

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

SHARON BURGESS )  
 )  
 -vs- )  
 ) DOCKET PCB 15-186  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY )

Hearing held, pursuant to notice, on Tuesday,  
August 11, 2015, at the hour of 10:00 a.m. at 1021  
N. Grand Avenue East, Springfield, Illinois, before  
CAROL WEBB, duly appointed Hearing Officer.

L.A. REPORTING SERVICE  
(312) 419-9292

REPORTER: LAUREL A. PATKES, CSR #084-001340

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BOARD MEMBER:

DEANNA GLOSSER, Chairman

APPEARANCES:

PATRICK SHAW

on behalf of Petitioner;

MELANIE JARVIS  
Assistant Counsel  
IEPA

on behalf of Respondent.

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I N D E X

WITNESS	DIRECT	CROSS
None.		

EXHIBITS

	MARKED	ADMITTED
IEPA Exhibits 1 through 4	4	7

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PROCEEDINGS

(Whereupon IEPA Exhibits 1 through 4 were marked for identification as of this date.)

HEARING OFFICER WEBB: Good morning.

My name is Carol Webb, and this is the hearing for PCB 15-186, Sharon Burgess versus IEPA, and it is August 11, 2015, and we are beginning at 10 o'clock a.m.

With me today is Board Chairman Deanna Glosser.

For the record, although this facility is located in Kankakee County, there was no known public interest in this case so I granted the parties' request to hold the hearing in Springfield.

There are no members of the public present to comment, but written public comment may be filed with the clerk by August 18th.

At issue in this case is the Agency's reduction of reimbursement amounts in petitioner's corrective action plan and budget for a facility located at 2835 U.S. Highway 52 in Kankakee. The decision deadline is currently October 15th. Petitioner has agreed to waive that

1 petition deadline to November 5th.

2 The Pollution Control Board  
3 members will make the final decision in this case.  
4 My purpose is to conduct the hearing in a neutral  
5 and orderly manner so that we have a clear record of  
6 the proceedings.

7 This hearing was noticed  
8 pursuant to the Act and the Board's rules and will  
9 be conducted pursuant to Sections 101.600 through  
10 101.632 of the Board's procedural rules.

11 At this time, I will ask the  
12 parties to please make their appearances on the  
13 record.

14 . MR. SHAW: Thank you.

15 Patrick Shaw for petitioner.

16 . MS. JARVIS: Melanie Jarvis for  
17 Illinois Environmental Protection Agency.

18 . HEARING OFFICER WEBB: Thank you.

19 Are there any preliminary  
20 matters to discuss on the record?

21 . MR. SHAW: No, Your Honor.

22 . HEARING OFFICER WEBB: Would  
23 petitioner like to give an opening statement?

24 . MR. SHAW: I would like to reserve

1 our opening statement for the brief.

2 . HEARING OFFICER WEBB: Okay.

3 Would the Agency care to make an  
4 opening statement?

5 . MS. JARVIS: We would likewise  
6 reserve our opening statement for the brief.

7 . HEARING OFFICER WEBB: Okay.

8 Mr. Shaw, you may present your  
9 case.

10 . MR. SHAW: We have no testimony to  
11 present today.

12 . HEARING OFFICER WEBB: No testimony,  
13 no exhibits, nothing?

14 . MR. SHAW: Nothing.

15 . HEARING OFFICER WEBB: Does the  
16 Agency have anything they would like to present  
17 today?

18 . MS. JARVIS: Yes. We have four  
19 exhibits.

20 . HEARING OFFICER WEBB: Okay.

21 . MS. JARVIS: So we have Exhibit No. 1  
22 is from our website regarding the leaking  
23 underground storage tank program.

24 No. 2 is also from the website

1 updated from No. 1.

2 No. 3 is the subpart (h),  
3 maximum payment amounts amended July 1, 2015.

4 And No. 4 is the project labor  
5 agreement fact sheet.

6 . HEARING OFFICER WEBB: Mr. Shaw, do  
7 you have any objection?

8 . MR. SHAW: No objection.

9 . HEARING OFFICER WEBB: Okay. The  
10 Agency's Exhibits 1 through 4 are admitted.

11 (Whereupon IEPA Exhibits 1  
12 through 4 were admitted into  
13 evidence at this time.)

14 . HEARING OFFICER WEBB: Does the  
15 Agency have anything further?

16 . MS. JARVIS: No. That's all.

17 . HEARING OFFICER WEBB: Okay.

18 The transcript is due by  
19 August 18th and will be posted on the Board's  
20 website.

21 The public comment deadline is  
22 August 18th. Any public comment must be filed in  
23 accordance with Section 101.628 of the Board's  
24 procedural rules. The petitioner's brief is due by

1 September 1st, and respondent's brief will be due by  
2 September 22nd, and the petitioner may file a reply  
3 by October 5th.

4 This is all assuming that  
5 petitioner does, in fact, waive the decision  
6 deadline to November 5th.

7 Would the petitioner care to  
8 make a closing argument?

9 . MR. SHAW: We'd like to reserve our  
10 argument for the briefs.

11 . HEARING OFFICER WEBB: Would the  
12 Agency care to make any closing statements?

13 . MS. JARVIS: We just have a  
14 clarification.

15 . HEARING OFFICER WEBB: Yes.

16 . MS. JARVIS: Okay. The Agency did  
17 not reduce costs or submitted costs. We approved  
18 Subpart (h) amounts in a budget, so this isn't a  
19 reimbursement case, okay? I just wanted to make  
20 that clear because you said that we reduced costs,  
21 but what we did was we approved Subpart (h) rates,  
22 and we did not cut things in a reimbursement  
23 package.

24 . HEARING OFFICER WEBB: I apologize if



1 I mischaracterized the issue in the case.

2 . MS. JARVIS: I just wanted to make  
3 sure it was clear.

4 . MR. SHAW: It's a budget case.

5 . MS. JARVIS: It's a budget case.

6 . HEARING OFFICER WEBB: Sorry about  
7 that.

8 . MS. JARVIS: That's okay.

9 Otherwise, we reserve the rest  
10 of our closing statement for the brief.

11 . HEARING OFFICER WEBB: Okay. At this  
12 time, I will conclude the proceedings. We stand  
13 adjourned, and I thank you all for your  
14 participation.

15 (Which were all of the  
16 proceedings held at this time.)

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1 STATE OF ILLINOIS )  
 ) SS.  
2 COUNTY OF SANGAMON)

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4 CERTIFICATE

5 I, Laurel A. Patkes, Certified Shorthand  
6 Reporter in and for said County and State, do hereby  
7 certify that I reported in shorthand the foregoing  
8 proceedings and that the foregoing is a true and  
9 correct transcript of my shorthand notes so taken as  
10 aforesaid.

11 I further certify that I am in no way  
12 associated with or related to any of the parties or  
13 attorneys involved herein, nor am I financially  
14 interested in this action.

15 Dated August 20, 2015.

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17 \_\_\_\_\_  
18 Certified Shorthand Reporter  
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<p style="text-align: center;"><b>A</b></p> <p><b>a.m</b> 1:10 4:9  <b>Act</b> 5:8  <b>action</b> 4:21  10:14  <b>adjourned</b> 9:13  <b>admitted</b> 3:11  7:10,12  <b>aforsaid</b> 10:10  <b>Agency</b> 1:6 5:17  6:3,16 7:15  8:12,16  <b>Agency's</b> 4:20  7:10  <b>agreed</b> 4:24  <b>agreement</b> 7:5  <b>amended</b> 7:3  <b>amounts</b> 4:20  7:3 8:18  <b>apologize</b> 8:24  <b>appearances</b> 2:3  5:12  <b>appointed</b> 1:12  <b>approved</b> 8:17  8:21  <b>argument</b> 8:8,10  <b>Assistant</b> 2:7  <b>associated</b> 10:12  <b>assuming</b> 8:4  <b>attorneys</b> 10:13  <b>August</b> 1:10 4:8  4:18 7:19,22  10:15  <b>Avenue</b> 1:11</p> <hr/> <p style="text-align: center;"><b>B</b></p> <p><b>beginning</b> 4:8  <b>behalf</b> 2:5,8  <b>Board</b> 1:2 2:1  4:10 5:2  <b>Board's</b> 5:8,10  7:19,23  <b>brief</b> 6:1,6 7:24  8:1 9:10  <b>briefs</b> 8:10</p>	<p><b>budget</b> 4:21  8:18 9:4,5  <b>Burgess</b> 1:3 4:7</p> <hr/> <p style="text-align: center;"><b>C</b></p> <p><b>care</b> 6:3 8:7,12  <b>Carol</b> 1:12 4:6  <b>case</b> 4:14,19 5:3  6:9 8:19 9:1,4  9:5  <b>CERTIFICA...</b>  10:4  <b>Certified</b> 10:5  10:17  <b>certify</b> 10:7,11  <b>Chairman</b> 2:2  4:10  <b>clarification</b>  8:14  <b>clear</b> 5:5 8:20  9:3  <b>clerk</b> 4:18  <b>closing</b> 8:8,12  9:10  <b>comment</b> 4:17  4:18 7:21,22  <b>conclude</b> 9:12  <b>conduct</b> 5:4  <b>conducted</b> 5:9  <b>Control</b> 1:2 5:2  <b>correct</b> 10:9  <b>corrective</b> 4:21  <b>costs</b> 8:17,17,20  <b>Counsel</b> 2:7  <b>County</b> 4:13  10:2,6  <b>CROSS</b> 3:2  <b>CSR</b> 1:24  <b>currently</b> 4:23  <b>cut</b> 8:22</p> <hr/> <p style="text-align: center;"><b>D</b></p> <p><b>D</b> 3:1  <b>date</b> 4:4  <b>Dated</b> 10:15</p>	<p><b>deadline</b> 4:23  5:1 7:21 8:6  <b>Deanna</b> 2:2 4:11  <b>decision</b> 4:23  5:3 8:5  <b>DIRECT</b> 3:2  <b>discuss</b> 5:20  <b>DOCKET</b> 1:5  <b>due</b> 7:18,24 8:1  <b>duly</b> 1:12</p> <hr/> <p style="text-align: center;"><b>E</b></p> <p><b>E</b> 3:1  <b>East</b> 1:11  <b>Environmental</b>  1:5 5:17  <b>evidence</b> 7:13  <b>Exhibit</b> 6:21  <b>exhibits</b> 3:10,12  4:2 6:13,19  7:10,11</p> <hr/> <p style="text-align: center;"><b>F</b></p> <p><b>facility</b> 4:13,22  <b>fact</b> 7:5 8:5  <b>file</b> 8:2  <b>filed</b> 4:18 7:22  <b>final</b> 5:3  <b>financially</b>  10:13  <b>foregoing</b> 10:7,8  <b>four</b> 6:18  <b>further</b> 7:15  10:11</p> <hr/> <p style="text-align: center;"><b>G</b></p> <p><b>give</b> 5:23  <b>Glosser</b> 2:2 4:11  <b>Good</b> 4:5  <b>Grand</b> 1:11  <b>granted</b> 4:14</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>h</b> 7:2 8:18,21  <b>hearing</b> 1:9,12  4:5,6,15 5:4,7</p>	<p>5:18,22 6:2,7  6:12,15,20 7:6  7:9,14,17 8:11  8:15,24 9:6,11  <b>held</b> 1:9 9:16  <b>Highway</b> 4:22  <b>hold</b> 4:15  <b>Honor</b> 5:21  <b>hour</b> 1:10</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>identification</b>  4:4  <b>IEPA</b> 2:7 3:12  4:2,7 7:11  <b>Illinois</b> 1:2,5,11  5:17 10:1  <b>interest</b> 4:14  <b>interested</b> 10:14  <b>involved</b> 10:13  <b>issue</b> 4:19 9:1</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p><b>Jarvis</b> 2:6 5:16  5:16 6:5,18,21  7:16 8:13,16  9:2,5,8  <b>July</b> 7:3</p> <hr/> <p style="text-align: center;"><b>K</b></p> <p><b>Kankakee</b> 4:13  4:23  <b>known</b> 4:14</p> <hr/> <p style="text-align: center;"><b>L</b></p> <p><b>L.A</b> 1:22  <b>labor</b> 7:4  <b>Laurel</b> 1:24 10:5  <b>leaking</b> 6:22  <b>likewise</b> 6:5  <b>located</b> 4:13,22</p> <hr/> <p style="text-align: center;"><b>M</b></p> <p><b>manner</b> 5:5  <b>marked</b> 3:11 4:3  <b>matters</b> 5:20</p>	<p><b>maximum</b> 7:3  <b>Melanie</b> 2:6  5:16  <b>MEMBER</b> 2:1  <b>members</b> 4:16  5:3  <b>mischaracteri...</b>  9:1  <b>morning</b> 4:5</p> <hr/> <p style="text-align: center;"><b>N</b></p> <p><b>N</b> 1:11 3:1  <b>name</b> 4:6  <b>neutral</b> 5:4  <b>notes</b> 10:9  <b>notice</b> 1:9  <b>noticed</b> 5:7  <b>November</b> 5:1  8:6</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p><b>o'clock</b> 4:8  <b>objection</b> 7:7,8  <b>October</b> 4:24  8:3  <b>Officer</b> 1:12 4:5  5:18,22 6:2,7  6:12,15,20 7:6  7:9,14,17 8:11  8:15,24 9:6,11  <b>okay</b> 6:2,7,20  7:9,17 8:16,19  9:8,11  <b>opening</b> 5:23 6:1  6:4,6  <b>orderly</b> 5:5</p> <hr/> <p style="text-align: center;"><b>P</b></p> <p><b>package</b> 8:23  <b>participation</b>  9:14  <b>parties</b> 5:12  10:12  <b>parties'</b> 4:15  <b>Patkes</b> 1:24 10:5  <b>Patrick</b> 2:4 5:15</p>
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<p>payment 7:3  <b>PCB</b> 1:5 4:7  <b>petition</b> 5:1  <b>petitioner</b> 2:5              4:24 5:15,23              8:2,5,7  <b>petitioner's</b> 4:21              7:24  <b>plan</b> 4:21  <b>please</b> 5:12  <b>Pollution</b> 1:2 5:2  <b>posted</b> 7:19  <b>preliminary</b>              5:19  <b>present</b> 4:17 6:8              6:11,16  <b>procedural</b> 5:10              7:24  <b>proceedings</b> 4:1              5:6 9:12,16              10:8  <b>program</b> 6:23  <b>project</b> 7:4  <b>Protection</b> 1:6              5:17  <b>public</b> 4:14,17              4:17 7:21,22  <b>purpose</b> 5:4  <b>pursuant</b> 1:9 5:8              5:9</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p style="text-align: center;"><b>R</b></p> <hr/> <p>rates 8:21  <b>record</b> 4:12 5:5              5:13,20  <b>reduce</b> 8:17  <b>reduced</b> 8:20  <b>reduction</b> 4:20  <b>regarding</b> 6:22  <b>reimbursement</b>              4:20 8:19,22  <b>related</b> 10:12  <b>reply</b> 8:2</p>	<p><b>reported</b> 10:7  <b>Reporter</b> 1:24              10:6,17  <b>REPORTING</b>              1:22  <b>request</b> 4:15  <b>reserve</b> 5:24 6:6              8:9 9:9  <b>Respondent</b> 2:8  <b>respondent's</b> 8:1  <b>rest</b> 9:9  <b>rules</b> 5:8,10 7:24</p> <hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>SANGAMON</b>              10:2  <b>Section</b> 7:23  <b>Sections</b> 5:9  <b>September</b> 8:1,2  <b>SERVICE</b> 1:22  <b>Sharon</b> 1:3 4:7  <b>Shaw</b> 2:4 5:14              5:15,21,24 6:8              6:10,14 7:6,8              8:9 9:4  <b>sheet</b> 7:5  <b>shorthand</b> 10:5              10:7,9,17  <b>Sorry</b> 9:6  <b>Springfield</b> 1:11              4:15  <b>SS</b> 10:1  <b>stand</b> 9:12  <b>State</b> 10:1,6  <b>statement</b> 5:23              6:1,4,6 9:10  <b>statements</b> 8:12  <b>storage</b> 6:23  <b>submitted</b> 8:17  <b>subpart</b> 7:2 8:18              8:21  <b>sure</b> 9:3</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>taken</b> 10:9</p>	<p><b>tank</b> 6:23  <b>testimony</b> 6:10              6:12  <b>thank</b> 5:14,18              9:13  <b>things</b> 8:22  <b>time</b> 5:11 7:13              9:12,16  <b>today</b> 4:10 6:11              6:17  <b>transcript</b> 7:18              10:9  <b>true</b> 10:8  <b>Tuesday</b> 1:9</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>U.S</b> 4:22  <b>underground</b>              6:23  <b>updated</b> 7:1</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>versus</b> 4:7  <b>vs-</b> 1:4</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>waive</b> 4:24 8:5  <b>wanted</b> 8:19 9:2  <b>way</b> 10:11  <b>Webb</b> 1:12 4:5,6              5:18,22 6:2,7              6:12,15,20 7:6              7:9,14,17 8:11              8:15,24 9:6,11  <b>website</b> 6:22,24              7:20  <b>WITNESS</b> 3:2  <b>written</b> 4:17</p> <hr/> <p style="text-align: center;"><b>X</b></p> <hr/> <p><b>X</b> 3:1</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p style="text-align: center;"><b>Z</b></p>	<hr/> <p style="text-align: center;"><b>0</b></p> <hr/> <p><b>084-001340</b> 1:24</p> <hr/> <p style="text-align: center;"><b>1</b></p> <hr/> <p>13:12 4:2 6:21              7:1,3,10,11  <b>10</b> 4:8  <b>10:00</b> 1:10  <b>101.600</b> 5:9  <b>101.628</b> 7:23  <b>101.632</b> 5:10  <b>1021</b> 1:10  <b>11</b> 1:10 4:8  <b>15-186</b> 1:5 4:7  <b>15th</b> 4:24  <b>18th</b> 4:18 7:19              7:22  <b>1st</b> 8:1</p> <hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p>26:24  <b>20</b> 10:15  <b>2015</b> 1:10 4:8              7:3 10:15  <b>22nd</b> 8:2  <b>2835</b> 4:22</p> <hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p>37:2  <b>312)419-9292</b>              1:23</p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p>43:12,12 4:3 7:4              7:10,12</p> <hr/> <p style="text-align: center;"><b>5</b></p> <hr/> <p>52 4:22  <b>5th</b> 5:1 8:3,6</p> <hr/> <p style="text-align: center;"><b>6</b></p> <hr/> <p style="text-align: center;"><b>7</b></p> <hr/> <p>73:12</p>
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