

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

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

REPLY TO RESPONDENT'S POST-HEARING BRIEF

NOW COMES Broadus Oil Company, by its attorneys, Elias, Meginnes, Riffle & Seghetti, P.C., and as and for its Reply to Respondent's Post-Hearing Brief, states as follows:

ARGUMENT

The charges in question in this appeal were admittedly and indisputably reasonable and necessarily incurred. The testimony of the Illinois Environmental Protection Agency ("IEPA") at the hearing in this regard was as follows:

Q....do you have any reason to believe that the hours that are listed on page 1620 of Exhibit B were not reasonably expended in connection with this project?

A. No.

Q. And do you have any reason to believe that the hourly rates listed in that page 1620 are not reasonable and proper reimbursement rates?

A. No.

(p. 34, lines 8-17; Transcript of Proceedings)(Emphasis added).

Mr. Green of Midwest testified as follows:

Q. Okay. And was it your testimony that those are reasonable and actual charges in connection with this project?

A. Yes, they are.

(p. 14, lines 12-15; Transcript of Proceedings)

His testimony stands unrebutted.

Petitioner and its consultant were required to retain counsel and pursue this appeal to obtain payment of funds which were admittedly reasonably and necessarily incurred. IEPA now asks Petitioner to re-submit the \$3,959.86 in personnel costs, and that, "the possibility remains that Illinois EPA would approve them if submitted as part of a budget amendment that does not violate the Act or Board regulations."

Since there is absolutely no dispute regarding the propriety of these expenses, why should additional time and resources of Petitioner and its consultant be expended? Additionally, why should additional IEPA resources be expended to review and approve personnel costs which have absolutely and conclusively been determined to be reasonable and necessary?

Partial approval of budgets occurs routinely. The position taken by IEPA in this case is inconsistent with past consistent practices. It also appears to be selective application of the applicable rules. Petitioner should be reimbursed for the personnel costs reasonably and necessarily incurred, with no further delay or expenditure required to obtain what rightfully should have been reimbursed long ago.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests approval and reimbursement of \$3,959.86 of personnel costs which indisputably were reasonably and necessarily incurred. As indicated (and acknowledged by IEPA) the handling charges should be paid commensurate with the submittals.

Respectfully submitted,

BROADUS OIL COMPANY, Petitioner

By: 

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CERTIFICATE OF SERVICE

The undersigned certifies that on May 21, 2013, a copy of the foregoing document was filed electronically with the Illinois Pollution Control Board and served upon each party to this case by

X Electronic delivery and United States Mail at 5:00 p.m. on said date.

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