

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PIASA MOTOR FUELS, INC.,)	
)	
Petitioner,)	
)	
v.)	
)	PCB No. 14-131
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 Authorization of Payment of Legal Fees Pursuant to Section 57.8(l) of Piasa Motor Fuels, Inc. Copies of this document is hereby served upon you.

To:	Pollution Control Board, Attn: Clerk	Scott B. Sievers
	100 West Randolph Street	Division of Legal Counsel
	James R. Thompson Center, Suite 11-500	Illinois Environmental Protection Agency
	Chicago, Illinois 60601-3218	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: January 5, 2015

Respectfully submitted,

PIASA MOTOR FUELS, INC.

BROWN, HAY & STEPHENS, LLP

William D. Ingersoll
Registration No. 6186363
wingersoll@bhslaw.com
205 S. Fifth Street, Suite 700
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By: /s/William D. Ingersoll
Its Attorney

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PIASA MOTOR FUELS, INC.)	
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Petitioner,)	
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v.)	
)	PCB No. 14-131
ILLINOIS ENVIRONMENTAL)	(UST Appeal)
PROTECTION AGENCY,)	
Respondent.)	

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

Petitioner, PIASA MOTOR FUELS, INC., by its undersigned attorney, pursuant to the Illinois Pollution Control Board’s (“Board”) Interim Opinion and Order of December 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 May 16, 2014 to challenge an April 8, 2014 decision of the Illinois Environmental Protection Agency (“IEPA”) Leaking Underground Storage Tank (“LUST”) Program. The IEPA decision modified a Stage 2 site investigation plan and budget so as to disapprove all soil sampling below the water table in both Stage 1 and Stage 2 activities. The relevant text from the decision letter was:

It is the Illinois EPA's understanding that the activities noted in this plan have already been completed, without prior Illinois EPA approval. Please be advised that

Illinois EPA does not approve of the soil sampling that was performed below the water table. It has not been demonstrated that such samples were warranted as part of Stage I and such samples are specifically prohibited in Stage II. Therefore the Illinois EPA is modifying the plan to exclude all activities associated with such sampling. The associated budgets must reflect the same exclusions.

2. The Board held a hearing on September 10, 2014 and post-hearing briefs were filed by the parties. The Board issued its Interim Opinion and Order of the Board on December 4, 2014. The Board partially reversed the IEPA determination and concluded, at page 32, “that Piasa has prevailed before the Board for the purposes of Section 57.8(l) of the Act.” The Board then directed the parties attention to its decision regarding partial reimbursement (*Webb & Sons, Inc. v. IEPA*, PCB 07-24, slip op. at 4-5 (May 3, 2007)).

3. The Board’s December 4, 2014 Order herein reads:

1. *The Board grants the Agency’s unopposed motion for leave to file the administrative record instanter.*

2. *The Board affirms the Agency’s April 8, 2014 determination regarding costs for soil investigation boring and sampling below the groundwater table.*

3. *The Board reverses the Agency’s determination regarding costs for groundwater investigation boring and sampling below the groundwater table in borings B-4, B-5, B-10, B-12, and B-14 completed as groundwater monitoring wells.*

4. *The Board allows Piasa to file a statement of its legal costs that may be eligible for reimbursement no later than Monday, January 5, 2015, the first business day after 30 days from the date of this order. The Agency may file a response within 30 days of service of Piasa’s statement.*

APPLICABILITY OF SECTION 57.8(l)

4. 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.

5. This applicability was one of the conclusions made in the Board's December 4, 2014 Order. Specifically, the Board said:

“Having partially reversed the Agency's determination to modify Piasa's Stage 2 Site Investigation, the Board concludes that Piasa has prevailed before the Board for the purposes of Section 57.8(l) of the Act (415 ILCS 5/57.8(l) (2012).”

Piasa Motor Fuels, Inc. v. IEPA, PCB 14-131, Interim Opinion and Order at 32 (December 8, 2014).

BOARD DISCRETION - GENERALLY

6. Since the Board found Section 57.8(l) to apply, it then 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.

7. 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 (5th Dist. 2007); and, *Sampson*, at 281.

8. 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, Board clarification was obtained regarding how a water table level can reasonably be determined during drilling, at least for purposes soil sampling under 35 Ill. Adm. Code 734.315(a)(1); and, the soil sampling below the water table exclusion clearly does not apply to those borings done for monitoring wells (35 Ill. Adm. Code 734.315(b)). 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 the litigation of these matters provided added value to the LUST review process and the direction offered by the decision benefits both the IEPA in its reviews and the regulated community in having more clarity on technically difficult issues. These things should be recognized as satisfying the elements supporting the Board exercising its discretion to make the award requested here.

BOARD DISCRETION RELATIVE TO PARTIALLY PREVAILING

9 Petitioner contends that even though the reversal of the IEPA decision was only partial, a full reimbursement of the legal fees and costs of pursuing this matter is justified. As

mentioned above, interpretive direction from the Board was gained, which will benefit all parties in making future decisions – first, in what information to present to the IEPA regarding soil sampling and water table, then that such limits definitely do not apply to the borings for monitoring wells. Providing more accurate expectations between the IEPA and the regulated community has a positive effect on the administration of the regulatory program.

10. In its *Webb* decision, to give only partial reimbursement, the Board relied on certain of the analyses in *Cannon v. William Chevrolet/GEO, Inc.*, 341 Ill. App.3d 674 (1st Dist. 2004). The main questions for this *Cannon* analysis are: whether plaintiff's failing claims were distinct in all respects from the prevailing claims; and, whether a level of success was achieved making it appropriate to award fees for the hours spent on the unsuccessful claims as well. The Appellate Court chose this approach, following the United States Supreme Court in *Hensley v. Eckerhart*, 461 U.S. 424, 103 S.Ct. 1933 (1983), quoting that case at 435:

In [some] cases the plaintiff's claims for relief will involve a common core of facts or will be based on related legal theories. Much of counsel's time will be devoted generally to the litigation as a whole, making it difficult to divide the hours expended on a claim-by-claim basis. Such a lawsuit cannot be viewed as a series of discrete claims. Instead [the court] should focus on the significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended on the litigation.

11. Whether the parts of the case upon which Petitioner did not prevail were distinct from the parts upon which Petitioner prevailed may have been set at the time of the decision. The IEPA modification language states:

It is the Illinois EPA's understanding that the activities noted in this plan have already been completed, without prior Illinois EPA approval. Please be advised that Illinois EPA ***does not approve of the soil sampling that was performed below the water table.*** It has not been demonstrated that such samples were warranted as part of Stage I and such samples are specifically prohibited in Stage II. Therefore the Illinois EPA ***is modifying the plan to exclude all activities associated with such sampling.*** The associated budgets must reflect the same exclusions.

The IEPA included “all activities” that were associated with soil sampling below the water table. There was no distinction between soil samples made in regular borings and those for monitoring wells. The IEPA also did not make any effort throughout this proceeding to distinguish them. The IEPA did not even defend the issue related to the monitoring well borings and soil sampling. Therefore, to accomplish any relief, even on an issue the IEPA ignored, Petitioner had to proceed on everything, expending all the resources shown in the Summary of Fees and Costs (Exhibit 1).

12. There is also significant factual complication to separate the cost related to the portion that was reversed from the rest. This matter did not involve specific amounts of money, but rather soil sampling plus any activities related to them. Distinguishing would be much more complicated than just apportioning reversal to five out of twelve borings. Rather, it would require determining how much drilling would have been precluded, and then, how many samples would not have been needed. Drilling does not stop at the water table. It is only when a given push (four feet at a time in this case) goes through the point of groundwater contact. Then, samples must be taken at five-foot intervals. The deepest push that encountered groundwater would likely have a sample. Was that to be excluded even if seemingly required as the sample within the five-foot interval? Issues such as this were not distinguished at hearing or in pleadings. Petitioner believes that the issues were intertwined in this case as set up by the language of the decision letter. The lack of precision in the decision letter makes it impossible to separate them now.

13. Finally, as mentioned above, the litigation of this case has provided valuable interpretive guidance from the Board. Even the parts upon which Petitioner did not prevail gave us all help for future planning of site investigations, and the IEPA review of them.

WHEREFORE, PIASA MOTOR FUELS, INC. 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 \$25,255.77.

Respectfully submitted,

PIASA MOTOR FUELS, INC.

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

Dated: January 5, 2015

BROWN, HAY & STEPHENS, LLP

William D. Ingersoll

Registration No. 6186363

205 S. Fifth Street, Suite 700

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(217) 544-8491

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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 Piasa Motor Fuels, Inc. in the matter entitled *Piasa Motor Fuels, Inc. v. Illinois EPA*, PCB 14-131.

2. My practice of law for many years has been 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. Antonette R. Palumbo also provided assistance in this matter. Ms. Palumbo is an associate attorney with Brown, Hay & Stephens, LLP and performed quite capably. I point out that the value of her assistance was greatly increased by the number of hours she spent on this matter that were not billed to the client as she was not yet sworn in to practice during the earlier stages of her involvement.

5. I began working on this matter in May, 2014, when the consultant for Piasa Motor Fuels, Inc. contacting me regarding an April 8, 2014 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 Piasa Motor Fuels, Inc. in this matter only concerning the appeal of the Illinois EPA's April 8, 2014 Decision Letter. I prepared and filed a Petition for Review with the Board contesting the April 8, 2014 Illinois EPA Decision. Further, I prepared numerous pleadings in this matter and represented Piasa Motor Fuels, Inc. at a Board hearing on September

10, 2014 that included many legal and technically complicated issues. My representation in this case has also included numerous communications with Illinois EPA counsel, potential witnesses, and the assigned hearing officer. Hearing preparation was significant.

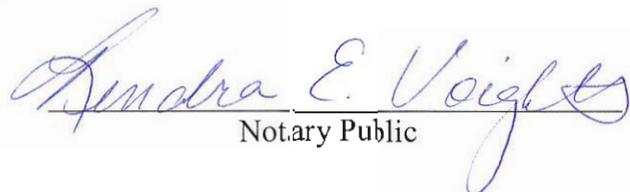
7. Attached hereto as Exhibit 1 is an accurate description of legal work completed and legal fees incurred with respect to this matter. The description has derived from actual billing invoices and reflects actual work performed and fees incurred. The information in Exhibit 1 shows the date work was performed, a brief description of the work performed, the amount of time spent, and the total fees 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. Palumbo and me in this matter is 101.1 hours, which is reasonable and necessary for the issues involved and the activity in this case. Exhibit 1 reflects a rate of \$300 per hour for time by Ms. Manning and me. Time for Ms. Palumbo was billed at a rate of \$220 per hour, except, as mentioned above, prior to when she was sworn into practice, there was no charge for her 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. Costs, such as the filing fee and Westlaw research charges, are also shown in Exhibit 1. Accordingly, the total amount of legal fees and costs incurred and sought herein is \$25,255.77 and is reasonable, legitimate, and appropriate.

FURTHER AFFIANT SAYETH NOT.


William D. Ingersoll, Affiant

Subscribed and Sworn to me this 5th day of Jan., 2015


Notary Public

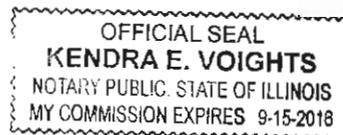


EXHIBIT 1
SUMMARY OF FEES AND COSTS
Brown, Hay & Stephens, LLP
Piasa Motor Fuels, Inc. v. IEPA, PCB 14-131

DATE	TIME KEEPER	DESCRIPTION OF ACTIVITY	TIME	AMOUNT
5/15/2014	WDI	REVIEW PLANS AND BUDGET SUBMITTALS MADE TO IEPA; RESEARCH 734 REGULATIONS; EMAIL AND TELEPHONE CALL EXCHANGES WITH SHANE THORPE; DRAFT PETITION AND RELATED PLEADINGS; EMAIL DRAFT TO THORPE AND RECEIVED COMMENTS; REVISE PETITION CONSISTENT WITH COMMENTS	4.2	\$1,260.00
5/16/2014	WDI	FINALIZE PETITION AND RELATED PLEADINGS; FILE WITH BOARD AND IEPA	0.9	\$270.00
5/27/2014	WDI	EMAIL EXCHANGES WITH HEARING OFFICER AND IEPA ATTORNEY REGARDING SCHEDULING	0.2	\$60.00
5/28/2014	WDI	RECEIPT OF FOIA DOCUMENTS FROM IEPA; FORWARD SAME TO SHANE THORPE REQUESTING HIS REVIEW	0.4	\$120.00
6/3/2014	WDI	REVIEW PLEADINGS FOR BOARD CASE WITH SIMILAR ISSUE	0.4	\$120.00
6/5/2014	WDI	STATUS CONFERENCE WITH HEARING OFFICER; DRAFT AND FILE DECISION WAIVER	0.5	\$150.00
7/7/2014	WDI	REVIEW FILINGS IN BRIMFIELD CASE REGARDING POTENTIAL SIMILAR ISSUES; REVIEW STAGE 2 PLAN AND BUDGET FOR RELEVANT INFORMATION; EMAIL TO SHANE THORPE	1.1	\$330.00
7/8/2014	WDI	TELEPHONE CONFERENCE WITH SHANE THORPE REGARDING POTENTIAL ISSUES AND STRATEGY FOR HEARING; REVIEW TRANSCRIPT IN BRIMFIELD CASE FOR ANY SIMILAR ISSUES	0.8	\$240.00
7/9/2014	WDI	STATUS CONFERENCE WITH HEARING OFFICER; TELEPHONE CONFERENCE WITH IEPA ATTORNEY; EMAIL TO SHANE THORPE REGARDING HEARING	0.4	\$120.00
7/10/2014	WDI	RECEIPT AND REVIEW OF EMAIL COMMENTS BY SHANE THORPE REGARDING ISSUES AND CORRESPONDING REFERENCE IN SUBMITTAL TO IEPA	0.2	\$60.00
7/31/2014	WDI	DRAFT AND FILE EXTENSION OF DECISION DEADLINE TO ALLOW MORE POST-HEARING BRIEFING TIMES	0.5	\$150.00
8/7/2014	WDI	REVIEW IEPA DOCUMENTS AND ALL TOEHR RELEVANT DOCUMENTS TO LOCATE REVIEWER NOTES; DRAFT REQUEST FOR PRODUCTION OF DOCUMENTS AND NOTICE TO APPEAR AT HEARING FOR IEPA EMPLOYEES	1.3	\$390.00

8/11/2014	WDI	TELEPHONE CONFERENCE WITH IEPA ATTORNEY REGARDING AGENCY RECORD AND RECENT PLEADINGS; EFILED NOTICE TO APPEAR AND EMAILED TO HEARING OFFICER	0.4	\$120.00
8/20/2014	WDI	RECEIPT AND INITIAL REVIEWS OF MOTION AND ADMINISTRATIVE RECORD	1.6	\$480.00
8/25/2014	WDI	EMAIL EXCHANGE WITH SHANE THORPE REGARDING ADMINISTRATIVE RECORD; FILE NEW FOIA REQUEST	0.4	\$120.00
9/2/2014	WDI	RECEIPT/REVIEW OF LATEST FOIA RESPONSES FROM IEPA	0.5	\$150.00
9/3/2014	WDI	CONSULTATION WITH CLAIRE MANNING REGARDING POLLUTION CONTROL BOARD PROCEDURAL ISSUE AND EXPECTED OUTCOME; REVIEW ADMINISTRATIVE RECORD AND FOIA DOCUMENTS RECEIVED FROM IEPA	2.1	\$630.00
9/3/2014	CAM	CONSULTATION WITH BILL INGERSOLL REGARDING STRATEGY	0.2	\$50.00
9/4/2014	ARP	REVIEW ADMINISTRATIVE RECORD ; ATTEND CLIENT MEETING AT CSD OFFICE RE HEARING	3	
9/4/2014	WDI	HEARING PREPARATION WITH SHANE THORPE AND JOE TRUSDALE AT CSD OFFICES; ADDITIONAL REVIEW OF RELATED FILE MATERIALS	2.9	\$870.00
9/5/2014	WDI	REVIEW BOARD DECISION IN BRIMFIELD CASE AS IT RELATES TO OUR CASE ISSUES; REVIEW FILE DOCUMENTS RELATING TO THOSE ISSUES; EMAIL EXCHANGE WITH CSD REGARDING ISSUES FOR HEARING PREPARATION	2.3	\$690.00
9/8/2014	ARP	PRINT AND REVIEW SUMMARY TABLES FOR THE RECORD IN PREPARATION FOR HEARING; CONFIRM INFORMATION WITH CLIENT; EMAIL PORTION OF RECORD TO WM. INGERSOLL; STATUS PHONE CONFERENCE CALL	1	
9/8/2014	WDI	CONTINUED FILE REVIEW AND REGULATORY RESEARCH; CONSIDER APPROPRIATE EXHIBITS TO PRESENT AT HEARING	3.2	\$960.00
9/9/2014	ARP	PREPARE FOR HEARING; REVIEW ADMIN. RECORD; PREPARE EXHIBITS; REVIEW AND CREATE STRATEGY FOR LINE OF QUESTIONING AND EXHIBITS; TAB AND HIGHLIGHT RECORDS IN PREPARATION FOR HEARING; REVIEW POINTS TO ELICIT ON TESTIMONY	5.2	
9/9/2014	WDI	MULTIPLE EMAIL EXCHANGES WITH CSD AND REVIEW OF TECHNICAL DOCUMENTS ATTACHED AND CSD SUBMITTAL TO IEPA; ADDITIONAL HEARING PREPARATION AND FILE REVIEW; RECEIPT REVIEW OF NEW FILING BY IEPA ATTORNEY	4.8	\$1,440.00
9/10/2014	ARP	HEARING PREPARATION; IPCB HEARING BEFORE HEARING OFFICER WEBB	5.2	

9/10/2014	WDI	MEET WITH CLIENT STAFF AND PARTICIPATE IN IPCB OFFICES ONLINE RESEARCH OF WATER TABLE ISSUES	4.9	\$1,470.00
9/11/2014	WDI	ONLINE RESEARCH OF USEPA REFERENCE MATERIALS REGARDING WATER TABLE AND SAMPLING; RESEARCH DOCKET ITEMS FROM LUST RULEMAKING IN R04-22/23	3.1	\$930.00
9/18/2014	WDI	TELEPHONE CONFERENCE WITH JOE TRUESDALE REGARDING REGULATORY HISTORY AND TECHNICAL GUIDANCE RELEVANT TO ISSUES IN THE APPEAL; CONTINUED REVIEW OF PCB REGULATORY HISTORY	1.2	\$360.00
9/19/2014	WDI	EMAIL EXCHANGE WITH SHANE THORPE REGARDING HEARING TESTIMONY ISSUES	0.2	\$60.00
9/23/2014	WDI	REVIEW HEARING TRANSCRIPT AND EXHIBITS REFERENCED IN TESTIMONY- MAKE NOTES/COMMENTS	3.3	\$990.00
9/24/2014	WDI	RESEARCH REGULATORY HISTORY SAMPLES BELOW WATER TABLE	1.7	\$510.00
9/29/2014	WDI	EMAIL EXCHANGE WITH JOE TRUESDALE REGARDING STRATEGY FOR POET-HEARING BRIEF; CONTINUED RESEARCH OF LUST REGULATORY PROCEEDING; DRAFTING POST HEARING BRIEF	1.8	\$540.00
9/30/2014	WDI	TELEPHONE CONFERENCE WITH TRUESDALE REGARDING BORINGS AND MONITORING WELLS AND REFERENCES IN LUST RULEMAKING DOCKET; CONTINUE DRAFTING POST HEARING BRIEF	1.2	\$360.00
10/1/2014	WDI	RESEARCH LUST RULEMAKING DOCKET; DRAFTING POST-HEARING BRIEF	2.3	\$690.00
10/2/2014	WDI	ADDITIONAL RESEARCH OF LUST REGULATORY HISTORY	1.1	\$330.00
10/3/2014	WDI	WORK ON POST- HEARING BRIEF	1.2	\$360.00
10/6/2014	WDI	RESEARCH LUST RULEMAKING; DRAFT POST-HEARING BRIEF	5.3	\$1,590.00
10/16/2014	WDI	EMAIL EXCHANGES WITH IEPA ATTORNEY AND HEARING OFFICER REGARDING BRIEFING SCHEDULE ISSUES	0.4	\$120.00
10/17/2014	WDI	DRAFT AND FILE DECISION DEADLINE EXTENSION WITH POLLUTION CONTROL BOARD	0.9	\$270.00
10/27/2014	WDI	RECIEPT/REVIEW OF IEPA BRIEF	0.4	\$120.00
10/29/2014	WDI	REVIEW IEPA BRIEF; COMPARE WITH PIASA BRIEF AND TRANSCRIPT OF HEARING	1.9	\$570.00
10/30/2014	WDI	RESEARCH REGULATORY PROVISIONS; PCB DECISIONS IN BRIMFIELD AND AGENCY RECORD TO PREPARE ISSUES FOR REPLY BRIEF; EMAIL EXCHANGES WITH TRUESDALE AND THORPE	2.5	\$750.00
10/30/2014	ARP	CONFER RE REPLY BRIEF	0.2	
10/31/2014	ARP	REVIEW EPAS POST HEARING BRIEF AND CLIENT'S COMMENTS; DRAFT OUTLINE OF POINTS; WORK ON LIST OF CONTENTIONS FOR REPLY BRIEF	2	

10/31/2014	WDI	REVIEW INFORMATION PROVIDED BY CLIENT TO COMMENT FOR BRIEF	0.4	\$120.00
11/2/2014	WDI	DRAFTING REPLY BRIEF	1.2	\$360.00
11/3/2014	WDI	DRAFT REPLY BRIEF WITH RELATED RESEARCH OF ADMINISTRATIVE RECORD AND HEARING TRANSCRIPT	4.7	\$1,410.00
12/5/2014	ARP	INSTRUCTIONS RE MEMO; REVIEW IPCB'S DECISION AND ORDER	1.4	\$308.00
12/5/2014	ARP	DRAFT MEMO RE IPCB'S DECISION	1.2	\$264.00
12/10/2014	WDI	REVIEW BOARD ORDER OF DECEMBER 4, 2014; RESEARCH ATTORNEY FEE RECOVERY ISSUES; EMAIL EXCHANGE WITH SHANE THORPE REGARDING FACTS RELATED TO BOARD ORDER	2.2	\$660.00
12/15/2014	WDI	TELEPHONE CONFERENCE WITH JOE TRUSDALE AND SHANE THORPE; REVIEW PORTIONS OF ADMINISTRATIVE RECORD	1.1	\$330.00
12/16/2014	ARP	CONFER RE ACTION FOLLOWING BOARD ORDER	0.4	\$88.00
12/30/2014	WDI	RESEARCH CASES AND ISSUES REFERENCED IN WEBB CASE REGARDING AWARDING OF ATTORNEY FEES	2.7	\$810.00
1/4/2015	WDI	DRAFT AFFIDAVIT FOR MOTION FOR FEES; PREPARE SUMMARY OF FEES AND COSTS FROM BILLING SPREADSHEETS	1.7	\$510.00
1/5/2015	ARP	PROOFREAD PLEADINGS PRIOR TO FILING	0.5	\$110.00
1/5/2015	WDI	DRAFT MOTION FOR FEES; REVIEW SUPPORTING DOCUMENTATION FOR ACCURACY; FILE PLEADINGS	4.3	\$1,290.00
		Total Hours	101.1	
		Total Fees		\$25,060.00
6/18/2014	WDI	IEPA-IPCB FILING FEES		\$75.00
10/15/2014	WDI	WESTLAW CHARGES FOR SEPTEMBER		\$28.08
10/15/2014	WDI	WESTLAW CHARGES FOR SEPTEMBER		\$22.01
1/5/2015	WDI	WESTLAW CHARGES FOR DECEMBER		\$70.68
		Total Costs		\$195.77
		TOTAL		\$25,255.77

CERTIFICATE OF SERVICE

I, William D. Ingersoll, certify that I have this date served the attached Notice of Filing and Petitioner's Motion for Authorization of Payment of Legal Fees Pursuant to Section 57.8(l), 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 B. Sievers
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 email only per agreement)

Dated: January 5, 2015

BROWN, HAY & STEPHENS, LLP

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