated legal costs.

7. Attached hereto as Exhibit 1 is an accurate summary of the legal work done, and legal fees incurred, with respect to this matter. This summary has been taken from the actual invoices and thus reflects actual work performed and fees incurred. Work unrelated to the Ayers II has been redacted since no reimbursement is sought for those legal activities. The summary reveals the date the work was performed, the description of the work performed, the amount of time spent, and the total fees incurred. The hourly rates charged are commensurate with the prevailing rates for environmental legal services in Springfield, Illinois for the years represented and are the rates charged to all clients of the respective attorneys.

FURTHER AFFIANT SAYETH NOT.



Fred C. Prillaman

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

Before me personally appeared Fred C. Prillaman and executed the above Affidavit, and after being duly sworn stated that the above information is true and correct according to the best of his information, knowledge and belief.

Subscribed and sworn to me this 30th day of April, 2004.

OFFICIAL SEAL
CINDY R. KOLLEY
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 6-6-2008

Cindy R. Kolley
Notary Public

My Commission Expires:
(seal)

C:\Mapa\CSD Environmental\Affidavit Fred Prillaman.doc\crk\4/28/04

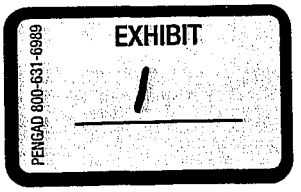
Mohan, Alewelt, Prillaman & Adami
1 North Old State Capitol Plaza
Suite 325
Springfield, IL 62701-1323
(217) 528-2517

CSD Environmental Services
2220 Yale Blvd.
Springfield IL 62703

April 30, 2004

Professional Services

			Hrs/Rate	Amount
May 2003				
5/2/2003	FCP	Receive & review permit denial from Cindy Davis; tel Cindy Davis Illinois Ayers Co.	0.20 190.00/hr	
5/3/2003	FCP	Prepare and file permit appeal Illinois Ayers Co.	0.20 190.00/hr	
5/5/2003	FCP	Work on and finalize letter to John Kim	1.00 190.00/hr	
5/8/2003	FCP	Receive & review faxed copy of return receipt re 3/28 permit from IEPA; fax same to Dorothy Gunn (Pollution Control Board); tel Joe Truesdale Illinois Ayers Co.	0.30 190.00/hr	
5/21/2003	FCP	Receive & review Board order Illinois Ayers Co.	0.10 190.00/hr	
	FCP	Tel John Kim	0.10 190.00/hr	
5/27/2003	FCP	Receive & review hearing officer orders setting telephonic status confs re various appeals	0.10 190.00/hr	
5/28/2003	FCP	Finalize and file waivers in all cases; fax same to hearing officer	0.30 190.00/hr	
5/30/2003	FCP	Tel Cindy Davis	0.20 190.00/hr	
SUBTOTAL:			[2.50	475.00]



			Hrs/Rate	Amount
		June 2003		
6/2/2003	FCP	Letter to Cindy Davis re conf w/Kim, Clay re major issues; tel John Kim (2x)	1.20 190.00/hr	
6/3/2003	FCP	Work on letter to Cindy Davis; receive and review fax IEPA decisions from Cindy Davis re handling charges; letter to John Kim re same and settlement conference	1.00 190.00/hr	
6/4/2003	FCP	Finalize letter to Cindy Davis	0.30 190.00/hr	
6/6/2003	FCP	Tel Carol Sudman (Hearing Officer)	0.10 190.00/hr	
6/10/2003	FCP	Tel John Kim	0.30 190.00/hr	
6/12/2003	FCP	Telephone Cindy Davis	0.10 190.00/hr	
6/13/2003	FCP	Tel Carol Sudman	0.10 190.00/hr	
6/16/2003	FCP	Letter to John Kim requesting updated LUST manager's handbook; tel John Kim	1.00 190.00/hr	
6/17/2003	FCP	Tel John Kim (2x)	0.30 190.00/hr	
6/19/2003	FCP	Tel Cindy Davis	0.20 190.00/hr	
6/25/2003	FCP	Conf w/Cindy Davis to prep for IEPA meeting; attend IEPA meeting w/John Kim, et al.; tel Cindy Davis (2x)	3.50 190.00/hr	
		SUBTOTAL:	[8.10	1,539.00]
		July 2003		
7/9/2003	FCP	Tel Kyle Rominger re handling changes	0.30 190.00/hr	
	FCP	Letter to Bob Riffle re arguments re production of databases by IEPA	0.40 190.00/hr	
7/10/2003	FCP	Tel Cindy Davis, John Kim & Hearing Officer	0.80 190.00/hr	
7/11/2003	FCP	Memo to file re settlement	0.50 190.00/hr	
7/14/2003	FCP	Finalize and file waivers in all 8 cases; receive and review hearing officer order setting status conf	1.00 190.00/hr	
		SUBTOTAL:	[3.00	570.00]
		August 2003		
8/13/2003	FCP	Work on letter to John Kim re settlement offer	1.00 190.00/hr	

			Hrs/Rate	Amount
8/14/2003	FCP	Prepare for and participate in tel conf status call w/John Kim and Carol Sudman (8 cases)	1.00 190.00/hr	
8/18/2003	FCP	Receive & review hearing officer orders in UST appeals	0.20 190.00/hr	
		SUBTOTAL:	[2.20	418.00]
		September 2003		
9/3/2003	FCP	Work on settlement offer; transmit Todd's Service Station transcript to Cindy Davis; tel Bob Riffle (Todd's Service Station attorney), Cindy Davis	3.00 190.00/hr	
9/4/2003	FCP	Work on settlement letter to John Kim	2.00 190.00/hr	
9/5/2003	FCP	Work on settlement letter to John Kim; draft cover letter to John Kim relative to LUST review standards re rate issues (Chappel testimony in Todd's Service Station)	1.70 190.00/hr	
9/8/2003	FCP	Telephone Cindy Davis and amend settlement proposal	1.30 190.00/hr	
9/9/2003	FCP	Telephone Cindy Davis	0.20 190.00/hr	
9/11/2003	FCP	Work on handling charge language; fax redraft of same to Cindy Davis and Joe Truesdale for review and approval; work on settlement offer to John Kim; receive and review faxed language changes and excerpts from RS Means from Cindy Davis	2.10 190.00/hr	
9/16/2003	FCP	Receive & review faxed comments to draft settlement letter from Cindy Davis and Joe Truesdale; work on revision	2.00 190.00/hr	
9/17/2003	FCP	Work on settlement letter to John Kim	1.00 190.00/hr	
9/18/2003	FCP	Work on settlement letter; tel Joe Truesdale re same; receive and review faxed proposed budget and summary for Ayers II from Joe Truesdale	2.00 190.00/hr	
9/19/2003	FCP	Work on settlement letter; conf tel call w/Sudman (H.O.) and Kim	1.00 190.00/hr	
9/22/2003	FCP	Prepare and file decision deadline waivers; tel Cindy Davis; receive and review hearing officer orders setting status conf; work on settlement ltr	1.50 190.00/hr	
9/23/2003	FCP	Finalize and fax letter to John Kim re LUST procedures and "market conditions"	1.00 190.00/hr	
		SUBTOTAL:	[18.80	3,572.00]
		October 2003		
10/13/2003	FCP	Receive & review faxed correspondence responding to settlement offer from John Kim; fax same to Cindy Davis	0.30 190.00/hr	
10/14/2003	FCP	Telephone Cindy Davis	0.20 190.00/hr	
10/16/2003	FCP	Status conf hearing officer	0.60 190.00/hr	

			Hrs/Rate	Amount
10/17/2003	FCP	Fax letter to Cindy Davis re hearing on case/summary of status conference	0.40 190.00/hr	
10/20/2003	FCP	Telephone Cindy Davis	0.20 190.00/hr	
10/21/2003	FCP	Status conf. w/Sudman (H.O.) & Kim; set hearing date; begin work on discovery	1.40 190.00/hr	
10/22/2003	FCP	Work on discovery requests (interrogatories and requests to produce); work on waivers; tel Cindy Davis	1.00 190.00/hr	
10/23/2003	FCP	Work on discovery requests; hand deliver correspondence and drafts of same to Cindy Davis; memo to file re discovery issues	2.20 190.00/hr	
10/24/2003	FCP	Receive & review hearing officer orders; work on discovery documents	1.00 190.00/hr	
10/27/2003	FCP	Telephone Cindy Davis	0.30 190.00/hr	
10/29/2003	FCP	Receive & review questions for discovery from Joe Truesdale; work on amendments	1.00 190.00/hr	
10/30/2003	FCP	Receive & review copy of administrative record from John Kim; finalize and serve interrogatories and requests to produce (via hand delivery)	2.20 190.00/hr	
10/31/2003	FCP	Letter to John Kim re discovery issues; review of Agency record	1.20 190.00/hr	
		SUBTOTAL:	[12.00	2,280.00]
		November 2003		
11/4/2003	FCP	Letters to Cindy Davis and John Kim re discovery issues and scheduling of depositions; fax letter to Kim	1.40 190.00/hr	
11/5/2003	FCP	Memo to file re Agency duty re discovery responses; tel John Kim (2x)	0.60 190.00/hr	
11/6/2003	FCP	Letter to Gene Adams re notice/status conf	0.20 190.00/hr	
11/7/2003	FCP	Finalize letter to Gene Adams (Ayers Oil)	0.10 190.00/hr	
11/18/2003	FCP	Telephone Cindy Davis	0.30 190.00/hr	
11/19/2003	FCP	Tel John Kim (2x), Cindy Davis, John Kim	0.60 190.00/hr	
11/20/2003	FCP	Fax letter to John Kim re depositions and fax same to Cindy Davis ; arrange for court reporter; check status of similar cases at Pollution Control Board; receive and review faxed response to interrogatories from John Kim; fax same to Cindy Davis	2.00 190.00/hr	
11/21/2003	FCP	Receive & review faxed Bauer affidavit from John Kim; tel Cindy Davis; prepare for depositions	1.00 190.00/hr	
11/24/2003	FCP	Prepare for depositions; fax letter to John Kim requesting production of documents; draft emergency motion to compel discovery; memo to file re good faith negotiations; to CSD's office to prepare w/clients	4.00 190.00/hr	

			Hrs/Rate	Amount
11/25/2003	FCP	Prepare for and conduct depositions of Chappel, Bauer and Hawbaker; work on emergency motion and notice of hearing re same; prepare notices to appear at trial for Chappel, Bauer and Hawbaker	6.30 190.00/hr	
11/26/2003	FCP	Telephone Cindy Davis; work on and file emergency motion	3.00 190.00/hr	
		SUBTOTAL:	[19.50	3,705.00]
		December 2003		
12/1/2003	FCP	Receive & review faxed response to emergency motion from John Kim; receive and review Chappel transcript from court reporter; tel Cindy Davis	3.30 190.00/hr	
12/2/2003	FCP	Receive & review Bauer and Hawbaker transcripts and exhibits from court reporter; receive and review hearing officer order denying emergency motion; transmit transcripts, emergency motion, response to same and H.O. order to Cindy Davis; prep for hearing; tel Cindy Davis/Joe Truesdale; tel John Kim; work on appeal of H.O. order; work on response to Agency's response; draft emergency motion for stay; draft letter to John Kim	4.40 190.00/hr	
12/3/2003	FCP	Attend hearing at Pollution Control Board and move for continuance; work on appeal; tel Joe Truesdale, Dan Goodwin; work on questions for hearing; file waiver of decision deadline in Ayers II; work on motion for interlocutory appeal	3.40 190.00/hr	
12/4/2003	FCP	Prepare waivers of decision deadline in other 7 appeals; tel Cindy Davis; work on interlocutory appeal; fax letter to Cindy Davis transmitting draft appeal, Platolene case and questions for hearing	2.30 190.00/hr	
12/5/2003	FCP	Work on and file interlocutory appeal; tel Cindy Davis; letter to Clerk of Pollution Control Board transmitting appeal via federal express	4.00 190.00/hr	
	PDS	Review FCP motion and make reccomendations re invalid rule issue	0.30 135.00/hr	
12/8/2003	FCP	Finalize and file waivers; fax same to hearing officer	0.30 190.00/hr	
12/10/2003	FCP	Memo to file re trial preparation; receive and review hearing officer orders in remaining appeals; legal research and memo re burden of proof issues	2.10 190.00/hr	
12/11/2003	FCP	Letter to Cindy Davis transmimtting interlocutory appeal, Owens decision and Agency brief re same, and Agency brief re Todd's case	0.80 190.00/hr	
12/12/2003	FCP	Receive & review hearing officer order re Agency response to interlocutory appeal	0.10 190.00/hr	
12/15/2003	FCP	Receive & review faxed response to interlocutory appeal from John Kim; tel Cindy Davis	0.30 190.00/hr	
12/16/2003	FCP	Prepare for conf/trial prep w/Cindy Davis, Joe Truesdale	2.00 190.00/hr	
12/17/2003	FCP	Work on questions for hearing	1.00 190.00/hr	
12/18/2003	FCP	Receive & review Baldwin Reporting invoice	0.10 190.00/hr	NO CHARGE

			Hrs/Rate	Amount
12/19/2003	FCP	Prepare for hearing; prepare exhibit list	1.00 190.00/hr	
12/22/2003	FCP	Receive & review Board order denying motion to compel	0.20 190.00/hr	
12/23/2003	CDO	Revise/modify contract documents	1.00 100.00/hr	
12/24/2003	FCP	Work on motion for interlocutory appeal of Board's 12/18/03 decision	0.80 190.00/hr	
12/29/2003	FCP	Receive & review Board Member Johnson's dissenting opinion; continue trial preparation; work on trial brief	2.00 190.00/hr	
12/30/2003	FCP	Memo to PDS re trial preparation; draft trial questions for Joe Truesdale	2.00 190.00/hr	
12/31/2003	PDS	Review deps and identify admissions	5.40 135.00/hr	
	FCP	Work on trial outline; review trial exhibits; fax trial outline to Cindy Davis and Joe Truesdale; fax letter to Cindy Davis re Clarendon Hills Bridal case/Agency argument re lack of detail	3.00 190.00/hr	
	SUBTOTAL:		[39.80	7,139.50]
	January 2004			
1/2/2004	PDS	Review deps & trial brief; complete admissions of Chappel	1.50 135.00/hr	
	FCP	Continue trial prep; work on trial brief; prep questions for trial for Hawbaker and Chappel; notes to file re correction action language and soils borings	4.50 190.00/hr	
1/5/2004	FCP	Continue hearing prep: prepare trial exhibits, finalize letter to Cindy Davis re trial strategy; revise analysis of cuts; to CSD Env. for hearing prep w/Cindy Davis and Joe Truesdale; work on memo re borings analyses; tel John Kim	6.70 190.00/hr	
1/6/2004	FCP	Continue trial prep; tel Dorothy Gunn (Clerk Pollution Control Board) re filings; tel Dan Goodwin	5.00 190.00/hr	
	PDS	Draft motion to admit deps.; draft notes to FCP	3.20 135.00/hr	
	CDO	Research for FCP find PCB precedent on admissions made in depositions	2.40 100.00/hr	
1/7/2004	FCP	Hearing @ Pollution Control Board; finalize and file Willaredt II appeal	9.00 190.00/hr	
1/8/2004	FCP	Receive & review Phase I info for Royal Oil from Joe Truesdale	0.10 190.00/hr	
1/12/2004	FCP	Receive and review hearing report from hearing officer	0.20 190.00/hr	
1/14/2004	PDS	Begin drafting brief; research and draft regulatory background	6.30 135.00/hr	
1/15/2004	PDS	Draft fact summary	1.70 135.00/hr	
1/16/2004	PDS	Revise fact discussion; begin research objection to rate sheet	2.90 135.00/hr	

			Hrs/Rate	Amount
1/19/2004	PDS	Research and draft objection to rate sheet	3.50 135.00/hr	
1/20/2004	PDS	Research illegal rule issues	1.90 135.00/hr	
1/21/2004	FCP	Legal Research and work on brief	2.00 190.00/hr	
1/23/2004	FCP	Legal Research re recently filed cases @ Pollution Control Board re similar issues	0.40 190.00/hr	
1/26/2004	PDS	Draft provisions of brief concerning invalid rule	3.50 135.00/hr	
1/28/2004	PDS	Draft brief re illegal rule and rules of evidence re summaries	4.30 135.00/hr	
	SUBTOTAL:		[59.10	9,429.00]
	February 2004			
2/2/2004	PDS	Draft rates portions of brief; revise relevant legals	5.30 140.00/hr	
2/3/2004	FCP	Work on brief	2.00 195.00/hr	
	FCP	Telephone status conf w/Carol Sudman, John Kim; draft letter to Cindy Davis	0.50 195.00/hr	
	PDS	Draft brief; research burden of proof issues; begin incorporating Truesdale testimony	6.00 140.00/hr	
2/4/2004	PDS	Draft investigation cost portion of memo	9.00 140.00/hr	
	FCP	Telephone Cindy Davis	0.30 195.00/hr	
2/5/2004	PDS	Draft remaining cost portions of brief	7.90 140.00/hr	
	FCP	Fax draft of brief to Joe Truesdale; fax letter to Cindy Davis re status of briefing/decision in Todd's Service Station case; prepare and file waivers	1.50 195.00/hr	
2/6/2004	FCP	Receive & review comments to rough draft of brief from Joe Truesdale; notes to file re Rule 213; fax draft of brief to Cindy Davis & Joe Truesdale	1.40 195.00/hr	
	PDS	Revise brief; tel conf. w/ Truesdale	4.30 140.00/hr	
2/9/2004	FCP	Notes and language for brief; review and finalize brief; fax brief to John Kim	1.00 195.00/hr	
	PDS	Revise and file brief; tel cof. Truesdale	6.50 140.00/hr	
2/10/2004	FCP	Letter to Cindy Davis and Joe Truesdale transmitting brief	0.30 195.00/hr	
2/18/2004	FCP	Memo to file	1.00 195.00/hr	
2/24/2004	FCP	Memo to file re CD testimony re basis of rates	0.50 195.00/hr	

			Hrs/Rate	Amount
	SUBTOTAL:	[	47.50	7,117.50]
	March 2004			
3/2/2004	FCP	Telephone John Kim	0.30 190.00/hr	
3/5/2004	FCP	Receive & review motion for extension of time to file brief and motion to strike hearing officer order from John Kim	0.20 195.00/hr	
3/8/2004	FCP	Receive & review hearing officer order granting extension to file post-hearing brief	0.10 195.00/hr	
	PDS	Draft response to objection to depositions	7.00 135.00/hr	
3/9/2004	PDS	Revise and file response to depositions	5.80 140.00/hr	
	FCP	Receive & review Agency brief; fax same to Cindy Davis and Joe Truesdale	1.00 195.00/hr	
3/10/2004	PDS	Draft reply brief	6.30 140.00/hr	
3/11/2004	PDS	Draft reply brief	6.50 140.00/hr	
3/12/2004	PDS	Revise and file reply brief	2.70 140.00/hr	
3/18/2004	FCP	Work on motion to amend reply brief by interlineation	0.70 195.00/hr	
3/29/2004	FCP	Telephone Cindy Davis	0.20 195.00/hr	
	SUBTOTAL:	[	30.80	4,413.00]
	April 2004			
4/7/2004	FCP	Telephone Joe Truesdale; receive and review Board opinion and order	0.20 195.00/hr	
4/8/2004	FCP	Letter to Cindy Davis transmitting opinion and order and discussing strategy for remaining cases	0.60 195.00/hr	
4/9/2004	FCP	Finalize letter to Cindy Davis	0.10 195.00/hr	
4/12/2004	FCP	Receive & review certified copy of opinion and order from PCB; tel Cindy Davis (3x)	0.40 195.00/hr	
4/23/2004	PDS	Review procedural rules re attorneys fees; research and draft motion	6.50 140.00/hr	
4/26/2004	PDS	Draft affidavit of FCP; revise motion	3.20 140.00/hr	
4/27/2004	PDS	Revise affidavit; revise motion	1.50 140.00/hr	
4/28/2004	PDS	Revise affidavit and motion	0.50 140.00/hr	

			Hrs/Rate	Amount
4/29/2004	FCP	Review and amend Motion for Attorney's Fees and affidavit; remove non-AyersII-related charges from billing exhibit	1.00 195.00/hr	
	SUBTOTAL:		[14.00	2,086.50]
	For professional services rendered		257.30	$42,744.50
	Additional Charges :			
			Qty/Price	
	May 2003			
5/2/2003		Photocopying Illinois Ayers Co.	139 0.20	27.80
		FAX to FCP from C. Davis Illinois Ayers Co.	7 0.20	1.40
5/3/2003		Check # 21048 to Illinois Pollution Control Board for filing fee for appeal Illinois Ayers Co.	1 75.00	75.00
		Postage Illinois Ayers Co.	1 10.45	10.45
5/5/2003		Postage Illinois Ayers Co.	1 2.12	2.12
		Photocopying Illinois Ayers Co.	22 0.20	4.40
5/8/2003		FAX to FCP from C. Hawbaker (EPA) Illinois Ayers Co.	2 0.20	0.40
5/28/2003		Photocopying Illinois Ayers Co.	134 0.20	26.80
		Postage Illinois Ayers Co.	1 4.79	4.79
5/30/2003		Telephone charges Illinois Ayers Co.	1 0.06	0.06
	SUBTOTAL:			[153.22]
	June 2003			
6/3/2003		Photocopying Illinois Ayers Co.	7 0.20	1.40
		FAX to FCP from C. Davis Illinois Ayers Co.	7 0.20	1.40
6/30/2003		Lexis charges Illinois Ayers Co.	1 4.77	4.77
	SUBTOTAL:			[7.57]

		Qty/Price	Amount
	July 2003		
7/7/2003	Postage	1 7.56	7.56
	Photocopying	87 0.20	17.40
7/14/2003	Photocopying	96 0.20	19.20
	Postage	1 4.79	4.79
	SUBTOTAL:		[48.95]
	September 2003		
9/11/2003	FAX to FCP from C. Davis	6 0.20	1.20
9/16/2003	FAX to FCP from Davis	29 0.20	5.80
9/18/2003	FAX to FCP from Trusdale	1 0.20	0.20
9/22/2003	Postage	1 4.33	4.33
	Photocopying	186 0.20	37.20
9/30/2003	Lexis charges	1 32.59	32.59
	Telephone charges	1 0.17	0.17
	SUBTOTAL:		[81.49]
	October 2003		
10/16/2003	Photocopying	17 0.20	3.40
10/23/2003	Photocopying	192 0.20	38.40
	Postage	1 6.07	6.07
10/29/2003	FAX to FCP from Truesdale	3 0.20	0.60
	SUBTOTAL:		[48.47]
	November 2003		
11/7/2003	Postage	1 1.20	1.20

		Qty/Price	Amount
11/21/2003	FAX to FCP from John Kim	2 0.20	0.40
11/24/2003	Photocopying	377 0.20	75.40
11/26/2003	Photocopying	132 0.20	26.40
11/30/2003	Lexis charges	1 11.17	11.17
	SUBTOTAL:		[114.57]
	December 2003		
12/1/2003	FAX from J.Kim to FCP	16 0.20	3.20
	Photocopying	12 0.20	2.40
12/2/2003	FAX to FCP from Sudiman	3 0.20	0.60
	Photocopying	286 0.20	57.20
12/4/2003	Photocopying	85 0.20	17.00
12/5/2003	FAX to FCP from Cindy Davis	4 0.20	0.80
12/6/2003	Federal Express charges to D. Gunn from FCP	1 21.49	21.49
12/8/2003	Postage	1 4.10	4.10
	Photocopying	173 0.20	34.60
12/11/2003	Photocopying	32 0.20	6.40
	Postage	1 3.95	3.95
12/12/2003	Check #21580 to Hillier Storage for file retrieval	1 7.50	7.50
12/15/2003	FAX to FCP from John Kim	17 0.20	3.40
12/16/2003	Photocopying	17 0.20	3.40
12/30/2003	Photocopying	209 0.20	41.80
12/31/2003	Lexis charges	1 155.82	155.82
	SUBTOTAL:		[363.66]

		Qty/Price	Amount
	SUBTOTAL:		[221.51]
	March 2004		
3/5/2004	FAX to FCP from Davis	3 0.20	0.60
	FAX to FCP from John Kim	15 0.20	3.00
3/9/2004	Photocopying	34 0.20	6.80
3/10/2004	Photocopying	96 0.20	19.20
3/11/2004	Postage	1 4.33	4.33
3/12/2004	Postage	1 6.57	6.57
	Photocopying	164 0.20	32.80
3/30/2004	Photocopying	24 0.20	4.80
	Postage	1 1.80	1.80
3/31/2004	Lexis charges	1 120.95	120.95
	SUBTOTAL:		[200.85]
	April 2004		
4/9/2004	Photocopying	11 0.20	2.20
4/13/2004	Photocopying	8 0.20	1.60
	Photocopying	8 0.20	1.60
	SUBTOTAL:		[5.40]
	Total costs		$1,711.99