

THE ILLINOIS POLLUTION CONTROL BOARD

BEVERLY POWERS, formerly)
 doing business as DICK'S)
 SUPER SERVICE,)
)
 Petitioner,)
)
 vs.)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

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STATE OF ILLINOIS
Pollution Control Board

PCB 11-63

TRANSCRIPT FROM THE PROCEEDINGS taken before
 HEARING OFFICER CAROL WEBB, by LISA K. HAHN, CSR, RMR, a
 notary public within and for the County of Macon and
 State of Illinois, at the Illinois Pollution Control
 Board, 1021 North Grand Avenue East (North Entrance),
 Springfield, Illinois, on the 26th day of February 2013,
 A.D., at 11:42 a.m.

1 A P P E A R A N C E S:

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18
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BY: MR. SCOTT B. SIEVERS,
Appeared on behalf of the Respondent.

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1 HEARING OFFICER WEBB: We'll go ahead and
2 begin.

3 Good morning. My name is Carol Webb. This
4 is the hearing for PCB 11-63 Beverly Powers, formerly
5 doing business as Dick's Super Service versus IEPA. It is
6 February 27th, and we are beginning at 11:42.

7 For the record, although Petitioner is
8 located in Tazewell County, there was no known public
9 interest in this case. Thus, I granted the parties'
10 request to hold the hearing in Springfield.

11 I'll note for the record that there are no
12 members of the public present. Members of the public are
13 allowed to provide public comment, if they so choose.

14 At issue in this case is Respondent's
15 denial of Petitioner's corrective action plan budget
16 amendment. The decision deadline in this case is August
17 22nd. The Pollution Control Board members will make the
18 final decision in this case. My purpose is to conduct the
19 hearing in a neutral and orderly manner so that we have a
20 clear record of the proceedings.

21 This hearing was noticed pursuant to the
22 Act and the Board's rules and will be conducted pursuant
23 to Sections 101.600 through 101.632 of the Board's
24 procedural rules.

1 At this time, I'll ask the parties to
2 please make their appearances on the record.

3 MR. RIFFLE: Good morning. Rob Riffle on
4 behalf of Dick's Super Service and Beverly Powers.

5 HEARING OFFICER WEBB: Okay.

6 MR. SIEVERS: Scott Sievers on behalf of
7 the Respondent, the Illinois EPA.

8 HEARING OFFICER WEBB: Would Petitioner
9 like to make an opening statement?

10 MR. RIFFLE: Very briefly, if I may.

11 This is again a very, very narrow issue, I
12 think, for the most part. There may be some issues on the
13 reasonableness of charges and such, but the threshold
14 issue revolves around the proper party and a rather unique
15 situation that arose on this particular situation.

16 Dick's Super Service was a d/b/a of a
17 gentleman named Dick Powers, who passed away, and Beverly
18 Powers, his wife, and the submittals in this case were
19 originally submitted under Dick Powers' Social Security
20 number.

21 There's no dispute that the work was done.
22 There's no dispute that this was approved by the owner of
23 the property, but the IEPA, in our view, has taken a hyper
24 technical view of the regulations and have denied

1 reimbursement in a situation where Dick Powers was
2 deceased and wasn't available to sign off on
3 documentation.

4 Beverly Powers, who owned the real estate
5 in joint tenancy and really was part of the d/b/a, gave
6 permission to Midwest Environmental to proceed with the
7 work that had already been scoped and proposed at the time
8 that Mr. Powers was alive, and so the threshold issue
9 again, and really the predominant issue in this case, is
10 whether or not the entity, as well as Midwest, should be
11 deprived of reimbursement for work that was admittedly
12 done, based on the technicality that Mr. Powers was
13 deceased, and within the timeframe, nothing was done to
14 deal with that situation.

15 So, for that reason, we think that it's
16 appropriate to require payment of these invoices that were
17 submitted, and Mr. Green is here to testify as to the
18 facts and circumstances surrounding that matter.

19 HEARING OFFICER WEBB: Mr. Sievers, would
20 you like to make any opening statement?

21 MR. SIEVERS: No, Your Honor.

22 HEARING OFFICER WEBB: Okay. Are there any
23 preliminary matters anyone wanted to discuss on the
24 record?

1 MR. RIFFLE: No.

2 HEARING OFFICER WEBB: Okay. Mr. Riffle,
3 you may call your first witness.

4 MR. RIFFLE: Yes. Our witness is Al Green.

5 HEARING OFFICER WEBB: All right.

6 Mr. Green, since this is a separate proceeding I'll ask
7 the court reporter to please swear you in again.

8 (Witness sworn.)

9

10 ALLAN GREEN, produced, sworn and examined on
11 behalf of the Petitioner, testified as follows:

12

DIRECT EXAMINATION

13

BY MR. RIFFLE:

14

Q. Mr. Green, please state your name and
15 affiliation for the record.

16

A. Allan Green, President of Midwest Environmental
17 Consulting and Remediation Service.

18

Q. Did you -- did your company enter into an
19 arrangement to provide environmental remediation services
20 for Dick's Super Service?

21

A. Yes.

22

Q. Can you explain briefly the circumstances
23 surrounding that engagement?

24

A. Once again, there was an indication of leaking

1 underground tanks at the site. We were called in to
2 basically oversee investigation and remediation, if
3 required, to close the incident number on the property.

4 Q. And did you proceed to do so?

5 A. Yes.

6 Q. And just briefly, describe the type of work that
7 you performed at that property.

8 A. The tanks were removed from the property and
9 were not replaced. The excavated soil was removed from
10 the site to the extent possible, given the size and nature
11 of the site. We did have some water in the excavation
12 that was from a mismarked waterline that was hit. During
13 the time, it wasn't actually what we considered ground
14 water. I mean, it came into the hole from the waterline.
15 That was removed and disposed of. The tank pit was
16 backfilled and basically just gravel placed back over the
17 property. Then an investigation was performed on the site
18 to determine what the contamination extents were.

19 Based upon those results, recommendations were
20 made regarding remediation of the property that when the
21 rules changed during this timeframe and TACO became
22 available, then we basically requested to do a TACO
23 evaluation of the site and attempt to close the property
24 with highway authority agreements, land use restrictions,

1 ground water ordinance, whatever we needed to do on the
2 property.

3 Q. And were you successful in those endeavors?

4 A. I believe so. Basically, we had a lot of
5 problems with the City, only because these small towns
6 don't understand the liability issues involved in it and
7 really hesitate to give us what we need to do.

8 Q. Are you referring now to the highway authority
9 agreements?

10 A. Right, and the ground water ordinances on the
11 property. Since then, the property has been sold, and the
12 individual who now owns the property, we just wanted to
13 get the closure letter on his behalf. The property is not
14 going to be put back into service as a tank. There's no
15 tanks put back on the property. They're basically using
16 it to store overflow from an automobile dealership.

17 Q. And who is your point of contact with this
18 particular customer at the time you initially started to
19 do work with them?

20 A. It would have been Mr. Powers, Dick Powers.

21 Q. Okay. And do I understand correctly that at
22 some point in this project he passed away?

23 A. Yes.

24 Q. And who did you start dealing with at that point

1 in time?

2 A. It would have been his wife, Beverly Powers.

3 Q. Okay. And did you apprise the IEPA of the
4 situation arising out of Mr. Powers passing away?

5 A. Yes. I mean, in reports and that, they should
6 have been made aware of the fact that she was executor of
7 the property and she was signing the paperwork as
8 executor.

9 Q. Okay. And did you have any conversations with
10 IEPA about that particular circumstance and how you should
11 handle it?

12 A. Sure. Over time, yes.

13 Q. Okay. And can you just briefly give an overview
14 of those conversations?

15 A. When he originally passed away and she had
16 basically taken over control of the project, there were no
17 issues. The paperwork went through with her as signatory,
18 and even the reimbursements for work that was done were
19 issued to her, and she basically then paid us. So the
20 issue with her being the signatory on papers didn't become
21 an issue until within the last year or so, and that's when
22 basically we were told, well, we can't do this this way.
23 We have to --

24 MR. SIEVERS: Objection; narrative.

1 HEARING OFFICER WEBB: Go ahead. I'll
2 allow it.

3 A. And basically, then, we were trying to come up
4 with a solution that she had given us, written
5 authorization to sign the paperwork. Since then, she's
6 remarried and she's moved down to southern Illinois and
7 basically now we've got the problem with we don't know how
8 to sign the paperwork, reimbursement-wise or
9 technical-wise, and I think Mike's made attempts to try to
10 figure out what we're supposed to do and who we're
11 supposed to get to sign the papers, but as of yet, that's
12 not been resolved.

13 Q. Okay. And you've mentioned Mike is here in the
14 room today. What's your understanding of Mike's position?

15 A. Mike Heaton is the EPA project manager over the
16 incident on the property.

17 Q. And have you had conversations with him
18 regarding this particular project?

19 A. Yes.

20 Q. And other than what you've already testified to,
21 what's the nature of those conversations with Mike?

22 A. We've had conversations regarding the proposed
23 closure of the site, the clean-up actions, remediation
24 costs, personnel costs that were considered unreasonable

1 and conversations in how we were going to sign these --
2 the paperwork from this point on to close the site.

3 Q. Now, can you explain in some detail the business
4 relationship between Midwest Environmental and Dick's
5 Super Service?

6 A. We were contracted by Mr. Powers, actually
7 Dick's Super Service, to perform the engineering oversight
8 for the closure of the incident on the property.

9 Q. Okay. And do you perform the work and then are
10 you paid out of their reimbursement from the State of
11 Illinois, then?

12 A. In some instances. In this case, yes. I mean,
13 they weren't able to pay, you know, the moneys up front,
14 so yes.

15 Q. So Midwest did the work and then was expecting
16 payment from Dick's Super Service after the reimbursement
17 payments were made; is that correct?

18 A. Yes, yes.

19 Q. And even after Mr. Powers' death, at least for
20 some period of time that's how that proceeded?

21 A. Yes.

22 Q. Okay. And Midwest has full authority from
23 Beverly Powers to sign documents on her behalf; is that
24 correct?

1 A. Yes.

2 Q. Can you just give an overview of, from a big
3 picture standpoint, all of the work that Midwest
4 Environmental has performed on this site?

5 A. We oversaw the early action activities, which
6 would have been the tank removal, soil removal, everything
7 that was allowed under early action, did the site
8 investigations, soil borings, the well, the reporting to
9 the EPA, and then the reimbursement documents for the work
10 that was performed, getting the highway authority
11 agreements, the ground water use restrictions on the
12 property following our evaluation to determine what was
13 the best course of action for closure on the site.

14 MR. RIFFLE: Okay. I apologize. Can we go
15 off the record for just one moment?

16 HEARING OFFICER WEBB: Sure.

17 BY MR. RIFFLE:

18 Q. Mr. Green, I'm handing you Exhibit 1, a document
19 marked as Exhibit 1, which is a Petition for Review and
20 Hearing that we filed in this case and direct your
21 attention to Exhibit A of that document. Do you recognize
22 that document?

23 (Petitioner's Exhibit Number 1 was marked for
24 identification.)

1 A. Yes.

2 Q. And what is that document?

3 A. It's the corrective action budget addendum for
4 corrective action on Dick Powers' site.

5 Q. And can you just very briefly describe the scope
6 of work and all that was involved in that particular
7 presentation in terms of the budget? Just explain what
8 work you did in connection with that.

9 A. Basically, this was an addendum to the original
10 budget that was modified by the EPA, and basically we
11 explained, as requested by the EPA, what the scope of work
12 that we were requesting reimbursement for was in the
13 corrective action plan that was originally approved.

14 Q. And can you go through the pages of that
15 document and just again briefly describe the work that was
16 performed and the nature of the reimbursement that you're
17 seeking in this case?

18 A. Basically, it was for the TACO investigation and
19 calculates the modeling of the property obtaining the
20 off-site access for the investigation, preparation of the
21 corrective action plan, the result -- and the results of
22 the investigation, the reimbursement, installing wells,
23 survey development, sample the wells, the quarterly ground
24 water samples that were collected, the corrective action

1 planning and then the PE certification of the plans and
2 budgets.

3 Q. And if you go further into that exhibit, is
4 there a detail of the personnel costs that were performed
5 in connection with the project?

6 A. Yes.

7 Q. And can you explain for the record the
8 categories and types of reimbursement that were performed
9 in connection with what we're seeking here today?

10 A. This addendum addresses the personnel costs that
11 were cut from the original plans and budgets on the site
12 in attempt to basically get reimbursed for the personnel
13 time that was spent on the site.

14 Q. Okay. And is there a detail of the personnel
15 time that was actually performed?

16 A. There is a breakdown on the EPA forms as to the
17 individuals, the tasks they were performing, and the time
18 that was on there.

19 Q. And did they actually work those hours in
20 connection with this project?

21 A. They worked most of these, but this was also as
22 an addendum to basically a TACO closed site. So this not
23 only includes the work that had been done, but the work
24 that was proposed to close the site.

1 Q. And to what extent has that work now been
2 completed?

3 A. The site basically is ready to close.

4 Q. Okay.

5 A. Or request closure, I should say.

6 Q. As far as all of the modeling and all of the
7 testing and such, all that work has been done?

8 A. Yes.

9 Q. Okay. And is that accurately depicted in
10 Exhibit A?

11 A. Yes.

12 MR. RIFFLE: I have no further questions.

13 Thank you.

14 HEARING OFFICER WEBB: Mr. Sievers?

15 MR. SIEVERS: Your Honor, I have copies of
16 my exhibit. Would you care for a copy?

17 HEARING OFFICER WEBB: If you have one.

18 CROSS EXAMINATION

19 BY MR. SIEVERS:

20 Q. Mr. Green, I'm handing you what's been
21 previously marked as Respondent's Exhibit B. I believe
22 this is what was also attached to your petition; would
23 that be correct?

24 (Petitioner's Exhibit B was marked for

1 identification.)

2 A. Yeah. I believe that's just what we -- what we
3 were just looking at, yes.

4 Q. Now, this copy, Mr. Green, has the
5 administrative record, the information, stamped at the
6 bottom, the page numbers; is that correct?

7 A. Yes.

8 Q. And you recognize Respondent's Exhibit B to be
9 the October 2010 budget submittal for Midwest
10 Environmental Consulting and Remediation Services;
11 correct?

12 A. Yes. It's the addendum, yes.

13 Q. Now, page 749 of this submittal, that contains
14 your signature; correct?

15 A. Yes.

16 Q. And then on -- let me call your attention to
17 page 818 of Respondent's Exhibit B.

18 Now, there are some blanks here on this page,
19 correct, and -- with some information filled in those
20 blanks; would that be correct?

21 A. Yes.

22 Q. Now, there's a statement there for owner slash
23 operator. Do you see that?

24 A. Yes.

1 Q. And it states Beverly Powers; correct?

2 A. Yes.

3 Q. Was that correct at the time this was submitted
4 to Illinois EPA?

5 A. Yes.

6 Q. And it has the title has owner; is that correct
7 at that time as well?

8 A. I believe so, yes. I'd have to look exactly and
9 see when the sale went through, but yes.

10 Q. Would you submit something that was not correct
11 to the Illinois EPA?

12 A. Not knowingly, no.

13 Q. Now, underneath the statement where it says
14 Beverly Powers, it has a line for signature. Is that your
15 signature there?

16 A. Yes, it is.

17 Q. Adjacent to that it says consultant; correct?

18 A. Yes.

19 Q. Okay. Now, below that, there's a signature from
20 a Gail Lynn Green. Who is Gail Lynn Green?

21 A. Office manager.

22 Q. And is that person's signature on there again
23 towards the bottom of that page?

24 A. Uh-huh.

1 Q. Is that a yes?

2 A. Yes.

3 Q. Now, between those two signatures, Mr. Green,
4 there's also another signature. Whose signature is that?

5 A. Penny Solzer.

6 Q. Now, does the signature of Beverly Powers appear
7 anywhere on page 818 of Respondent's Exhibit B?

8 A. No.

9 Q. Now, have you been designated as having power of
10 attorney for Beverly Powers?

11 A. I have written authorization to sign for her.
12 Now, I don't --

13 Q. My question to you, Mr. Green --

14 A. I don't have professional power of attorney, no.

15 Q. So my question to you is, have you been
16 authorized as a power of attorney for Beverly Powers?

17 A. No.

18 Q. And you say -- do you have something in writing
19 that states that you have been authorized to sign --

20 A. Yes.

21 Q. Please let me finish my question.

22 A. Oh, sorry.

23 Q. Do you have something in writing from Beverly
24 Powers that says you've been authorized to sign documents

1 in connection with Illinois EPA submissions?

2 A. Yes.

3 Q. Did you submit that documentation to the
4 Illinois EPA?

5 A. Yes.

6 Q. Okay. This is a complete copy of the
7 administrative record. Can you show me where in that
8 record that has been submitted?

9 MR. RIFFLE: I'm going to object. Really,
10 I don't think it serves any purpose. It's either in there
11 or it isn't.

12 HEARING OFFICER WEBB: Well, could you
13 maybe just ask him if he knows whether it's in the record?

14 THE WITNESS: I don't know if it's in the
15 record or not. I don't think it was a separate
16 submission. It would have been logged in as a separate
17 submission on there.

18 BY MR. SIEVERS:

19 Q. Well, if it is in that administrative record,
20 you've had the opportunity to review that record; correct?

21 A. Your record?

22 Q. Yes.

23 A. No, I personally have not. No.

24 Q. Okay. That's been filed with the Pollution

1 Control Board and served on your attorney. Did you ask
2 your attorney if you could review the record in this case?

3 A. No.

4 MR. RIFFLE: I'll object; attorney-client
5 privilege.

6 MR. SIEVERS: I'll withdraw it.

7 BY MR. SIEVERS:

8 Q. So you have not taken the time to review this
9 record to see whether or not that written authorization is
10 in here; correct?

11 A. No.

12 Q. And so you don't know whether or not a written
13 authorization from Beverly Powers for you or Midwest
14 Environmental Consulting to sign documents on her behalf
15 has been made a part of the record in this case; correct?

16 A. No.

17 Q. Okay. When you -- you say you submitted a
18 written documentation showing that Beverly Powers
19 authorized you to sign documents on her behalf for
20 submittal to Illinois EPA; is that correct?

21 A. Yes.

22 Q. When did you submit that document to Illinois
23 EPA?

24 A. I can't tell you the exact date without looking

1 through -- without having access to my file and seeing
2 when that was put in there, or when she had it dated, at
3 least.

4 Q. Okay. If Mr. Heaton were to testify today that
5 he never received any documentation from you indicating
6 that you have written authorization from Beverly Powers to
7 sign any documents on her behalf, can you point me to any
8 document today that refutes his statement?

9 A. No.

10 Q. You are not the owner/operator of the Petitioner
11 in this case; correct?

12 A. The Dick's Super Service?

13 Q. That's correct.

14 A. No.

15 Q. Your sole role in this case has been as
16 consultant; would that be correct?

17 A. Yes.

18 Q. And when I say you, do you understand me to be
19 referring both to you as Allan Green individually and
20 Midwest Environmental Consulting and Remediation Services,
21 Incorporated?

22 A. Yes.

23 Q. You're not the Petitioner in this case, are you?

24 A. No.

1 Q. Okay. You say this property has been sold. To
2 whom has it been sold?

3 A. The name doesn't come right to me. It's the
4 Ford dealership in Delavan.

5 Q. Again, I want to call your attention to -- you
6 have Respondent's Exhibit B in front of you. I believe
7 you testified previously that page 814 of that submittal,
8 that that addressed costs that had been previously cut by
9 Illinois EPA; is that correct?

10 A. Yes.

11 Q. And so this -- with this budget, you were
12 seeking reimbursement of costs that had previously been
13 denied by Illinois EPA; correct?

14 A. That we had been requested to give justification
15 for those costs that had previously been denied, and
16 that's what this was -- that's what this was for -- and
17 for the proposed corrective action that had been approved.

18 Q. So it is correct, then, that with this submittal
19 that is Respondent's Exhibit B, you were seeking
20 reimbursement of costs that had previously been denied by
21 Illinois EPA; correct?

22 A. That had been requested to justify those costs.

23 Q. Okay. My question to you, Mr. Green -- do you
24 not understand my question?

1 A. No, I understand your question.

2 Q. Okay. My question is simply this: This
3 submittal, Respondent's Exhibit B, you seek reimbursement
4 of costs that have previously been denied by Illinois EPA;
5 isn't that correct?

6 A. Not in total, but yes.

7 Q. Okay. What is not correct about that statement?

8 A. What is not correct?

9 Q. Yes.

10 A. That this also contains costs for an approved
11 plan that had not been performed at that time.

12 Q. But it does include costs that have previously
13 been denied by Illinois EPA; correct?

14 A. Yes.

15 Q. And you did not -- you did not appeal the denial
16 of those previous -- the previous Illinois EPA decision
17 denying those costs; isn't that correct?

18 A. Correct.

19 Q. And neither did the Petitioner in this case;
20 correct?

21 A. Correct.

22 MR. SIEVERS: I have nothing further of
23 this witness.

24 HEARING OFFICER WEBB: Okay. Do you have

1 anything further, Mr. Riffle?

2 MR. RIFFLE: Yes.

3 REDIRECT EXAMINATION

4 BY MR. RIFFLE:

5 Q. First of all, I believe you testified earlier
6 that at the time that some of these personnel costs were
7 denied, that EPA asked for further explanation; is that
8 correct?

9 A. Basically, he -- I believe -- I mean, this is
10 going from memory, that in the corrective action plan and
11 budget request to which this was a response, that I think
12 Mike had said that there was money left in the original
13 budget to cover some of those costs, so we were including
14 in here giving justification that there was not money left
15 in the budget for those costs because of previous
16 deductions.

17 Q. You didn't appeal that earlier determination;
18 correct?

19 A. No.

20 Q. Rather, you submitted this document as further
21 explanation; am I understanding that correctly?

22 A. Yes.

23 Q. Okay. And at page -- administrative page 16, am
24 I reading this correctly that you have a subtotal of

1 personnel costs of \$21,879.52; correct?

2 A. Yes.

3 Q. And then what is the line item total as approved
4 by the IPEA?

5 A. That was the total amount that was approved by
6 the IEPA in the previous plan and budget.

7 Q. It's already in the budget.

8 A. Right.

9 Q. And then you're netting that out to get to that
10 \$9,175.52?

11 A. Yes.

12 Q. And then if you look at page 817, is this
13 essentially the reconciliation of all of those personnel
14 charges?

15 MR. SIEVERS: Objection, leading.

16 HEARING OFFICER WEBB: Go ahead.

17 BY MR. RIFFLE:

18 Q. What is depicted at the bottom of page 817?

19 A. The total personnel costs associated with the
20 corrective action plan.

21 Q. And does this accurately indicate the amounts
22 that have already been approved?

23 A. Yes.

24 Q. And the ones that you're seeking additional

1 approval on?

2 A. Yes.

3 Q. And so all the work that was necessary to get
4 this to where you think NFR would be appropriate has
5 essentially been completed; is that correct?

6 A. Yes.

7 Q. And Midwest has paid all its subcontractors for
8 this project; is that correct?

9 A. Yes.

10 Q. And Dick's Super Service or Beverly Powers owes
11 you the money for the work that you actually did on the
12 project; is that correct?

13 A. Yes.

14 Q. And now there's a new owner of the property, the
15 Ford dealership; am I understanding that correctly?

16 A. Yes.

17 Q. And they're essentially seeking the NFR in their
18 name at this point?

19 A. They are seeking the NFR, and they will have to
20 be named on it as the new property owners.

21 Q. And you're continuing to do that work?

22 A. Yes.

23 MR. RIFFLE: Okay. Nothing further. Thank
24 you.

1 HEARING OFFICER WEBB: Anything else for
2 you, Mr. Sievers?

3 MR. SIEVERS: No, Your Honor.

4 HEARING OFFICER WEBB: Okay. Thank you,
5 Mr. Green.

6 Mr. Riffle, do you have anything else?

7 MR. RIFFLE: I do not.

8 MR. SIEVERS: Your Honor, Respondents would
9 move for admission of Respondent's Exhibit B into
10 evidence.

11 MR. RIFFLE: No objection.

12 HEARING OFFICER WEBB: Okay. Respondent's
13 Exhibit B is admitted. All right.

14 (Respondent's Exhibit B was admitted into
15 evidence.)

16 Mr. Sievers, you may present your case.

17 MR. SIEVERS: Thank you, Your Honor.

18 HEARING OFFICER WEBB: Would your witness
19 like to have a seat up here? It will make it a little
20 easier for the court reporter to hear you.

21 (Witness sworn.)
22
23
24

1 MICHAEL HEATON, produced, sworn and examined on
2 behalf of the Respondent, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. SIEVERS:

5 Q. Mr. Heaton, could you state your name and spell
6 it for the court reporter?

7 A. Sure. Michael Heaton, H-E-A-T-O-N.

8 Q. Are you employed?

9 A. Yes, I am.

10 Q. Where you employed?

11 A. State of Illinois.

12 Q. And are you employed by any particular unit of
13 the State of Illinois?

14 A. Illinois Environmental Protection Agency, Bureau
15 of Land, Leaking Underground Storage Tank Section.

16 Q. When you say Leaking Underground Storage Tank,
17 is that typically abbreviated as LUST, L-U-S-T?

18 A. Yes, it is.

19 Q. And what position do you hold?

20 A. I am an environmental protection engineer.

21 Q. How long have you been employed by Illinois EPA?

22 A. Since 1991.

23 Q. Now, how long have you had that position?

24 A. With underground storage tank section, since

1 '98, I believe; maybe '99.

2 Q. Now, what do your duties entail?

3 A. I review reports and plans that come in on a
4 technical basis and issue -- prepare letters for signature
5 by a supervisor.

6 Q. Do you review budgets?

7 A. Yes, I do, and associated budgets.

8 Q. Did you attend college?

9 A. Yes, I did.

10 Q. Where did you attend college?

11 A. University of Missouri-Rolla.

12 Q. Did you earn a degree?

13 A. Yes, I did.

14 Q. What's your degree in?

15 A. Geological engineering.

16 Q. Are you familiar with the Dick's Super Service
17 site at issue in this case?

18 A. Yes, I am.

19 Q. And who is the project manager for that site?

20 A. I am.

21 Q. How long have you been there?

22 A. Since shortly after the original submittal.

23 Probably '01. The previous project manager had left the
24 agency.

1 Q. Okay. In the course of your role as project
2 manager for this site, Dick's Super Service, have you had
3 the opportunity to review the entire file?

4 A. Yes, I have.

5 Q. You reviewed the plans in this file?

6 A. Yes.

7 Q. Correspondence?

8 A. Yes.

9 Q. Budgets?

10 A. Yes.

11 Q. Now, who was the owner/operator of the site when
12 the very first LUST budgets and documentations were
13 submitted to Illinois EPA?

14 A. Dick Powers.

15 Q. Now, did that continue for some time?

16 A. For a short amount of time.

17 Q. And what happened at that point?

18 A. It's my understanding he passed away, and then
19 his wife Beverly Powers began submitting or signing the
20 forms as owner.

21 Q. Okay. Now, did Illinois EPA receive
22 documentation of a transfer of the site, the ownership,
23 its operation of the site, from Dick Powers to Beverly
24 Powers?

1 A. No.

2 Q. Who is Allan Green?

3 A. Allan Green is the consultant for Dick Powers.

4 Q. At any time did Illinois EPA receive any
5 information or documentation showing that Allan Green was
6 the owner/operator of the site?

7 A. No.

8 Q. At any time, did Illinois EPA receive any
9 documentation that Beverly Powers had authorized either
10 Allan Green or Midwest Environmental Consulting
11 Remediation Services to assign documents on her behalf?

12 A. No.

13 Q. Allan Green is not the owner or operator of the
14 site as you understand it; is that correct?

15 A. That is correct. Right.

16 Q. And let me ask you, so -- and Midwest
17 Environmental Consulting and Remediation Services is not
18 the owner or operator of the site, as far as you know;
19 correct?

20 A. Correct.

21 Q. You received no documentation showing that
22 either Allan Green, Midwest, is the owner/operator;
23 correct?

24 A. That's correct.

1 Q. I'm handing you what has been previously marked
2 as Respondent's Exhibit A. Do you recognize that
3 document?

4 (Respondent's Exhibit A was marked for
5 identification.)

6 A. Yes, I do.

7 Q. And what do you recognize that document to be?

8 A. A denial letter for a corrective action plan
9 budget amendment.

10 Q. Is this, to your knowledge, the denial letter
11 that's at issue in this case?

12 A. Yes, it is, to my knowledge.

13 Q. Okay. And on page 835 of this Respondent's
14 Exhibit A, does that set the reasons for your rejection of
15 this submittal?

16 A. Yes, it does.

17 Q. I'm going to hand you what has been previously
18 marked as Respondent's Exhibit B. Do you recognize that
19 document?

20 A. Yes, I do.

21 Q. And what do you recognize that to be?

22 A. The corrective action plan budget amendment that
23 was denied.

24 Q. Now, is this Respondent's Exhibit B the

1 submittal that was denied in Respondent's Exhibit A?

2 A. That is correct.

3 Q. Okay. Now, call your attention to page 817 of
4 Respondent's Exhibit B. In the right-hand column, the
5 thing they say says TACO, what is TACO?

6 A. TACO is Tiered Approach to Corrective Action
7 Objectives, Part 742 of 35 IAC.

8 Q. At the bottom of the page, there's a thing
9 called CACR?

10 A. Corrective Action Completion Report.

11 Q. If I pronounce that as cacker, will you
12 understand that to mean CACR?

13 A. Yes.

14 Q. So, at this page, page 817, does it have
15 numerous references to costs related to TACO and CACR?

16 A. That is correct.

17 Q. So this budget, Respondent's Exhibit B, includes
18 costs for TACO calculation and CACR work; correct?

19 A. Yes.

20 Q. Mr. Heaton, I'm handing you what has been
21 previously marked as Respondent's Exhibit C. Do you
22 recognize that document?

23 (Respondent's Exhibit Number C was marked for
24 identification.)

1 A. Yes, I do.

2 Q. And what do you recognize that document to be?

3 A. A modification letter to a corrective plan
4 amendment from '08, 2008.

5 Q. Does that mean something has been approved in
6 part and denied in part?

7 A. That's correct.

8 Q. Now, call your attention to page 742 of
9 Respondent's Exhibit C. Does that page address
10 deductions, the basis or in part, for the modifications?

11 A. I'm sorry. Could you repeat the question?

12 Q. Why don't you take a look at page 742 for a
13 moment.

14 A. Yes.

15 Q. Does that page address some deductions that
16 Illinois EPA required from a submitted budget?

17 A. That's correct. Yes.

18 Q. And those deductions included items for TACO
19 calculation and for CACR; correct?

20 A. Yes.

21 Q. Now, to your knowledge, was the decision that is
22 Respondent's Exhibit C, was that decision ever appealed by
23 the Petitioner in this case, or anyone else?

24 A. It was not, to my knowledge.

1 Q. Mr. Heaton, I'm handing you now what has been
2 previously marked as Respondent's Exhibit D. Do you
3 recognize Respondent's Exhibit D?

4 (Respondent's Exhibit D was marked for
5 identification.)

6 A. Yes, I do.

7 Q. And what do you recognize that to be?

8 A. The corrective action plan budget from 1992 --
9 sorry. The corrective action plan budget from '08 that
10 was approved with modifications in December of '08.

11 Q. So this is a 2008 submitted budget?

12 A. Yes.

13 Q. Is this budget the budget that is approved with
14 modifications in Respondent's Exhibit C?

15 A. Yes, it is.

16 Q. Now, let me call your attention to Respondent's
17 Exhibit D to page 728. Now, you previously testified that
18 the modification letter addressed deductions for TACO and
19 CACR work; correct?

20 A. Yes.

21 Q. On page 728, does that address TACO and CACR
22 work that was the subject of the deductions in
23 Respondent's Exhibit C?

24 A. Yes. This is the deductions in Exhibit C.

1 Q. And so I'm referring to page 728 of Respondent's
2 Exhibit D; correct?

3 A. Yes.

4 Q. I'm going to go a little bit out of order here.
5 Mr. Heaton, I'm handing you what has been previously
6 marked as Respondent's Exhibit F. Do you recognize that
7 exhibit?

8 (Respondent's Exhibit F was marked for
9 identification.)

10 A. Yes, I do.

11 Q. What do recognize that to be?

12 A. These are my review notes from October 2010.

13 Q. And so you were the project manager who assisted
14 Illinois EPA in coming to the decision to deny the 2010
15 budget submittal; correct?

16 A. Yes.

17 Q. Okay. And these are your notes upon which you
18 reached that decision?

19 A. Yes.

20 Q. And at the top of page 822 of Respondent's
21 Exhibit F, the second page of that exhibit, really, it
22 says July 8, 2004, \$9,233 was requested and approved. Do
23 you see that?

24 A. Yes, I do.

1 Q. Now, is that referring to prior budget?

2 A. Yes, it is.

3 Q. Mr. Heaton, I'm now handing you what has been
4 previously marked as Respondent's Exhibit E. Do you
5 recognize that document?

6 (Respondent's Exhibit E was marked for
7 identification.)

8 A. Yes, I do.

9 Q. And what do recognize that document to be?

10 A. This is a budget from 2004.

11 Q. Okay.

12 A. The 2004 submittal.

13 Q. Is this the budget to which you refer in
14 Respondent's Exhibit F, the top of the second page?

15 A. Yes, it is.

16 Q. Okay. I call your attention to page 582 of that
17 exhibit, Respondent's Exhibit E. Now, does that budget
18 include TACO and CACR work?

19 A. Yes, it does.

20 Q. Okay. And so you understood -- did you
21 understand that Respondent's Exhibit E to be a budget
22 submitted by a Midwest Environmental Consulting and
23 Remediation Services for reimbursement for costs incurred
24 for TACO and CACR work?

1 A. Yes.

2 Q. I'll ask you to draw your attention back to
3 Respondent's Exhibit B. Did Illinois EPA ever receive
4 justification for additional CACR or TACO costs beyond
5 that which was submitted to Illinois EPA in the 2004
6 budget we just looked at as Exhibit E?

7 A. No.

8 Q. TACO and CACR costs were already approved by
9 Illinois EPA in that 2004 budget; correct?

10 A. Yes.

11 Q. And it's correct that you have never received
12 any written documentation showing that Midwest
13 Environmental Consulting and Remediation Services, or
14 Mr. Allan Green, has been authorized by Beverly Powers to
15 sign documents on her behalf; correct?

16 A. That's correct.

17 Q. Have you been given anything by either Allan
18 Green or Midwest Environmental Consulting and Remediation
19 Services showing that they are authorized to act on behalf
20 of Beverly Powers?

21 A. No.

22 Q. And to date, have you received anything that
23 even indicates that Dick Powers' ownership or operation of
24 the site has been transferred to Allan Green or Midwest

1 Environmental Consultants?

2 A. I have not.

3 Q. Have you seen anything that Dick Powers had ever
4 authorized Allan Green or Midwest Environmental
5 Consultants to -- well, strike that.

6 MR. SIEVERS: I have nothing further, Your
7 Honor.

8 HEARING OFFICER WEBB: Okay.

9 CROSS EXAMINATION

10 BY MR. RIFFLE:

11 Q. Mr. Heaton, you have in front of you as one of
12 the exhibits, Exhibit B; is that correct?

13 A. Yes, I do.

14 Q. What do you understand Exhibit B to be?

15 A. Exhibit B was a submittal asking for personnel
16 costs that were denied in probate.

17 Q. And this essentially is Midwest Environmental's
18 explanation as to why these additional costs were
19 incurred.

20 A. It was an attempt to explain why the additional
21 costs were incurred, yes.

22 Q. In your experience, do -- are there variables
23 that occur in the field that will alter reasonableness in
24 the original budget?

1 A. It is possible.

2 Q. Okay. In this particular case, a highway
3 authority agreement was required; is that correct?

4 A. I do not recall. That's not been submitted.

5 Q. But okay.

6 A. Probably. Potentially, one would be required.

7 Q. And would that be an item that would be
8 appropriate to allow reimbursement for the expenses
9 incurred in getting the highway authority agreement.

10 A. It would be something that would be eligible for
11 reimbursement, yes.

12 Q. And under the Tier Approach to Corrective
13 Action, or TACO, oftentimes a highway authority agreement
14 is part of the documentation that allows an incident to be
15 closed, leaving some contamination in place; is that
16 correct?

17 A. Yes, that is correct.

18 Q. But you don't know one way or the other whether
19 a highway authority agreement is necessary in this case?

20 A. At this time, no. It's possible.

21 Q. Do you know if Midwest has worked on procuring a
22 highway authority agreement?

23 A. I have not seen a highway authority agreement.

24 Q. You don't know one way or the other as to

1 whether they have been working on that?

2 A. That's correct.

3 Q. Okay. Have you had conversations with Mr. Green
4 about the issue of ownership of this property and who is
5 the appropriate person to sign off on reimbursement
6 requests?

7 A. I had the conversation with, I believe, Penny
8 Silvers [sic] of his office asking where Beverly Powers
9 was located. As far as ownership, no, I did not ask if
10 Beverly Powers was the owner or if Midwest was the owner.

11 Q. You've never talked to Mr. Green about the
12 appropriate signatories on budgets and reimbursement
13 requests?

14 A. To my knowledge, other than asking for the
15 location of Beverly Powers, I do not recall any
16 conversations.

17 Q. And that conversation was with Mr. Green?

18 A. No. It would have been, I believe, with
19 Ms. Penny Silvers of his office.

20 Q. Okay. Has this situation arisen before in your
21 experience where the owner of a property passes away
22 during the process of property remediation?

23 MR. SIEVERS: I'm going to object to the
24 characterization of "this situation" because it suggests

1 that that characterization fully incorporates or
2 encompasses this scenario. But with that objection.

3 MR. RIFFLE: Let me try again. Let me
4 think if I can try again.

5 Q. You have encountered situations where somebody's
6 passed away during the course of a remediation project
7 with the IEPA.

8 A. Personally, no.

9 Q. Are you aware of situations where that has
10 occurred with other projects, even if you're not working
11 on them?

12 A. I am sure it has occurred, but I'm not familiar
13 with any circumstances with other project managers.

14 Q. Have you had any conversations with anybody at
15 the IEPA as to the appropriate course of action under a
16 circumstance where a property owner's passed away?

17 A. Yes. I spoke with my supervisor, Mike Lowder.

18 Q. And when was that conversation?

19 A. It would have been during the course of review
20 of the October -- Exhibit B, the October 2010 submittal.

21 Q. Specific to this project.

22 A. Yes.

23 Q. And what do you recall about that conversation?

24 A. There was a question as to whether Mr. Green --

1 it was not believed that he would be the owner/operator,
2 and the question was where was Beverly Powers, which is
3 what led to my contacting Penny Silvers of his office.

4 Q. Okay. And what was the purpose of your calling
5 Penny Silzer? I think it's S-I-L-Z-E-R.

6 A. I'm sorry, Silzer. I mispronounced it. To
7 locate Beverly Powers to ask her why she didn't sign the
8 document.

9 Q. And why would -- why would Beverly Powers be the
10 right person to sign the document?

11 A. She was the last person to sign the document. I
12 knew that -- to my understanding, Midwest was not the
13 owner -- not the owner/operator of the tank. Beverly
14 Powers had been signing the documents before that, so I
15 was trying to ascertain why the change.

16 Q. And what was your reaction when Beverly Powers
17 first signed -- started signing these documents?

18 A. I do not recall when Dick Powers passed away, if
19 he had -- it was very early on when I was project manager.
20 I did not notice that Beverly Powers was signing instead
21 of Dick Powers.

22 Q. And how long did that scenario go by where you
23 didn't notice that?

24 A. Until I started -- until the October 2010

1 submittal.

2 Q. And in your mind was it okay for Beverly Powers
3 to sign these documents?

4 A. I was reviewing the documents on the technical
5 standpoint or the technical viewpoint, not a -- I do not
6 always look at the signatures, whether it was okay for
7 Beverly Powers to sign it.

8 MR. SIEVERS: I'm going to object to the
9 question because it calls for a legal conclusion.

10 BY MR. RIFFLE:

11 Q. Who made the decision that it wasn't appropriate
12 for Al Green to sign these documents?

13 A. That would have been made by the management of
14 the ground search tank, specifically Mike Lowder.

15 Q. And how do you make that decision? How did you
16 communicate that decision?

17 A. To me?

18 Q. Right.

19 A. He indicated since there was no documentation of
20 who was the property owner or the owner of the underground
21 storage tank system, that it would be a denial point
22 because the budget was not signed by the tank
23 owner/operator.

24 Q. Did anybody call Mr. Green and point that out to

1 him?

2 A. I don't recall any conversations.

3 Q. Okay. And again, I want to go back to this
4 conversation with Penny Silzer. What was the purpose of
5 that call?

6 A. Just to locate Beverly Powers, and I believe at
7 that point Ms. Silzer had indicated she was in Galva,
8 Illinois.

9 Q. And did you make any effort to contact her?

10 A. Yes, I did.

11 Q. And did you talk to her?

12 A. I believe I did earlier today. I was thinking,
13 trying to remember that conversation, but I believe I did
14 speak with Penny -- or sorry -- with Beverly Powers. This
15 would have been in the -- when was that? Quite possibly
16 in that timeframe.

17 Q. And did Ms. Powers indicate that it was okay for
18 Mr. Green to sign on her behalf?

19 A. I do not recall anything of the conversation. I
20 just remember that I did speak with her. She was a nice
21 lady.

22 Q. Do you have any notes of that conversation?

23 A. No, I do not.

24 Q. If she had said Al Green doesn't have authority,

1 would that be a fairly noteworthy thing in your mind?

2 A. I would have remembered that.

3 Q. So it's likely that she said that he did have
4 authority?

5 A. If -- let me back up a second. I'm
6 remembering -- I believe the gist of the conversation was
7 to find her correct mailing address to send her -- to
8 carbon copy her on the letter, not whether or not who had
9 signatory powers. And if that was the case, it would have
10 been back in '08. I do have -- I would have sent an
11 e-mail to Ms. Silzer -- Silzer, correct -- which would
12 document the timeframe I would have spoken with
13 Ms. Beverly Powers. But it would have been, as I recall,
14 to find her correct mailing address to keep her -- you
15 know, make sure she's getting copies of the
16 correspondence.

17 Q. And you've worked with Midwest over a pretty
18 long period of time on this particular project; is that
19 correct?

20 A. Yes.

21 Q. Do you have any doubt that they've actually done
22 the work that they claimed to have done in these
23 submittals?

24 A. No. That's never been in question.

1 Q. So the work has been done. Is there any way in
2 your mind at this point that anybody can be reimbursed for
3 the work that's been done to date for which the IEPA is
4 denying reimbursement?

5 A. We approved --

6 MR. SIEVERS: I'm going to object. Again,
7 it calls for a legal conclusion.

8 HEARING OFFICER WEBB: I don't think so. I
9 mean, I don't know the procedures of the department. It's
10 just a procedural question; is there a way -- is it too
11 late for your department to look at this. Is that what
12 the question is?

13 MR. RIFFLE: Sure.

14 A. The amount requested for the work was approved
15 without modification in '04. The question is, has
16 sufficient evidence been submitted to modify that or
17 expand beyond that. So, sir, what was your --

18 Q. So, really, as I understand it, there is a
19 threshold question of whether, because Mr. Green signed
20 the document and not someone else, whether any
21 reimbursement can occur; correct?

22 A. Yes. That is something, yes.

23 Q. Setting aside the precise issues on the budget
24 and the amount that's appropriate, is there anything that

1 Beverly Powers or anyone else can do to seek reimbursement
2 of the amounts that would ultimately be found eligible, or
3 is it too late for anybody to make such a submittal?

4 A. It's not too late. It's a question of whether
5 there would be sufficient documentation to show that
6 amount beyond what was approved in '04 is necessary.

7 Q. So what you're saying is, assuming for the sake
8 of discussion, that Beverly Powers is the right person and
9 she submits an application to amend that budget to get
10 paid for these additional amounts that have been expended,
11 that it's not too late for her to come in and make that
12 request and that you would review it for appropriateness
13 at that time?

14 A. It would be reviewed for appropriateness.
15 Whether or not -- well, okay. Yes, it would be reviewed
16 for appropriateness.

17 Q. Okay. And it would undergo the same analysis of
18 appropriateness as you've already undertaken with respect
19 to the current submittal?

20 A. Yes, but sufficient documentation would be
21 needed to show that the amounts approved in '04 were
22 insufficient.

23 Q. And that could consist of, for instance, site
24 specific issues as to how long it took, for instance, to

1 get a highway authority agreement?

2 A. In general, yes. I mean, an extraordinary
3 highway agreement shouldn't take that much time.

4 Q. Have you ever encountered a situation where a
5 highway authority agreement has taken a very significant
6 amount of time?

7 A. No.

8 Q. Have you ever talked to any project managers
9 where that's been the case?

10 A. No. It's not a general topic of conversation.

11 Q. Have you ever heard of some municipalities being
12 stubborn about approving highway authority agreements and
13 putting people through numerous public hearings?

14 A. Not public hearings, but yes, some
15 municipalities are stubborn on the issuance of highway
16 authority agreements.

17 Q. Some highway authority agreements are easier to
18 get than others; is that fair to say?

19 A. Yes, that's fair to say.

20 Q. And are there times where performing TACO
21 calculations are more complicated in one case than
22 another?

23 A. Yes.

24 Q. Okay. So there are site variables that would

1 impact whether a particular budget, once approved, is
2 appropriate after the entire project is completed?

3 A. Yes, there are site variables.

4 MR. RIFFLE: Okay. That's all I have. I
5 do thank you for your time. Okay.

6 MR. SIEVERS: Mr. Heaton, I have a few
7 questions for you.

8 REDIRECT EXAMINATION

9 BY MR. SIEVERS:

10 Q. Mr. Riffle asked you, you know, what could be
11 done at this point concerning these, I believe, you know,
12 these budget submittals. Had this budget that was
13 submitted and that is Respondent's Exhibit B, had that
14 contained Beverly Powers' signature, is it possible that
15 that budget -- that that would not be a denial point for
16 that budget?

17 A. If it had contained Beverly Powers' signature,
18 it would not have raised any questions and, yes, that
19 would not have been a denial point.

20 Q. Okay. So -- and if you had had a conversation
21 with Beverly Powers in which she said that prior to
22 this -- prior to the issuance of Respondent's Exhibit A,
23 that denial letter, if you had had a conversation with
24 Beverly Powers in which she said that Allan Green or

1 Midwest Environmental Consulting and Remediation Services
2 was authorized to sign on her behalf, would you have
3 included that denial point in your denial letter?

4 A. Yes. I would have asked for something from
5 Beverly Powers in writing.

6 Q. Okay. And you did not actually have that
7 conversation with her, though; correct?

8 A. About who's authorized to sign, no.

9 Q. You believe that conversation occurred before
10 2010?

11 A. The e-mail would specifically narrow it down
12 within a week or two, but yes, I believe it was before
13 2010.

14 Q. Is it correct that the purpose of your call when
15 you did speak to her was about her address so that you
16 could forward some mail to her rather than as to who was
17 authorized to sign on her behalf or not; is that correct?

18 A. That's correct. Correspondence from Illinois
19 EPA.

20 Q. So if you received documentation from Beverly
21 Powers indicating -- strike that.

22 Had you received documentation that Beverly
23 Powers was the owner/operator of this site and had
24 authorized Allan Green and/or Midwest Environmental

1 Consulting and Remediation Services, Incorporated to sign
2 budget documents on her behalf, would that be sufficient
3 for you as far as that denial point is concerned in
4 Respondent's Exhibit A?

5 A. If I had received such a document, it would have
6 gone to the legal department for review, and assuming that
7 the response was, yes, it's valid, yes, that would have
8 been acceptable and there would not have been that denial
9 point.

10 Q. You never received any documentation at all that
11 Allan Green or Midwest Environmental Consulting and
12 Remediation Services have been authorized by Beverly
13 Powers to sign on her behalf, though; correct?

14 A. That's correct.

15 MR. SIEVERS: I have nothing further.

16 MR. RIFFLE: Nothing further.

17 HEARING OFFICER WEBB: Okay. Thank you,
18 Mr. Heaton.

19 MR. SIEVERS: Your Honor, at this point,
20 I'd like to move for admission of Respondent's Exhibits A,
21 C, D, E, and F into evidence.

22 HEARING OFFICER WEBB: These are all a part
23 of the record, I assume, and you don't have any objection?

24 MR. RIFFLE: No objection.

1 HEARING OFFICER WEBB: So all of
2 Respondent's exhibits are admitted.

3 (Respondent's Exhibits A, C, D, E & F were
4 admitted into evidence.)

5 MR. RIFFLE: Your Honor, I'm not sure if
6 I've moved for admission of my Exhibit 1, but I would do
7 so at this point.

8 HEARING OFFICER WEBB: I don't recall, but
9 sure. Exhibit 1 is admitted. It's just the Petition for
10 Review, which would be part of the Board's record anyway,
11 but I'll go ahead and admit that for convenience' sake.

12 (Petitioner's Exhibit 1 was admitted into
13 evidence.)

14 MR. SIEVERS: Judge, we have nothing
15 further.

16 HEARING OFFICER WEBB: Do you want me to
17 take the original exhibits? Do you need these copies
18 back?

19 MR. SIEVERS: I do not.

20 HEARING OFFICER WEBB: And you have nothing
21 further?

22 MR. SIEVERS: I have nothing further.

23 HEARING OFFICER WEBB: Okay. We'll just
24 wind up here.

1 The transcript is due on March 8th and will
2 be posted on the Board's website. The public comment
3 deadline is March 12th. Public comment must be filed in
4 accordance with Section 101.628 of the Board's procedural
5 rules. Petitioner's brief is due by April 8th and
6 Respondent's brief will be due by May 8th. Petitioner's
7 reply, if any, is due by May 22nd.

8 There are no members of the public here to
9 make any comments, so at this time, I will conclude the
10 proceedings and we stand adjourned. Thank you.

11 (Whereupon, the above-entitled
12 proceedings were concluded at 12:50
13 p.m., February 26, 2013.)

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I, LISA K. HAHN, CSR, RMR, do hereby state that I am a court reporter doing business in the City of Decatur, County of Macon, and State of Illinois; that I reported by means of machine shorthand the proceedings held in the foregoing cause, and that the foregoing is a true and correct transcript of my shorthand notes so taken as aforesaid.

Lisa Hahn

Lisa K. Hahn, CSR, RMR
Notary Public, Macon County, Illinois
CSR #84-2149

A	admittedly 6:11	Appeared 2:11 2:17	36:16 38:16 39:2	11:3,7 14:9,10 14:18 15:12,22 16:3 25:9
\$21,879.52 26:1	affiliation 7:15	application 49:9	attorney 19:10 19:14,16 21:1 21:2	basis 30:4 35:10
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