



**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

S&D REALTY, INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB 09-33
	)	(LUST Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
Respondent.	)	

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**CLARIFICATION TO THE HEARING OFFICER ORDER DATED MARCH 8, 2010**

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NOW COMES the Petitioner, S&D Realty, Inc. (hereinafter "Petitioner"), by and through its attorneys, the Law Offices of Cohen & Hussien, P.C., and for its Clarification to the Hearing Officer Order dated March 8, 2010, states as follows:

On March 8, 2010, the Hearing Officer for the above-referenced matter entered an order regarding the Respondent's Motion In Limine. While the Order did not rule on the merits of the Respondent's Motion, the Hearing Officer requested that the Petitioner clarify and confirm the amounts that the Respondent awarded to the Petitioner in its reimbursement decision letter dated October 10, 2008. According to the letter, the Petitioner requested \$153,801.58 in reimbursements. A \$10,000.00 deductible was deducted from that amount leaving \$143,801.58. Of that amount, the Respondent only awarded \$38,240.00 to the Petitioner for reimbursement. Upon review of Attachment A to the reimbursement letter, the Respondent itemized the amounts not eligible for reimbursement: \$13,340.08 was denied for not being eligible for reimbursement and \$98,760.00 (which was broken down into \$46,960.00 for remediation and disposal costs and \$51,800.00 for paving and demolition costs) was denied for not having backup invoices, totaling

\$112,100.08. However, after adding together the amount actually reimbursed, the amount denied, and the amount of the deductible, the total is \$160,366.08, or \$6,564.50 more than what the Petitioner requested in the first place.

Upon review of the Respondent's Administrative Record, it appears the Respondent is correct in that there was a typographical error in the reimbursement decision letter. The \$98,760.00 that was denied for not having backup invoices should actually be \$92,221.50, in accordance with the Respondent's Motion. The \$46,960.00 for remediation and disposal costs should actually be \$40,421.50, in accordance with the Respondent's Motion. These corrected amounts are demonstrated throughout the Respondent's Administrative Record. As a result thereof, this does not change the amount of \$38,240.00 that the Respondent previously awarded to the Petitioner. Also, when one adds together the amount actually reimbursed, the amended amount that was denied, and the amount of the deductible, the total is \$153,801.58, which is the amount that the Petitioner sought for reimbursement in the first place.

WHEREFORE, the Petitioner, S&D Realty Inc., respectfully petitions the Illinois Pollution Control Board to deny the Respondent's Motion In Limine and for any other relief deemed just and appropriate.

March 11, 2010

Respectfully Submitted,

By: Michelle Cole  
One of the Petitioner's Attorneys

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**TO:** Brad Halloran

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**FROM:** Michael Abel

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**DATE:** March 11, 2010

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**REPLY TO:** Worth Office

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**FACSIMILE:** 312-814-3669

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**RE:** S&D Realty, Inc. v. IEPA

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**Number of  
Pages:** 4

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**Comments:** Please See Attached.

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