

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

BRIMFIELD AUTO & TRUCK,)	
)	
Petitioner,)	
)	
vs.)	
)	PCB No. 12-134
ILLINOIS ENVIRONMENTAL)	(UST Appeal)
PROTECTION AGENCY,)	
)	
Respondent.)	

REPLY TO RESPONDENT’S CLOSING BRIEF

NOW COMES Brimfield Auto & Truck, by its attorney, Robert M. Riffle, Esq., and as and for the Reply to Respondent’s Closing Brief, states as follows:

ARGUMENT

The Petitioner stands on the points raised in its Initial Brief. The work at issue was performed, and the amounts paid to third parties for that work. This point stands undisputed. As Mr. Green testified, it is often difficult to determine when groundwater is encountered. He testified as follows:

“Based on field observations, we don’t know where the groundwater is at unless it’s real obvious.”

The IEPA asks that the judgment of an individual who was not present in the field be substituted for the judgment of a seasoned veteran in the field. The driller, Whitney, and the Remediation contractor, Midwest Environmental, have dozens of years of experience in the field. There is no evidence that the actions of the well driller and contractor were inappropriate, or that their actions were not performed in good faith. An honest, good faith effort was made to obtain good data, and the expenses in question were reasonably and necessarily incurred, and paid. It is

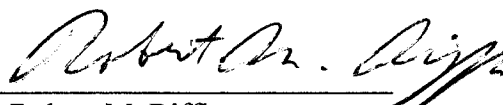
undisputed that sometimes, moisture may be encountered in the course of drilling, but groundwater status is not obvious. This case comes down to whether the actions of the experienced driller in the field should be overridden by an individual who had no first-hand knowledge of what actually occurred in the field. Respectfully, the good faith actions and judgments of such professionals should not be second-guessed. More importantly, the Petitioner who incurred these expenses in good faith, should not be penalized.

CONCLUSION

For the foregoing reasons, and the reasons set forth in Petitioner's opening Brief, Petitioner respectfully requests approval and reimbursement of costs which indisputably were incurred and paid in connection with the remediation of the Subject Property.

Respectfully submitted,

BRIMFIELD AUTO & TRUCK, Petitioner

By: 
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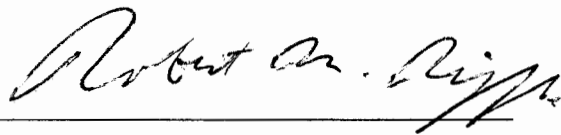
CERTIFICATE OF SERVICE

The undersigned certifies that on July 18, 2014, 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

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