

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

CHATHAM BP, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	PCB No. 14-01
ILLINOIS ENVIRONMENTAL	)	(UST Appeal)
PROTECTION AGENCY,	)	
Respondent.	)	

**NOTICE OF FILING**

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Pollution Control Board the Motion for Reconsideration and the Motion for Authorization of Legal Fees Pursuant to Section 57.8(1) of CHATHAM BP LLC. Copies of these documents are hereby served upon you.

To: Pollution Control Board, Attn: Clerk  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, Illinois 60601-3218

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

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

Dated: October 7, 2014

Respectfully submitted,

CHATHAM BP, LLC

**BROWN, HAY & STEPHENS, LLP**  
William D. Ingersoll  
Registration No. 6186363  
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205 S. Fifth Street, Suite 700  
P.O. Box 2459  
Springfield, IL 62705-2459  
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By:     /s/William D. Ingersoll      
Its Attorney

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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	)	PCB No. 14-01
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PROTECTION AGENCY,	)	
Respondent.	)	

**MOTION FOR RECONSIDERATION**

Petitioner, CHATHAM BP, LLC, by its undersigned attorney, pursuant to the Illinois Pollution Control Board's ("Board") procedural rules at 35 Ill. Adm. Code 101.520, hereby moves this Board to reconsider certain elements of its Opinion and Order of September 4, 2014. In support of its motion, Petitioner says as follows:

1. Petitioner filed its Petition herein on July 1, 2013 to challenge a May 28, 2013 decision of the Illinois Environmental Protection Agency ("IEPA") Leaking Underground Storage Tank ("LUST") Program. The IEPA decision rejected a Stage 2 site investigation plan and budget and required submission of a Stage 3 site investigation plan; and, further modified a claim for drum disposal costs for the Stage 1 site investigation.

2. On January 9, 2014, the Board granted Petitioner summary judgment as to the Stage 2 site investigation plan, but denied summary judgment as to the drum disposal costs because it determined that there was a material issue of fact regarding those costs. The Board's Opinion and Order at page 28 ordered as follows:

- 1) *On the issue of Chatham BP's proposed Stage 2 site investigation plan, the Board grants Chatham BP's motion for summary judgment, denies the*

*Agency's cross-motion for summary judgment; and reverses the Agency's rejection of Chatham BP's proposed Stage 2 site investigation plan. At the conclusion of this case, the Board will remand to the Agency for review of Chatham BP's proposed Stage 2 site investigation budget.*

- 2) *On the issue of Chatham BP's drum disposal costs, the Board finds that there exists a genuine issue of material fact and directs the parties to proceed to hearing on that issue.*

3. A hearing was held by the Board on July 29, 2014 and testimony was presented regarding the issues surrounding the disputed reduction in drum disposal costs. Based upon an IEPA calculation, the IEPA allowed reimbursement for disposal of only four drums out of the eight claimed. Briefly summarized, the testimony at hearing asserted that the number of drums that were disposed in relation to Stage 1 drilling varied from site to site and that number was not amenable to calculation for all sites; further, the number of drums actually disposed at Petitioner's site was eight.

4. The Board issued its Opinion and Order on September 4, 2014 reversing the IEPA's reduction in drum disposal costs, and further ordering as follows:

- 1) *The Board reverses the Agency's May 28, 2013 determination to reduce Chatham BP's reimbursement of drum disposal costs by \$1,145.92.*
- 2) *The Board directs the Agency to reimburse Chatham BP \$1,145.92 in drum disposal cost from the UST Fund for a total reimbursement of Stage 1 disposal costs of \$2,291.84.*
- 3) *Pursuant to its January 9, 2014 order, the Board remands Chatham BP's proposed Stage 2 site investigation budget to the Agency for its review.*

5. Included in Petitioner's prayer for relief in the July 1, 2013 Petition is a request for an award of its reasonable attorney fees. That issue has not been decided by the Board. It was clear from the Board's summary judgment decision in favor of Petitioner on January 9, 2014 that further proceedings were contemplated since certain issues were ordered to hearing. However,

the September 4, Order, also in Petitioner's favor, ordered the IEPA to reimburse the total amount of the request for drum disposal costs. Historically, it has appeared that the Board would issue an interim order in LUST cases when finding in a petitioner's favor on the issues, but not disposing of the attorney fee issue. *See e.g., Wheeling/GWA Auto Shop v. IEPA*, PCB 10-70, slip op. (July 7, 2011).

6. Petitioner believes the Board may have overlooked this issue because the case was partially decided through summary judgment and partially after certain issues were developed through a hearing. No matter the cause, there is plenty time to deal with the attorney fee issue since the time for this motion for reconsideration has not yet expired; and, a motion for fees (accompanied with fee and cost itemization and attorney affidavit) is being filed simultaneously with this motion.

WHEREFORE, CHATHAM BP, LLC respectfully requests that this Board grant this Motion for Reconsideration and modify its Opinion and Order of January 9, 2014 and its Opinion and Order of September 4, 2014 to indicate that such orders are “interim” so as to indicate that further proceedings were expected and may be allowed. Further, Chatham BP, LLC requests that the Board modify its Opinion and Order of September 4, 2014 to include authorization for Petitioner to provide a statement of its legal fees that may be eligible for reimbursement and its arguments why the Board should direct reimbursement of those fees from the UST Fund.

Respectfully submitted,  
**CHATHAM BP, LLC**

Dated: October 7, 2014

By:           /s/William D. Ingersoll            
One of Its Attorneys

**BROWN, HAY & STEPHENS, LLP**

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PROTECTION AGENCY,	)	
Respondent.	)	

**MOTION FOR AUTHORIZATION OF PAYMENT OF LEGAL FEES PURSUANT TO SECTION 57.8(l)**

Petitioner, CHATHAM BP, LLC, by its undersigned attorney, pursuant to the Illinois Pollution Control Board’s (“Board”) Opinion and Order of January 9, 2014 and its Opinion and Order of September 4, 2014 and Section 57.8(l) of the Environmental Protection Act (“Act”) (415 ILCS 5/57.8(l)) hereby moves the Board to grant authorize the payment of Petitioner’s legal fees and costs incurred in the pursuit of this matter. In support of its motion, Petitioner says as follows:

**BACKGROUND**

1. Petitioner filed its Petition herein on July 1, 2013 to challenge a May 28, 2013 decision of the Illinois Environmental Protection Agency (“IEPA”) Leaking Underground Storage Tank (“LUST”) Program. The IEPA decision rejected a Stage 2 site investigation plan and budget and required submission of a Stage 3 site investigation plan; and, further modified a claim for drum disposal costs for the Stage 1 site investigation by making reductions. Included in that Petition was a Prayer for Relief that Petitioner be awarded attorney fees and costs. Heretofore, that issue remains unaddressed.

2. On January 9, 2014, the Board granted Petitioner summary judgment as to the Stage 2 site investigation plan, but denied summary judgment as to the drum disposal costs because it determined that there was a material issue of fact regarding those costs. The Board's Opinion and Order at page 28 ordered as follows:

- 1) *On the issue of Chatham BP's proposed Stage 2 site investigation plan, the Board grants Chatham BP's motion for summary judgment, denies the Agency's cross-motion for summary judgment; and reverses the Agency's rejection of Chatham BP's proposed Stage 2 site investigation plan. At the conclusion of this case, the Board will remand to the Agency for review of Chatham BP's proposed Stage 2 site investigation budget.*
- 2) *On the issue of Chatham BP's drum disposal costs, the Board finds that there exists a genuine issue of material fact and directs the parties to proceed to hearing on that issue.*

3. A hearing was held by the Board on July 29, 2014 and testimony was presented regarding the issues surrounding the disputed reduction in drum disposal costs. Based upon an IEPA calculation, IEPA allowed reimbursement for disposal of only four drums out of the eight claimed. Briefly summarized, the testimony at hearing asserted that the number of drums to be disposed relating to Stage 1 drilling varied from site to site; was not amenable to calculation for all sites; the number of drums actually disposed at Petitioner's site was eight.

4. The Board issued its Opinion and Order on September 4, 2014 reversing the IEPA's reduction in drum disposal costs, and further ordering as follows:

- 1) *The Board reverses the Agency's May 28, 2013 determination to reduce Chatham BP's reimbursement of drum disposal costs by \$1,145.92.*
- 2) *The Board directs the Agency to reimburse Chatham BP \$1,145.92 in drum disposal cost from the UST Fund for a total reimbursement of Stage 1 disposal costs of \$2,291.84.*
- 3) *Pursuant to its January 9, 2014 order, the Board remands Chatham BP's proposed Stage 2 site investigation budget to the Agency for its review.*

**APPLICABILITY OF SECTION 57.8(l)**

5. Section 57.8(l) provides:

Corrective action does not include legal defense costs. Legal defense costs include legal costs for seeking payment under this Title unless the owner or operator prevails before the Board in which case the Board may authorize payment of legal fees.

6. In deciding upon a request for fees in cases such as this, the Board must first determine “whether the proceeding falls within the parameters of the statutory provision.” *Illinois Ayers Oil Co. v. IEPA*, PCB03-214, slip op. at 7 (August 5, 2004). The instant case definitely involves the LUST Program and would be subject to the provisions of Section 57.8(l). The Board has previously considered whether the issues on appeal were “seeking payment” consistent with the plain language of Section 57.8(l). *Illinois Ayers*, slip op. at 8; *Wheeling/GWA Auto Shop v. IEPA*, PCB10-70 (September 22, 2011). Second, Section 57.8(l) requires that the Petitioner must have prevailed before the Board. *Zervos Three v. IEPA*, PCB 10-54 at 4 (June 2, 2011) citing to *Illinois Ayers* and the earlier *Zervos* order of January 20, 2011.

7. The drum disposal cost met both elements. First, it concerned the IEPA’s reduction of \$1,192.45 in reimbursement of drum disposal costs. Second, the Board reversed the IEPA reduction and ordered the payment of the complete amount requested. Thus the claim was seeking monetary reimbursement and the Petitioner prevailed. An attorney fee award is warranted.

8. Petitioner contends the Stage 2 plan and budget decision in the summary judgment was also “seeking payment.” The circumstances regarding this budget decision closely track the *Wheeling* case, which followed the logic in *Illinois Ayers*. In *Illinois Ayers*, the Board reversed the modifications and also ordered restoring specific amounts to the budget. In *Wheeling*, the Board reversed the IEPA reduction in a budget, but remanded that part for further

review. Determining that “approval of the CAP budget is a prerequisite to UST Fund reimbursement”, the Board found that Wheeling was “seeking payment” from the UST Fund. Citing *Illinois Ayers*. See also *Zervos* regarding an award of fees and costs by prevailing on a motion for summary judgment. Consistent with the logic in *Illinois Ayers* and *Wheeling*, Petitioner respectfully contends that all parts of this appeal were pursued in “seeking payment” from the Fund.

9. Petitioner has prevailed before the Board here. The Board by summary judgment on January 9, 2014 reversed the IEPA’s rejection of Petitioner’s Stage 2 Plan and the rejection of the plan was the only stated basis of IEPA’s budget rejection. Further, on September 4, 2014 reversed the entirety of the IEPA’s reduction of Stage 1 drum disposal costs.

**BOARD DISCRETION**

10. If the Board finds Section 57.8(l) to apply, it must determine whether to exercise its discretion to award the fees and costs. *Illinois Ayers*. To evaluate a “fee shifting” provision, the Board must be presented sufficient evidence as to the reasonableness of those fees and costs, with the burden resting on the party requesting the award. See *Prime Location Properties, LLC v. IEPA*, PCB 09-67, slip op. at 4 (November 5, 2009); *Illinois Ayers*; *Swif-T-Food Mart v. IEPA*, PCB 03-185, slip op. at 3 (August 19, 2004); *J.B. Esker & Sons, Inc. v. Cle-Pa’s Partnership*, 325 Ill. App. 3d 276, 283 (Fifth Dist. 2001); *Sampson v. Miglin*, 279 Ill. App. 3d 270, 281 (First Dist. 1996). The party seeking the award “must set forth with specificity the legal services provided, the identity of the attorney providing the legal services, and itemization of the time expended for the individual service, and the hourly rate charged.” *Prime Location*; *J.B. Esker*. Accompanying this Motion, Petitioner provides an affidavit of the undersigned attorney, who has been Petitioner’s attorney of record in this matter, and information drawn from

the law firm's timekeeping/billing system. These should provide all of the required information described above for Board consideration.

11. The Board will also consider the entire record and its experience and knowledge in determining the reasonableness of the charges. The Board may take into account a number of factors, including "the skill and standing of the attorneys employed, the nature of the case, the novelty and difficulty of the issues involved, the degree of responsibility required, the usual and customary charge for the same or similar services in the community, and whether there is a reasonable connection between the fees charged and the litigation. *Prime Location; Cretton v. Protestant Memorial Medical Center, Inc.*, 371 Ill. App. 3d 841, 867-68 (5<sup>th</sup> Dist. 2007); and, *Sampson*, at 281.

12. The experience of the attorneys working on Petitioner's behalf in this matter is described in the accompanying affidavit. A review of other Board decisions awarding fees pursuant to Section 57.8(1) shows that the fees charged here are comparable to rates approved by the Board in earlier cases. The Board decisions in this matter have aided in clarifying some fine points of LUST regulatory interpretation. First, regarding what events do or do not mandate moving from Stage 2 to Stage 3 of Site Investigation. Then, a consideration of the propriety of IEPA applying a formula, without site-specific components, for determining a volume of waste generated during drilling. The Board is well aware of the analyses it made to decide this case and the pleadings that led to those decisions. Petitioner believes that counsel's efforts can be recognized as satisfying the elements supporting the Board exercising its discretion to make the award requested here.

WHEREFORE, CHATHAM BP, LLC respectfully requests that this Board grant this Motion for Authorization of Payment of Legal Fees and authorize payment of legal fees and costs from the Underground Storage Tank Fund in the amount of \$21,314.70.

Respectfully submitted,

**CHATHAM BP, LLC**

By:           /s/William D. Ingersoll            
One of Its Attorneys

Dated: October 7, 2014

**BROWN, HAY & STEPHENS, LLP**

William D. Ingersoll

Registration No. 6186363

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**AFFIDAVIT OF WILLIAM D. INGERSOLL VERIFYING LEGAL FEES**

STATE OF ILLINOIS                    )  
  )    / SS.  
COUNTY OF SANGAMON            )

I, William D. Ingersoll, being first duly sworn, states as follows:

1. I am an attorney duly licensed to practice law in the State of Illinois and am the attorney of record for Chatham BP, LLC in the matter entitled *Chatham BP, LLC v. Illinois EPA*, PCB 14-01.

2. My practice of law has been for many years concentrated in the area of environmental law, first with the Illinois EPA's Division of Legal Counsel and more recently, representing private sector clients with the firm of Brown, Hay & Stephens, LLP in Springfield, Illinois. I have been involved with numerous state and federal environmental programs, including the Leaking Underground Storage Tank Program. My practice has also included numerous matters before the Illinois Pollution Control Board.

3. Claire A. Manning, also of Brown, Hay & Stephens, LLP, performed certain work on this matter. Ms Manning has been engaged in the practice of law for more than 30 years, with much of that time dealing with issues of environmental law. She has represented clients in federal and state courts, and in administrative matters before the Illinois Pollution Control Board, Illinois Department of Public Health, the U.S. Department of Agriculture and others. She also represented underground storage tank contractors in the rulemaking that, in part, led to the reimbursement rules at issue in this case. Ms. Manning was Chairman of the Pollution Control Board for approximately ten years. Her experience provided valuable assistance regarding some issues in this case.

4. Kelly M. Greco provided some assistance at one point in this matter. Ms. Greco was an associate with Brown, Hay & Stephens, LLP and performed quite capably. She also has received several awards for legal scholarship and writing for legal periodicals.

5. I began working on this matter in June, 2013, when Chatham BP, LLC's consultant contacted me regarding a May 28, 2013 Decision Letter from the Illinois EPA LUST Program. I evaluated the issues presented and provided legal advice related to pursuit of an appeal before the Pollution Control Board.

6. I represent Chatham BP, LLC in this matter only concerning the appeal of the Illinois EPA's May 28, 2013 Decision Letter. I prepared and filed a Petition for Review with the Board contesting the May 28, 2013 Illinois EPA Decision. Further, I prepared a Motion for

Summary Judgment and responded to a similar motion made by Illinois EPA. I also prepared additional pleadings in this matter and represented Chatham BP, LLC at a Board hearing on July 29, 2014. My representation in this case has also included numerous communications with Illinois EPA counsel, potential witnesses, and the assigned hearing officer.

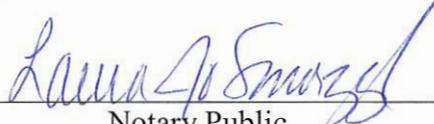
7. Attached hereto as Exhibit 1 is an accurate description of legal work completed and legal fees incurred with respect to this matter. The description has derived from actual billing invoices and reflects actual work performed and fees incurred. The information in Exhibit 1 shows the date work was performed, a brief description of the work performed, the amount of time spent, and the total fee incurred for the work for any particular event or day. All of the legal work represented in Exhibit 1 was performed by me.

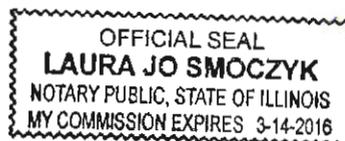
8. The total number of hours expended by Ms. Manning, Ms. Greco and me in this matter is 77.05 hours, which is reasonable and necessary for the issues involved and the activity in this case. Exhibit 1 reflects a rate of \$275 per hour for our time. This hourly rate is reasonable as compares to attorneys in Illinois with similar environmental legal skills and experience before the Board, as well as rates that have been approved by the Board in other LUST Program appeals. Accordingly, the total amount of legal fees and costs incurred and sought herein is \$21,314.70 is reasonable, legitimate, and appropriate.

**FURTHER AFFIANT SAYETH NOT.**

  
\_\_\_\_\_  
William D. Ingersoll, Affiant

Subscribed and Sworn to me this 7<sup>th</sup> day of Oct., 2014.

  
\_\_\_\_\_  
Notary Public



**EXHIBIT 1**  
**SUMMARY OF FEES AND COSTS**  
**Brown, Hay & Stephens, LLP**  
**Chatham BP, LLC v. IEPA, PCB 14-01**

6/3/2013	WDI	DISCUSSION WITH CLIENT REGARDING FACTUAL BACKGROUND FOR NEW CASE	0.4	\$110.00
6/6/2013	WDI	FILE REVIEW AND RESEARCH IN PREPARATION FOR PETITION; EMAIL QUESTIONS TO CLIENT	1.5	\$412.50
6/7/2013	WDI	CONTINUED FILE REVIEW REGARDING SITE HISTORY AND DRAFT PETITION	0.6	\$165.00
6/25/2013	WDI	CONTINUE DRAFTING PETITION FOR REVIEW	1.1	\$302.50
6/26/2013	WDI	EMAIL EXCHANGE WITH CLIENT; CONTINUE DRAFTING PETITION	1.6	\$440.00
6/27/2013	WDI	CONTINUE DRAFTING PETITION; FORWARD TO CLIENT	2.2	\$605.00
6/28/2013	WDI	REVIEW STAGE 2 PLAN AND BUDGET; MAKE REVISIONS TO DRAFT PETITION; TELEPHONE CONFERENCE WITH CLIENT REDRAFT PETITION ISSUES; REVISIONS TO DRAFT PETITION	2.6	\$715.00
7/1/2013	WDI	REVIEW STAGE 2 PROPOSAL BY CW3M FOR FACTS USED IN PETITION; TELEPHONE CONFERENCE WITH CLIENT (SMITH AND RIVES); REVISIONS TO PETITION; FINALIZE ALL PLEADINGS FOR FILING; E-FILED CASE WITH ILLINOIS POLLUTION CONTROL BOARD	1.6	\$440.00
7/2/2013	WDI	REVIEW IEPA DECISION LETTERS FROM CLIENT FOR COMPARISON OF IEPA DECISION RATIONALE	0.8	\$220.00
8/5/2013	WDI	STATUS CONFERENCE WITH HEARING OFFICER; DRAFT AND FILE DECISION WAIVER	0.5	\$137.50
8/7/2013	WDI	EMAIL FROM IEPA ATTORNEY; FORWARD TO CLIENT; TELEPHONE CONFERENCE WITH CLIENT REGARDING LITIGATION STRATEGY	0.3	\$82.50
8/12/2013	WDI	RESEARCH AND BEGIN DRAFTING MOTION FOR SUMMARY JUDGMENT	2.1	\$577.50
8/13/2013	WDI	CONTINUE RESEARCH AND DRAFTING MOTION FOR SUMMARY JUDGMENT	1.9	\$522.50

8/14/2013	WDI	CONTINUING RESEARCH AND DRAFTING MOTION FOR SUMMARY JUDGMENT	2.5	\$687.50
8/15/2013	WDI	EMAIL EXCHANGE AND TELEPHONE CONFERENCE WITH IEPA ATTORNEY REGARDING AGENCY RECORD; INITIAL REVIEW OF AGING RECORD FOR MOTION FOR SUMMARY JUDGMENT	2.3	\$632.50
8/19/2013	WDI	REDRAFT MOTION FOR SUMMARY JUDGMENT; TELEPHONE CONFERENCE WITH CLIENT REGARDING MOTION REVISIONS PER CLIENT COMMENTS	1.3	\$357.50
8/20/2013	WDI	FURTHER REDRAFT OF MOTION; FORWARD TO CLIENT FOR REVIEW; FINALIZE DRAFT AND FILED WITH BOARD	1.6	\$440.00
8/27/2013	WDI	RECEIPT/INITIAL REVIEW OF IEPA MOTION FOR SUMMARY JUDGMENT; REVIEW KELLER CASE CITED BY IEPA	1.1	\$302.50
8/28/2013	CAM	CONVERSATION WITH BILL INGERSOLL	0.1	\$27.50
8/28/2013	WDI	TELEPHONE CONFERENCE AND REVIEW IEPA MOTION AND COMPARE WITH AGENCY RECORD; CONSULTATION WITH CLAIRE MANNING REGARDING LITIGATION STRATEGY	1.1	\$302.50
8/29/2013	WDI	CONTINUED REVIEW OF IEPA MOTION AND KELLER CASE	0.5	\$137.50
9/3/2013	WDI	RESEARCH AGENCY RECORD TO COMPARE FACTS AS USED IN IEPA'S MOTION FOR SUMMARY JUDGMENT	0.8	\$220.00
9/9/2013	WDI	ADDITIONAL RESEARCH OF KELLER DECISION (PCB 07-147) AND ADMINISTRATIVE RECORD; WORK ON DRAFT RESPONSE TO IEPA MOTION	3.3	\$907.50
9/10/2013	KMG	REVIEW AND REVISE RESPONSE TO IEPA MOTION FOR SUMMARY JUDGMENT; CONFERENCE REGARDING SAME	0.45	\$123.75
9/10/2013	WDI	CROSS-CHECK CALCULATIONS AND ALLEGATIONS MADE IN IEPA AFFIDAVIT WITH MATERIALS IN ADMINISTRATIVE RECORD; RESEARCH ADDITIONAL RELEVANT BOARD CASES; FINISH DRAFTING RESPONSE TO IEPA MOTION AND NOTICE OF FILING	4.1	\$1,127.50
9/11/2013	WDI	TELEPHONE CALL WITH CLIENT REGARDING RECENT FILINGS AND STRATEGY	0.2	\$55.00

10/1/2013	WDI	STATUS CONFERENCE WITH HEARING OFFICER	0.2	\$55.00
11/12/2013	WDI	TELEPHONE CONFERENCE WITH IEPA ATTORNEY; STATUS CONFERENCE WITH HEARING OFFICER; DRAFT AND FILE DECISION WAIVER	0.7	\$192.50
12/5/2013	WDI	EMAIL INQUIRY TO IPCB; EMAIL STATUS TO CLIENT	0.1	\$27.50
12/10/2013	WDI	STATUS CONFERENCE WITH HEARING OFFICERS AND IEPA ATTORNEY; EMAIL STATUS TO CLIENT	0.3	\$82.50
1/9/2014	WDI	TELEPHONE CONFERENCE WITH CW3M REGARDING DECISION ; REVIEW OF PCB ORDER ON MOTIONS FOR SUMMARY JUDGMENT; TELEPHONE CONFERENCE WITH IEPA ATTORNEY	1.5	\$412.50
1/16/2014	WDI	TELEPHONE CONFERENCE WITH HEARING OFFICER; TELEPHONE CONFERENCE WITH CAROL ROWE REGARDING SCHEDULING HEARING AND WITNESS AVAILABILITY; EMAIL EXCHANGE WITH IEPA ATTORNEY	0.5	\$137.50
1/20/2014	WDI	PLAN HEARING STRATEGY; REVIEW RECORD AND JANUARY 9, 2014 OPINION	0.7	\$192.50
1/24/2014	WDI	SUBMIT FOIA REQUESTS TO IEPA FOR DOCUMENTS RELATING TO IEPA CALCULATIONS	0.2	\$55.00
1/27/2014	WDI	RECEIPT REVIEWS OF IEPA FOIA RESPONSE AND FORWARD SAME TO CLIENT	0.4	\$110.00
1/29/2014	WDI	COMPARE IEPA AND FOIA RESPONSE WITH DOCUMENTS IN ADMINISTRATIVE RECORD; RESEARCH RULES OF EVIDENCE REGARDING RECORDS NOT AVAILABLE; MEETING AT CW3M OFFICES FOR HEARING PREPARATION	3.3	\$907.50
2/7/2014	WDI	EMAIL EXCHANGES WITH IEPA ATTORNEY REGARDING POTENTIAL SETTLEMENT; MEETING WITH IEPA ATTORNEY REGARDING SAME; TELEPHONE CONFERENCE WITH CLIENT REGARDING SAME	0.7	\$192.50

2/10/2014	WDI	EMAIL EXCHANGE WITH IEPA ATTORNEY; TELEPHONE CONFERENCE WITH IEPA ATTORNEY REGARDING PROCEDURAL ISSUES AND POTENTIAL SETTLEMENT; TELEPHONE CONFERENCE WITH HEARING OFFICER REGARDING IEPA DECIDING TO PAY THE DRUM DISPOSAL CLAIM AND PROCESS ISSUES PRESENTING THAT TO THE BOARD; TELEPHONE CONFERENCE WITH IEPA ATTORNEY REGARDING PROPOSALS TO FINALIZE THE CASE; TELEPHONE CONFERENCE WITH CLIENT REGARDING SAME; DRAFT AND FILE DECISION WAIVER; REVIEW FEE AWARD DECISION IN DICKERSON CASE	2.2	\$605.00
2/11/2014	WDI	EMAIL EXCHANGES WITH IEPA ATTORNEY; RESEARCH SLIGHTOM CASE	1.2	\$330.00
2/13/2014	WDI	TELEPHONE CONFERENCE WITH IEPA ATTORNEY; REVIEW FOIA RESPONSE (EXCEL SPREADSHEET) AND ITS CONTENTS/PROPERTIES	0.5	\$137.50
2/14/2014	WDI	CONSULTATION WITH CLAIRE MANNING REGARDING BOARD PROCEDURAL ISSUES ABOUT POTENTIAL STIPULATION; ADDITIONAL RESEARCH OF SLIGHTON CASE	0.8	\$220.00
2/24/2014	WDI	TELEPHONE CONFERENCE WITH IEPA ATTORNEY REGARDING POTENTIAL FOR A STIPULATION	0.2	\$55.00
3/5/2014	WDI	EMAIL EXCHANGE WITH IEPA ATTORNEY AND CONSIDERATION OF PROCEDURAL OPTIONS	0.3	\$82.50
3/13/2014	WDI	TELEPHONE CONFERENCE WITH CW3M REGARDING STATUS OF CASE AND PROPOSAL BY IEPA ATTORNEY FOR CONCLUDING CASE; EMAIL	0.4	\$110.00
3/28/2014	WDI	TELEPHONE CONFERENCE WITH IEPA ATTORNEY REGARDING IEPA PROPOSAL TO CONCLUDE THIS CASE	0.3	\$82.50
4/2/2014	WDI	RECEIPT/REVIEW OF DRAFT JOINT MOTION FOR ENTRY OF JUDGMENT	0.3	\$82.50
4/3/2014	WDI	TELEPHONE CONFERENCE WITH IEPA ATTORNEY REGARDING JOINT MOTION; SIGNED SAME AND RETURNED TO HIM FOR FILING	0.3	\$82.50

4/14/2014	WDI	BEGIN DRAFTING MOTION FOR FEES; DRAFT FEE AFFIDAVIT	1.5	\$412.50
5/13/2014	WDI	STATUS CONFERENCE WITH HEARING OFFICER; SCHEDULE HEARING; TELEPHONE CONFERENCE WITH CW3M REGARDING POTENTIAL HEARING DATES; EMAILS REGARDING SAME	0.5	\$137.50
5/22/2014	WDI	RECEIPT OF HEARING OFFICER SCHEDULING ORDER; FORWARD SAME TO CLIENT	0.2	\$55.00
5/23/2014	WDI	RESEARCH ISSUES FOR MOTION IN LIMINE - GENERALLY AND WITH THE BOARD	1.2	\$330.00
7/10/2014	WDI	RESEARCH RULES OF EVIDENCE AND SPOILIATION ISSUE; DRAFTING OF MOTION IN LIMINE; CREATE ATTACHMENTS; E-FILE MOTION AND EMAIL TO HEARING OFFICER AND IEPA ATTORNEY	3.7	\$1,017.50
7/23/2014	WDI	CONSULTATION WITH CLAIRE MANNING REGARDING CHATHAM BP LEGAL ISSUES BEFORE THE IPCB; RESEARCH BOARD AUTHORITY	0.3	\$82.50
7/23/2014	CAM	CONSULTATION WITH BILL INGERSOLL REGARDING PENDING MATTER BEFORE ILLINOIS POLLUTION CONTROL BOARD AND BOARD AUTHORITY	0.3	\$82.50
7/24/2014	WDI	HEARING/WITNESS PREPARATION; TELEPHONE CONFERENCE WITH IEPA ATTORNEY	2.2	\$605.00
7/29/2014	WDI	REVIEW ADMINISTRATIVE RECORD AND PLEADINGS FILE IN PREPARATION FOR HEARING; MEET WITH WITNESSES BEFORE HEARING; HEARING BEFORE HEARING OFFICER WEBB	2.1	\$577.50
8/7/2014	WDI	REVIEW TRANSCRIPT OF JULY 29 HEARING	0.4	\$110.00
9/5/2014	WDI	REVIEW BOARD DECISION AND FORWARD TO CLIENT	0.4	\$110.00
9/15/2014	WDI	RESEARCH FOR AND DRAFTING MOTION FOR FEES	1.7	\$467.50
9/18/2014	WDI	RESEARCH BOARD LUST CASES INVOLVING ATTORNEY FEES; CONTINUE DRAFTING MOTION FOR FEES; DRAFT MOTION FOR RECONSIDERATION	3.2	\$880.00
9/19/2014	WDI	CONTINUE DRAFTING MOTION FOR FEES AND AFFIDAVIT; REVIEW BILLING AND COSTS THROUGH END OF AUGUST	0.8	\$220.00

9/24/2014	WDI	RESEARCH CASELAW REGARDING ATTORNEY FEE AWARDS BY THE BOARD; FURTHER DRAFTING OF MOTION FOR FEES	1.6	\$440.00
9/26/2014	WDI	REVIEW BOARD DECISIONS; CONTINUE DRAFTING MOTION FOR FEES	1.1	\$302.50
10/6/2014	CAM	REVIEW AND PROVIDE INPUT ON DRAFT PLEADINGS REGARDING ATTORNEY FEES; REVIEW PRIOR BOARD CASES AWARDING ATTORNEY FEES; REVIEW BOARD ORDERS IN THIS MATTER	2.5	\$687.50
10/7/2014	WDI	REVISIONS TO PLEADINGS; SELECT DATA FOR TABULATION OF FEES AND COSTS; E-FILE PLEADINGS	1.7	\$467.50
		Total Hours	77.05	
		Total Fees		\$21,188.75
7/1/2013	WDI	POSTAGE - MAILINGS		\$5.87
7/16/2013	WDI	IEPA-IPCB FILING FEES		\$75.00
10/15/2013	WDI	WESTLAW CHARGES FOR SEPTEMBER 2013		\$23.07
10/6/2014	WDI	WESTLAW CHARGES FOR SEPTEMBER 2014		\$22.01
		Total Expenses		\$125.95
		TOTAL		\$21,314.70

CERTIFICATE OF SERVICE

I, William D. Ingersoll, certify that I have this date served the attached Notice of Filing and Petitioner's Motion for Reconsideration and Motion for Authorization of Legal Fees Pursuant to Section 57.8(1), by means described below, upon the following persons:

To: Pollution Control Board, Attn: Clerk  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, Illinois 60601-3218  
(Via Electronic Filing)

Scott Seivers  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(Via First-Class Mail and Email)

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
(Via First-Class Mail and Email)

Dated: October 7, 2014

**BROWN, HAY & STEPHENS, LLP**

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By: /s/William D. Ingersoll  
William D. Ingersoll