

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

MAR 26 2004

STATE OF ILLINOIS
Pollution Control Board

HOME OIL COMPANY,)
)
Petitioner,)
)
v.) PCB 02-205, PCB 02-206, PCB 04-172
) (UST Fund Appeal)
ILLINOIS ENVIRONMENTAL) (Consolidated)
PROTECTION AGENCY,)
)
Respondent.)

NOTICE OF FILING

| | | |
|------------|--|---|
| TO: | John Kim Special Assistant Attorney General Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276 | Carol Sudman Hearing Officer Illinois Pollution Control Board 1021 North Grand Avenue East P.O. Box 19274 Springfield, Illinois 62794-9274 |
|------------|--|---|

PLEASE TAKE NOTICE that on March 26, 2004, filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original, executed copy of a Petition for Review of Illinois Environmental Protection Agency Decisions and Motion to Consolidate.

Dated: March 26, 2004

Respectfully submitted,

Home Oil Company

By: Carolyn S Hesse
One of Its Attorneys

Carolyn S. Hesse
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
176723v1


CERTIFICATE OF SERVICE

I, on oath state that I have served the attached Petition for Review of Illinois Environmental Protection Agency Decisions and Motion to Consolidate by placing a copy in an envelope addressed to:

John Kim
Special Assistant Attorney General
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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

from One North Wacker Drive, Suite 4400, Chicago, Illinois, before the hour of 5:00 p.m., on this 26th Day of March, 2004.



Carolyn S. Hesse

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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CLERK'S OFFICE

MAR 26 2004

HOME OIL COMPANY,)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB 02-205, PCB 02-206, PCB 04-172
(UST Fund Appeal)
(Consolidated)

MOTION TO CONSOLIDATE

NOW COMES Home Oil Company by one of its attorneys, Carolyn Hesse of Barnes & Thornburg, pursuant to 35 Ill. Adm. Code 101.406 and hereby moves to consolidate the appeal of Illinois Environmental Protection Agency ("Agency") decisions filed on this date with PCB 02-205 and PCB 02-2061. In support of this motion, Petitioner states as follows:

1. An underground storage tank ("UST") appeal was filed contemporaneously with this Motion to Consolidate. Two UST appeals were filed previously related to this site: PCB 02-205 and PCB 02-206.
2. All three appeals involve a denial of reimbursement of costs from the Leaking Underground Storage Tank Trust Fund to perform corrective action activities at property located at 2700 West Main Street, Belleville, St. Clair County, Illinois. This property is owned by Home Oil Company.
3. All appeals are related to corrective action activities for the same underground storage tanks that leaked.

4. The three different Agency letters denying reimbursement apply to activities at the site, but cover different periods of time and different costs and expenses related to the corrective action activities.
5. Because the factual bases of the three petitions are closely related, consolidating the petition filed on this date with the two previously filed petitions into one proceeding will be more convenient to the Board, the Agency and Petitioner. Consolidation will also result in a more expeditious and complete determination of the claims and would not cause material prejudice to any party. Further, consolidation of the claims will provide for a more efficient administration of justice and reduce duplication of efforts that would be required if the appeals were handled separately. The burden of proof for the three appeals is identical and will be based on nearly identical facts and background information.

WHEREFORE, Petitioner, Home Oil Company, respectfully requests that the Board grant its motion to consolidate the petitions filed on behalf of Home Oil Company.

Dated: March 26, 2004

Respectfully submitted;

Home Oil Company

By: Carolyn S. Hesse
One of Its Attorneys

Carolyn S. Hesse, Esq.
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
211459v1

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

MAR 26 2004

STATE OF ILLINOIS
Pollution Control Board

HOME OIL COMPANY,)
)
)
 Petitioner,)
)
)
 v.) PCB 04-172
) (UST Fund Appeal)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
)
 Respondent.)

PETITION FOR REVIEW OF ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY DECISIONS

Home Oil Company, by its attorneys, Carolyn S. Hesse of Barnes & Thornburg, pursuant to the Illinois Environmental Protection Act, 415 ILCS 5/1 *et. seq.* (the "Act") and 35 Illinois Administrative Code Section 105.400 *et. seq.*, hereby appeals certain decisions by the Illinois Environmental Protection Agency (the "Agency").

1. Home Oil Company ("Home") is the owner of property located at 2700 West Main Street, Belleville, St. Clair County, Illinois. The site was a gasoline service station that had underground storage tanks (USTs) on the property which stored gasoline, heating oil, and diesel fuel.
2. LUST Incident Number 910367 was obtained following a site investigation. The site was also assigned LPC #1630105092-St. Clair County.
3. On August 29, 2003, the Agency received Home's complete request for reimbursement of costs from the Illinois Underground Storage Tank Fund (the "Request") for the period from July 1, 2002 to August 31, 2002, in the amount of \$17,929.09.

[This filing submitted on recycled paper as defined in 35 Ill. Adm. Code 101.202]

4. The Agency denied certain costs in the Request in a letter dated January 28, 2004, a copy of which is attached hereto as Exhibit A.
5. In Attachment A, Technical Deductions, of the January 28, 2004, letter the following is stated, "This reduction is based on the lease and installation of the SVE/Vapor Treatment system. The following information must be provided to the Agency prior to the approval of these costs." Attachment A then listed four items for which the Agency requested information.
6. On March 2, 2004, CW³M on behalf of Home, responded to the Agency's requests for information. *See* Exhibit B.
7. By letter dated March 22, 2004, the Agency rejected Home's response to the Agency's request for additional information. *See* Exhibit C.
8. This petition is timely filed because the Agency's January 28, 2004, letter requested additional information and, thus, was not a final decision despite the Agency's inclusion of its standard language regarding it being a final decision.
9. The letter dated March 22, 2004 rejecting Home's response to the information requested by the Agency triggers the appropriate time period for filing an appeal.
10. Home is appealing this March 22, 2004 denial which relates back to the January 28, 2004 letter because:
 - (a) the Agency denied certain costs by claiming that the owner/operator failed to demonstrate the costs were reasonable;
 - (b) the Agency is seeking to enforce rates and procedures for certain activities that are inconsistent with rates and procedures IEPA has approved in the past;
 - (c) the Agency is seeking to enforce rates and procedures for certain activities that the Agency proposed in proposed rules before the Board; and

- (d) the Agency's use of rates and procedures that have not been adopted by the Board is in violation of the Administrative Procedures Act.
11. Home disagrees with the Agency's decision and believes that the costs submitted for reimbursement are corrective action costs, are reasonable and are the types of costs that are eligible for reimbursement under the Act and implementing regulations.
12. The Agency's letter denying reimbursement, Exhibit C, which references Exhibit A, provides no further explanation of the Agency's reasons or bases for denial that could aid Petitioner in setting forth its grounds of appeal.

WHEREFORE, Home Oil Company respectfully requests that the Board enter an order that will provide that it be reimbursed from the UST Fund for its submitted costs and for its attorneys' fees and costs in bringing this appeal.

Respectfully submitted,

Home Oil Company

By: Carolyn S. Hesse
One of Its Attorneys

Carolyn S. Hesse, Esq.
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
211471v1



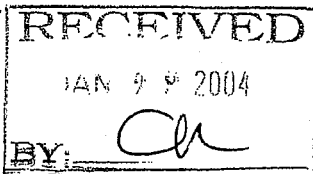
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-6762



JAN 28 2004

Mr. Keith Stadelman
Home Oil Company
P.O. Box 571
Carlinville, Illinois 62626

Re: LPC #1630105092 -- St. Clair County
Belleville/Home Oil Company
2700 West Main Street
LUST Incident #910367
LUST FISCAL FILE

Dear Mr. Stadelman:

The Agency has completed the review of the request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for the above-referenced facility. The invoices reviewed covered the period from July 1, 2002 to August 31, 2002. The amount requested was \$17,929.09.

The deductible amount for this claim is \$15,000.00, which was previously deducted from the Invoice Voucher dated October 8, 1991. Listed in Attachment A are the costs which are not being reimbursed from this request and the reasons these costs are not being reimbursed.

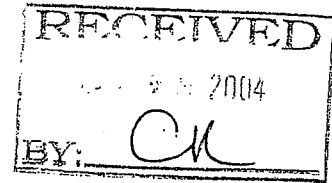
On August 29, 2003, the Agency received your complete request for payment for this claim. As a result of the Agency's review of this claim, a voucher for \$9,265.11 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Agency received your complete request for payment of this claim. Subsequent claims that have been/are submitted will be processed based upon the date complete subsequent billings requests are received by the Agency.

This constitutes the Agency's final action with regard to the above invoices. An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board (Board) pursuant to Section 22.18b(g) and Section 40 of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or

operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
312/814-3620



For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
217/782-5544

If you have any questions, please contact Diana Gobelman of my staff or John Barrett of the LUST Section technical staff at 217/782-6762.

Sincerely,

A handwritten signature in cursive script that reads "Douglas E. Oakley".

Douglas E. Oakley, Manager
LUST Claims Unit

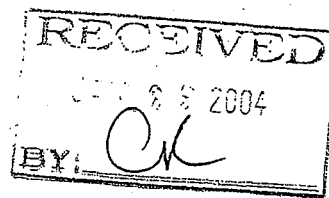
Planning & Reporting Section
Bureau of Land

DEO:DLG:mls\043454.doc

Attachment

cc: CW3M

Attachment A
Accounting Deductions



Re: LPC #1630105092 -- St. Clair County
Belleville/Home Oil Company
2700 West Main Street
LUST Incident No. 910367
LUST FISCAL FILE

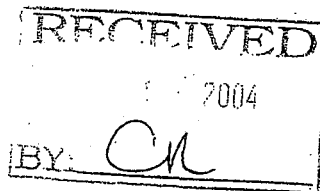
Item # Description of Deductions

1. \$488.30, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

Per diem - time charged and rate; mileage - amount billed and rate; hotel - nights billed and rate; handling charges for hotel.

DG\mls\043453.doc

Attachment A
Technical Deductions



Re: LPC #1630105092 – St. Clair County
Belleville/Home Oil Company
2700 West Main St.
LUST Incident No. 910367
LUST FISCAL FILE

Item # Description of Deductions

1. \$6,519.41, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

This reduction is based on the lease and installation of the SVE/Vapor Treatment system. The following information must be provided to the Agency prior to the approval of these costs.

1. A copy of the invoice or bid specification for the SVE/Vapor Treatment System from the manufacturer of the system. If the invoice or bid specification does not contain the technical specifications of the remediation system additional documentation must be submitted outlining the components of the system as well as individual costs of the components; or

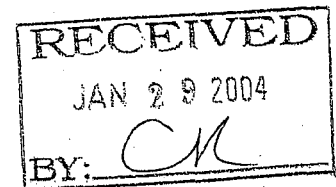
If the remediation system has not been purchased from a manufacturer, the total cost to construct the remediation system must be provided. In addition, an itemized cost breakdown of the material and subcontractors used, and the personnel required to assemble the remediation system must be provided that includes a list of each person's job title, the responsibilities, time spent, and rate for each job title. The specifications associated with the remediation system should also be provided.

2. The expected life of the remediation system and disposition of all components of the remediation system once the remediation reaches the end of the remediation project. In addition, a reasonable salvage value of the remediation system must be provided.
3. A list of any additional costs that may be included in the purchase price of the remediation system including supporting documentation (i.e., bids, receipts, and invoices).

4. \$1393.55, deduction in costs that the owner/operator failed to demonstrate were reasonable (Section 22.18b(d)(4)(C) of the Environmental Protection Act).

This reduction is based on the lease of the Mobile Groundwater System. The system was installed on or about July 26, 2002. The Agency feels that prorating of the monthly operation is appropriate.

JDB/mls/0434510.doc



CW³M Company

701 W. South Grand Avenue
Springfield, IL 62704

Environmental Consulting Services

Phone: (217) 522-8001
Fax: (217) 522-8009

March 2, 2004

Mr. John Barrett, Project Manager
Illinois Environmental Protection Agency
Bureau of Land, LUST Section
1021 North Grand Avenue East
Springfield, IL 62794-9276

**Re: LPC #1630105092—St. Clair County
Belleville/Home Oil Company
2700 West Main Street
LUST Incident Number 91-0367
LUST Fiscal File—Reimbursement Deductions**

Dear Mr. Barrett:

This letter is in response to the technical deductions presented in the Agency's January 28, 2004 letter to Home Oil Company. In previous reimbursement submittals, the Agency has decided that the cost estimate provided in the Corrective Action Plan which compared the conventional technology to alternative technologies would be used as a hard and fast budget. On the basis of the information provided in that costs comparison the Agency deducted costs for the installation for the SVE system. Brian Bauer during discovery depositions testified to these facts. (See attached deposition, pgs 51-79). Additionally on page 126 of the same deposition, Mr. Bauer discusses allowing \$90,000 for maintenance and data collection. This is the line item directly below the lease rate line items. On that basis, CW³M prepared the lease rate for the SVE system utilizing that same cost estimate.

Additionally, during a standard FOIA review, CW³M reviewed the file for incident 97-2081. In this project a line item estimate for a AS/SVE Equipment Rental was provided at \$4,500.00 per month. No further documentation was provided detailing the cost. The Agency approved the rental rate in a letter dated February 25, 2002.

In summary, while CW³M did not prepare the costs estimate provided in the CAP, it was forced by the Agency to live within the cost estimate provided for the installation costs. The Agency cannot take the cost estimate and enforce it as a budget in one instance and then turn around and not follow it in another. Therefore, since the Agency had previously decided to use the cost estimate as a budget, CW³M simply followed the same procedure in establishing its monthly lease rate for the SVE/Vapor Treatment System. Additionally, through review of the files of incident 97-2081, the rate of \$4,500 per month for a Soil Vapor Extraction plant was demonstrated to be reasonable

and approvable by the IEPA. Therefore we respectfully request a review of the technical deductions to the reimbursement request.

For your convenience, we have included copies of the referenced cost estimates, depositions, and relevant information from incident 97-2081. If you have any questions or concerns regarding this information, please do not hesitate to contact either Mr. Jeff Wienhoff or me. We can be reached at (217) 522-8001.

Sincerely,



Carol L. Rowe, P.G.
Senior Environmental Geologist

Attachments

xc Mr. Keith Stadelman, *Home Oil Company (w/o attachments)*
Mr. William T. Sinnott, *CW²M Company, Inc. (w/o attachments)*

IMPLEMENTATION COST ESTIMATE - SVE

Installation

Recovery Wells (20)

| | |
|--|----------|
| Drilling 20 wells x 30' x \$30/ft = | \$18,000 |
| Well Installation 20 x \$950 (labor, materials, etc.) = | \$19,000 |
| Well Development \$200 x 20 = | \$4,000 |
| Well Vaults 20 x \$1000 = | \$4,000 |
| Backhoe 5 days x \$200 = | \$1,000 |
| Labor (install well vaults) 5 Days x \$175/hr (3 people) x 4 hrs = | \$3,500 |
| Subtotal | \$49,500 |

Piping (1200' +/-)

| | |
|--|----------|
| Trencher (Rental) 10 days x \$300 = | \$3,000 |
| PVC Pipe 2", 3", & 4" \$1.25/ft x 1200' = | \$1,500 |
| Fittings, etc. | \$500 |
| Misc. Equipment, Field Purchases, etc. | \$500 |
| Labor (Install Piping) 10 Days x \$175 (3 people) x 10 hrs = | \$17,500 |
| Subtotal | \$23,000 |

SVE/Treatment

| | |
|---|-----------|
| Power Installation (Power Pole, Meter, etc.) | \$2,500 |
| Shipping, Off-load, Set pad, etc. | \$2,500 |
| Monthly Lease (Vapor) \$2,500/month x 36 months (3 years) = | \$90,000 |
| Monthly Lease (SVE) \$2,000/month x 36 months (3 years) = | \$72,000 |
| Monthly Operation, Maintenance, Data Collection, etc. (3 years) = | \$90,000 |
| Initial Startup, Sampling, etc. = | \$5,500 |
| Subtotal | \$262,500 |
| (assume no repairs) | |

Closure Sampling

| | |
|---|----------|
| Soil borings (assume 20') 20 borings x 20' x \$30/ft = | \$12,000 |
| 20 Samples x \$175/sample (analysis, sample collection) = | \$3,500 |
| Mobilization 4 Days x \$500/day | \$2,000 |
| Subtotal | \$17,500 |

TOTAL COST = \$352,500**
 (3 years)
 (if remediated in 2 years assume \$268,500)

Note: These cost estimates are for implementation only, they do not include costs for design, planning, permitting, and reporting.

1 BEFORE THE POLLUTION CONTROL BOARD
 2 OF THE STATE OF ILLINOIS
 3 HOME OIL COMPANY,
 4 Petitioner,
 5 vs. No. PCB 02-205
 6 No. PCB 02-206
 7 ILLINOIS ENVIRONMENTAL
 8 PROTECTION AGENCY,
 9 Respondent.
 10
 11 THE DEPOSITION of BRIAN BAUER, taken in
 12 the above-entitled case before Julie A. Brown, a
 13 Notary Public of Christian County, acting within
 14 and for the County of Sangamon, State of Illinois,
 15 at 9:05 o'clock A.M., on December 19, 2002, at 1021
 16 North Grand Avenue East, Springfield, Sangamon
 17 County, Illinois, pursuant to notice.
 18
 19
 20
 21
 22 Baldwin Reporting & Legal-Visual Services
 23 Serving Illinois, Indiana & Missouri
 24 24hrs (217) 788-2835 Fax (217) 788-2838
 1-800-248-2835

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10 EXHIBITS
 11 NUMBER MARKED FOR IDENTIFICATION
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 13 Exhibit 2 24
 14 Exhibit 3 25
 15 Exhibit 4 55
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 20 Exhibit 9 85
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 23
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1 APPEARANCES: Page 2
 2 BARNES & THORNBURG
 3 BY: Carolyn S. Hesse, Esq.
 4 10 South LaSalle Street
 5 Chicago, Illinois 60603
 6 On behalf of Petitioner.
 7
 8 BARNES & THORNBURG
 9 BY: Beth A. Harvey, Esq.
 10 10 South LaSalle Street
 11 Chicago, Illinois 60603
 12 On behalf of Petitioner.
 13
 14 MR. JOHN KIM
 15 Attorney at Law
 16 Illinois Environmental Protection Agency
 17 1021 North Grand Avenue East
 18 Springfield, Illinois 62702
 19 On behalf of Respondent.
 20
 21 ALSO PRESENT:
 22 Mr. Jeff Wienhoff
 23
 24

1 STIPULATION Page 4
 2 It is stipulated and agreed, by and
 3 between the parties hereto, through their
 4 attorneys, that the deposition of BRIAN BAUER may
 5 be taken before Julie A. Brown, a Notary Public and
 6 Certified Shorthand Reporter, upon oral
 7 interrogatories, on the 19th of December A.D.,
 8 2002, at the instance of the Petitioner at the hour
 9 of 9:05 o'clock A.M., 1021 North Grand Avenue East,
 10 Springfield, Sangamon County, Illinois;
 11
 12 That the oral interrogatories and the
 13 answers of the witness may be taken down in
 14 shorthand by the Reporter and afterwards
 15 transcribed;
 16
 17 That all requirements of the Civil
 18 Practice Act and the Rules of the Illinois
 19 Pollution Control Board as to deimus, are
 20 expressly waived;
 21
 22 That any objections as to competency,
 23 materiality or relevancy are hereby reserved, but
 24 any objection as to the form of question is waived
 unless specifically noted;
 25
 26 That the deposition, or any parts thereof
 27 may be used for any purpose for which depositions
 28 are competent, by any of the parties hereto,
 29 without foundation proof;
 30
 31 That any party hereto may be furnished
 32 copies of the deposition at his or her own expense.
 33
 34

ORIGINAL

1 (Whereupon the Deponent was
 2 sworn by the Notary Public.)
 3 BRIAN BAUER
 4 having been first duly sworn by the Notary Public,
 5 deposeth and saith as follows:

6 EXAMINATION

7 BY MS. HESSE:

8 Q Let the record reflect that this is a
 9 deposition that's being taken pursuant to the
 10 Illinois Civil Procedure Rules and the Illinois
 11 Pollution Control Board Rules and that it's being
 12 taken by agreement of the parties. We agreed to
 13 the time and the place for the deposition.

14 Mr. Bauer, I represent Home Oil Company
 15 in an appeal, actually two appeals that were filed
 16 before the Illinois Pollution Control Board. My
 17 name is Carolyn Hesse and sitting next to me is
 18 Beth Harvey who's also an attorney with the same
 19 law firm.

20 Could you state your full name and spell
 21 it, please, for the Court Reporter?

22 A Brian Philip Bauer, B-R-I-A-N,
 23 P-H-I-L-I-P, B-A-U-E-R.

24 Q Have you ever been deposed before, Mr.

1 A All right.

2 Q If you do not understand a question, let
 3 me know because it's very important that you
 4 understand the questions I'm asking and if you do
 5 answer a question, I will assume that you
 6 understood the question.

7 A Okay.

8 Q Understood? Your testimony here is sworn
 9 testimony. You're under oath. It's as if you're
 10 in a court room and because you're sworn to tell
 11 the truth, adverse consequences could result if you
 12 do not do so. Do you understand that?

13 A I understand.

14 Q Did you review any documents to prepare
 15 for the deposition today?

16 A I looked over the file a little bit
 17 yesterday.

18 Q Okay. By the file, what are you
 19 referring to?

20 A The LUST technical division file, I
 21 guess. The whole, you know, what we have in our
 22 file room.

23 Q Okay. To your knowledge, was everything
 24 that was produced in that part of the

1 Bauer?

2 A No, I haven't.

3 Q So I'm going to quickly go over a few of
 4 the procedural things with the deposition. All of
 5 your answers need to be verbal. The Court Reporter
 6 cannot take down a nod of the head or a shake of
 7 the head or anything else. All she can take down
 8 is what you and I say--

9 A Okay.

10 Q (Continuing.)--during the deposition.

11 Also, she can only get down what one of us is
 12 saying at a time. So that means I have to remember
 13 not to interrupt you and when you're answering a
 14 question and likewise, if you'll let me finish a
 15 question, that would be good.

16 A All right.

17 Q If you need to take a break, if you want
 18 to get a drink of water, go to the rest room, have
 19 to make an important call or anything like that,
 20 let me know and we can take a break.

21 A Okay.

22 Q This is not meant to be a torture
 23 chamber. I did not bring bamboo shoots, just
 24 paper. So nothing under the fingernails.

1 administrative record?

2 A Yeah, I believe so. I think it was.

3 Q Okay.

4 A Basically the same thing.

5 Q Were there any other documents that you
 6 looked at to prepare that were not produced as part
 7 of the administrative record?

8 A I looked over the interrogatories that
 9 was in part of the record. Wasn't it? I looked at
 10 that.

11 Q I'm going to ask you a little bit of
 12 questions about your background too.

13 A Okay.

14 Q What is your educational background?

15 A I got a bachelor's of science in
 16 Biology. Want to know the school?

17 Q Yes, please.

18 A From Northland College, Ashland,
 19 Wisconsin. I have a master's from U of I. UIS
 20 actually here in Springfield in environmental
 21 studies.

22 Q Okay. When did you receive your
 23 bachelor's?

24 A 1990.

1 Q And your master's?
 2 A I don't remember. '96, '97. I'm not
 3 really sure. One of those dates.
 4 Q And if you're not sure of an answer, just
 5 say you're not sure.
 6 A I'm really not. I'd have to look on the
 7 paper.
 8 Q What kind of courses did you take in
 9 environmental studies?
 10 A Risk assessment when I was there. Then I
 11 had some general classes, like environmental
 12 humanities, environmental economics, ecology type
 13 of classes.
 14 Q What kind of environmental risk
 15 assessment courses were they?
 16 A You mean--
 17 Q The term risk assessment has been applied
 18 different ways and I'm curious as to what kind of
 19 risk assessment you studied. Was it the
 20 probabilistic statistical analysis type of things
 21 or was it more policy oriented?
 22 A It was more figuring out what an
 23 individual's risk was from exposure to a particular
 24 chemical in figuring out, you know, based on, it

1 Q And what was your first job with Illinois
 2 EPA?
 3 A Project manager for the LUST section.
 4 Q As a project manager, what do you do?
 5 A Review technical reports and corrective
 6 action plans, reimbursement requests. Just all
 7 kinds of anything they ask of you, I mean I guess.
 8 Q Have you done any other jobs at Illinois
 9 EPA since being the project manager or in addition
 10 to or other than being a project manager in the
 11 LUST section?
 12 A For, it was about nine months, I
 13 temporarily was assigned over as the unit manager.
 14 Q And when was that?
 15 A Last year. I believe it's, I started in
 16 July of, I think 2000. Yeah, I think July, about
 17 eight or nine months from there.
 18 Q And what was your job function as a unit
 19 manager?
 20 A I just oversaw the, about six project
 21 managers, their daily work. Signed the letters,
 22 you know, personnel type issues and I didn't
 23 maintain a lot, there was some project management
 24 at that time because I was temporary. So I had, I

1 was all mathematical modeling, I would say in that
 2 aspect. I mean there was some policy but most of
 3 it was trying to calculate a person's risk of, you
 4 know, of having cancer or something like that from
 5 an exposure to a particular chemical through all
 6 the different pathways.
 7 Q Where do you reside?
 8 A In Dawson.
 9 Q Could you explain to me your employment
 10 background? For example, how long have you worked
 11 at Illinois EPA?
 12 A I've worked at the Illinois EPA in that
 13 section since April of '92.
 14 Q Were you employed before that?
 15 A Yeah, on and off at different, you know,
 16 jobs while I was going to school. Nothing--
 17 Q What kind of jobs?
 18 A Oh, I've worked in a warehouse, worked in
 19 a gas station. I went to forest service, fighting
 20 forest fire, trails, stocking shelves at a grocery
 21 store for a long time. Things like that.
 22 Q And you mentioned you've been at IEPA
 23 since 1992?
 24 A Correct.

1 had a full deck then.
 2 Q Okay. Since you're the first one I'm
 3 deposing from Illinois EPA, could you explain to me
 4 how is the Leaking Underground Storage Tank Section
 5 organized?
 6 A Sure. The section manager is Doug Clay
 7 and then there are five unit managers, I believe,
 8 and each unit manager has about seven, eight, I
 9 think one has nine project managers underneath them
 10 where they report to them.
 11 Q And the unit manager reports to the
 12 section manager?
 13 A Correct.
 14 Q And then there's seven to nine--
 15 A Project managers.
 16 Q (Continuing.)--project managers. How do
 17 projects gets assigned to a project manager?
 18 A By the unit manager.
 19 Q Does the, how does the unit manager
 20 determine who's going to look at which project?
 21 For example, if, is it, well, is there some
 22 rationale? Does he look at the work load of the
 23 person?
 24 A Yeah. I would assume so. I can't speak

1 for the other unit managers and how they do it. I
 2 really don't know how the other unit managers do
 3 it. I know how I did it when I was assigned the
 4 project. You would have to definitely look at what
 5 they have due coming up, you know, how much time
 6 they have, what other projects they have on their
 7 plate. There's a lot of different factors that
 8 would fall into that.

9 Q Who is the unit manager for the unit
 10 you're in?

11 A Harry Chapel.

12 Q So if you were asked to look at a special
 13 reimbursement request, Mr. Chapel would ask you to
 14 do so?

15 A He might, yes.

16 Q When projects are assigned, for example,
 17 Home Oil, would, how would that assignment be
 18 made? Would it be a particular Home Oil report or
 19 would the whole Home Oil file be assigned to a
 20 particular project manager?

21 A Are you asking how I got assigned to it?

22 MR. KIM: Can I ask that you clarify? When you
 23 say report, what type of--

24 MS. HESSE: Q Well, for example, a report

1 A That's what the database indicates. I
 2 don't think he's worked on it.

3 Q And you said there was no technical
 4 project manager assigned when the reimbursement
 5 request came in?

6 A Correct.

7 Q Now, does the technical project manager
 8 also review reimbursement requests?

9 A Yes.

10 Q Are there ever separate teams of people
 11 that review what was done technically and what the
 12 reimbursement request was for?

13 A I don't understand what you're saying but
 14 I think I'll answer. I, as part of one of my other
 15 duties, I review all reimbursement requests that
 16 have no project managers or project managers that
 17 have left the agency or went on to another
 18 section. I review all of those. I volunteered for
 19 that like two years ago or something like that and
 20 just for consistency purposes, they asked me if I'd
 21 do that. So I've been doing that for a while.

22 Q So that's one of your jobs, is kind of
 23 orphan sites in a way for a project manager?

24 A For reimbursement.

1 such as a corrective action plan.

2 A Uh-huh.

3 Q Would, when, what I'm trying to find out
 4 is when the assignments are made is how are the
 5 assignments generally made? Does the project
 6 manager say I'm assigning Home Oil to you? You get
 7 everything that comes into Home Oil to look at or
 8 would the unit manager say to the project manager
 9 here's a report on this particular file, look at
 10 it?

11 A They should, a project manager gets
 12 everything once they're assigned to the project.
 13 But that, I'm not the technical project manager on
 14 the Home Oil site.

15 Q Who is the technical project manager?

16 A I believe it was assigned to John Barret.

17 Q John Barret?

18 A Yeah.

19 Q Is John Barret still with IEPA?

20 A Yes. He was not the project, there was
 21 no one assigned to the project, I believe, when the
 22 reimbursement claim came in.

23 Q So John Barret is now the technical
 24 project manager?

1 Q For reimbursement purposes. Do you ever
 2 review projects for the technical purposes?

3 A Yes. Yeah.

4 Q Okay. Have you done any of that for Home
 5 Oil?

6 A No. I've never done anything on the
 7 technical side for this site.

8 Q So on Home Oil, you've only looked at
 9 reimbursement requests. Is that correct?

10 A Yeah. I mean I've looked at the
 11 technical file with it but I didn't make any
 12 technical decisions.

13 Q Just, I'm just trying to make sure I
 14 understand and it's clear to me because things are
 15 a little mystery sometimes when you're not within
 16 the agency. So, there might be a technical project
 17 manager who would look at something like a
 18 corrective action plan or another type of work plan
 19 and look at that for its technical merits. Is that
 20 correct?

21 A Correct, yeah.

22 Q And then there may be another person who
 23 doesn't necessarily look at a work plan for its
 24 technical merits but may still read the work plan.

1 Is that correct?
 2 A I just looked at it to compare it to, I
 3 look at the technical, to do a technical bill
 4 review, you have to look at the, the technical
 5 documentation.
 6 Q And what is the purpose?
 7 A To see if they're consistent. I mean
 8 there has to be documentation in order for, for
 9 reimbursement to be made, technical documentation.
 10 If there's nothing that says they did, they're
 11 billing us for 20 borings but there's no report
 12 that says they did 20 borings, the agency, they
 13 would cut that. There's no technical documentation
 14 for it and that's what I was doing, what I do
 15 sometimes.
 16 Q About how many projects are assigned to
 17 you now?
 18 A Technical?
 19 Q Technical.
 20 A Anywhere between three and four hundred.
 21 Q And how many projects are assigned to you
 22 now for fiscal review?
 23 MR. KIM: Let me ask, when you say, can you
 24 clarify what you mean by projects?

1 at your desk that need to be reviewed or you just
 2 reviewed or things are happening on at the current
 3 time?
 4 A I would probably say there's 20, 25
 5 different reports sitting on my desk right now that
 6 need to be reviewed, technical reports.
 7 Q How much of your time sort of percent
 8 wise do you spend looking at the technical reports
 9 giving technical review versus the fiscal reports
 10 pending fiscal review?
 11 A I'd probably say 50 percent of my time is
 12 technical and maybe 30 percent would be for
 13 reimbursement reviews.
 14 Q What do you do the other 20 percent?
 15 A Give depositions. No. I do some other,
 16 other, I'd say other duties as assigned.
 17 Q Under the LUST section or other, serve
 18 other functions for the Agency in general?
 19 A Under LUST and research, stuff like
 20 that. Other work groups, things like that. I
 21 would do that.
 22 Q What kinds of research do you do?
 23 A Presently, I'm working on a, redoing the
 24 budget forms, budget billing forms, taking up quite

1 MS. HESSE: Okay.
 2 MR. KIM: Just so we're on the same page.
 3 MS. HESSE: That's a good point, John.
 4 Q By projects, for example, if someone
 5 comes to you and says I want you to be in charge of
 6 reviewing all the technical documents for Home Oil,
 7 I would call that one project?
 8 A Uh-huh.
 9 Q Okay.
 10 A Yeah.
 11 Q So does that change the answer to your
 12 question?
 13 A The, I guess on a database, if you looked
 14 up my name, there would be between three and four
 15 hundred sites that were, anything that ever came in
 16 on those sites. Some of those sites might not come
 17 in for years or be closed, but probably.
 18 Q About how many active ones do you deal
 19 with at any given time?
 20 A How many?
 21 Q How many sites--
 22 A Do I have sitting on my desk?
 23 Q Let's start with that. That's a good way
 24 to define it. How many files do you have sitting

1 a bit of my time.
 2 Q Would those be the budget forms that
 3 someone who's doing a LUST clean up would fill out?
 4 A Yes.
 5 Q And not agency budget forms for personnel
 6 or other expenses within Illinois EPA?
 7 A No. It's for outside to submit to the
 8 agency for clean ups of, LUST clean ups.
 9 Q And how did you happen to get involved in
 10 the Home Oil site?
 11 A It was a site that was given to me
 12 because there was no project manager at the time.
 13 Q And how long has John Barret been the
 14 project manager?
 15 A I have no idea.
 16 Q Okay. Is he new at IEPA?
 17 A He's not that new. I mean I'd say he's
 18 been here over a year, maybe. Probably longer than
 19 that.
 20 Q What I'd like to do is go through the
 21 reimbursement request packages and some of the
 22 notes that were made. Some of the questions may be
 23 questions for you. I know other people have worked
 24 on this also.

1 A Uh-huh.
 2 Q And like I said before, you're the first
 3 one I'm talking to so you're going to get probably
 4 the most questions until I can get things narrowed
 5 down.

6 A Okay.

7 Q Okay? The reason I'm going through all
 8 of these is we have the denial letters and it
 9 basically describes deductions but I feel like if
 10 we go through this, we'll have a better
 11 understanding what the deductions were about.

12 There were two denial letters sent to Mr.
 13 Stadelman at Home Oil. One is dated May 2nd,
 14 2002. Another is dated August 22nd, 2001. This
 15 was a later letter also, was part of our appeal.

16 MR. KIM: What are the first two letters that
 17 you referred to? What are the dates?

18 MS. HESSE: It's the August 22nd, 2001 letter.

19 MR. KIM: Okay, and looking for an April or a
 20 May letter?

21 MS. HESSE: There's the May 2002 letter, May 2,
 22 2002.

23 MR. KIM: April 19, 2002? Is that what you're
 24 looking for?

1 Q So you prepared the description that said
 2 there was an \$81,548.90 deduction?

3 A Yes.

4 Q When you used the phrase deduction for
 5 costs lacking supporting technical documentation,
 6 what did you mean?

7 A That the, that the work, I'm trying to
 8 figure out where we're at here. I believe this is
 9 the one that, we first denied it because there was
 10 no reports in the technical file documenting work
 11 that was done so we couldn't make any comparisons
 12 to what was done and then these two letters, May
 13 2nd and the April 19th, 2002 letters are like a
 14 complete review of it after we received the
 15 technical documentation. Is that what you, I
 16 believe that's what was the case.

17 Q So the first letter was the, you believe
 18 there was not sufficient technical information in
 19 the record, a report or something?

20 A Correct.

21 MR. KIM: I know it's going to be confusing but
 22 maybe because there are three different letters
 23 with three different dates, should we just, if you
 24 say first, second or third letter, should we just

1 MS. HESSE: Yes.

2 MR. KIM: I have a copy of it. I've got the
 3 letters if you need him to look at something.
 4 That's fine.

5 MS. HESSE: The August letters. Okay. Do you
 6 have copies? Could you mark this as Deposition
 7 Exhibit 1?

8 (Whereupon said document was
 9 duly marked for purposes of
 10 identification as Exhibit 1,
 11 as of this date.)

12 MS. HESSE: Q Mr. Bauer, I'm showing you
 13 what was marked as Deposition Exhibit Number 1.
 14 Could you identify what that is, please?

15 A The August 22nd, 2001 LUST fiscal letter.

16 Q Okay, and in the letter, did you, by the
 17 fiscal letter, is this a letter that Illinois EPA
 18 sent to Home Oil denying request for reimbursement?

19 A Yes.

20 Q Did you prepare this letter?

21 A No. I prepared Attachment A, technical
 22 deductions is the only thing that I would have
 23 prepared. It has been retyped by someone else,
 24 but.

1 assume you're referring to whatever letter and just
 2 do this in chronological order so--

3 MS. HESSE: Yes.

4 MR. KIM: So letter one would be the letter
 5 dated August 22nd, 2001. Letter two would be the
 6 letter dated April 19th, 2002 and the letter three
 7 would be the letter dated May 2nd, 2002?

8 MS. HESSE: That's fine with me.

9 MR. KIM: Okay. Just for ease of reference.

10 MS. HESSE: Q After letter number one was
 11 sent, did Home Oil submit a report that described
 12 the work that was done?

13 A I believe so.

14 MS. HESSE: Could you mark this as Exhibit 2?

15 (Whereupon said document was
 16 duly marked for purposes of
 17 identification as Exhibit 2,
 18 as of this date.)

19 MS. HESSE: Q Mr. Bauer, I'll show you
 20 what's been marked as Deposition Exhibit Number 2.
 21 Could you identify that, please?

22 A A corrective action status report
 23 received September 28th, 2001.

24 Q Okay. Would you refer to the report

1 itself rather than just the cover sheet? Does this
 2 appear to be a report that was submitted to the
 3 agency to provide the technical information that
 4 was referred to in letter number one?
 5 A Yes.
 6 Q Did you review this report?
 7 A I looked at it in conjunction with my
 8 review of reimbursement package.
 9 Q There's a phrase in here releasable
 10 November 27th, 2001, Reviewer MM. Who would that
 11 be? It's stamped on there with apparently an
 12 agency stamp.
 13 A I don't know. I could take a guess.
 14 Q Okay. Guess.
 15 A It's the screeners from FOIA. I think
 16 it's a FOIA screener.
 17 MR. KIM: I believe that's correct. I believe
 18 MM refers to Mark McClain who is one of the FOIA
 19 screeners for the Bureau of Land.
 20 MS. HESSE: Could you mark this as Exhibit 3?
 21 (Whereupon said document was
 22 duly marked for purposes of
 23 identification as Exhibit 3,
 24 as of this date.)

1 Q And you work for Harry Chapel directly?
 2 A Yes.
 3 Q Are these both separate unit that both
 4 report to Doug Clay then?
 5 A The LUST claims unit which Doug Oakley
 6 and Kevin Mably are in do not report to Doug Clay.
 7 They report to Bill Razinsky who is a different
 8 section, I believe. I mean I even get confused on
 9 the bureaucracy of our agency about who goes to
 10 where and stuff but that's, they do not report to
 11 Doug. Doug Clay does not have control over Doug
 12 Oakley or Kevin Mably.
 13 Q He has control over the technical
 14 reviewers?
 15 A Yes.
 16 Q The technical aspects of the LUST
 17 program.
 18 A That's correct.
 19 Q Okay, and Doug Oakley is more of the
 20 fiscal financial accountant?
 21 A Correct.
 22 Q For lack of a better term.
 23 A Yes.
 24 Q Reviewers. In the technical deductions,

1 MS. HESSE: Q Mr. Bauer, I'm going to hand
 2 you what's been marked as Deposition Exhibit Number
 3 3 and ask you to identify that, please.
 4 A The April 19th, 2002 agency letter to
 5 Home Oil denying reimbursement claim.
 6 Q Since you have another copy, I'll take
 7 this one back.
 8 A Sure.
 9 Q And what was your role in review of this
 10 reimbursement claim that's referenced in letter
 11 number two?
 12 A I reviewed it. I did a technical review
 13 of the reimbursement claim and, you mean as part of
 14 the letter? You want to know what I did?
 15 Q Well, as part of the letter. Did you
 16 draft any part of the letter or attachments?
 17 A I would do Attachment A, technical
 18 deductions. I would just note that someone else
 19 retyped my letter, just in case it wasn't the exact
 20 same thing that I wrote.
 21 Q Who is Kevin Mably?
 22 A He's the accountant reviewer.
 23 Q Does he work for Doug Oakley?
 24 A Yes.

1 could you go through the items in the description
 2 and give me an explanation of what these are about?
 3 A Okay. Item one for \$2,242 deduction,
 4 owner operator failed to demonstrate were
 5 reasonable. The deduction was for the rate of the
 6 field supervisor and per diem rate and the rate
 7 that they charged was deemed not reasonable so it
 8 was adjusted accordingly.
 9 Q Why was there, why or how was it deemed
 10 not reasonable? In what sense?
 11 A That the rate used was too high.
 12 Q How do you go about, I assume you see a
 13 lot of reimbursement requests. Correct?
 14 A Yes.
 15 Q How do you determine if a rate is too
 16 high that's being requested for reimbursement?
 17 MR. KIM: Answer it if you can answer.
 18 THE DEPONENT: I know the answer. We have
 19 comparatory rate sheets.
 20 MS. HESSE: Q And what's on the rate sheet?
 21 A All the different rates for everything
 22 that we come across in our review.
 23 Q How was this rate sheet developed?
 24 Let me ask first, who developed the rate

1 sheet?
 2 A Who developed it?
 3 Q Yes. Did you work on developing it?
 4 A Yes, I did.
 5 Q Did anybody else work on developing it?
 6 A Some of the costs were done with Doug
 7 Oakley's group and I can't think of his name.
 8 Bill.
 9 Q There's a lot of people named Bill. If
 10 you remember later, you can tell us.
 11 A You can ask Doug Oakley. He'll know who
 12 actually worked on it. I think there are numerous
 13 accountants actually worked on it to gather data on
 14 his side and I did, worked on it on the technical
 15 side.
 16 Q What kind of work did you do on the
 17 technical side to come up with the information?
 18 How would you obtain information?
 19 A I get copies of budgets, of all the
 20 budgets submitted. Just do a statistical analysis
 21 of those budgets.
 22 Q Okay. What kind of statistical analysis
 23 did you do or how did you go about doing this?
 24 A Well, you just, like for a certain item,

1 they call it that they're not going to get that.
 2 If they're not doing that task, they would be in
 3 the particular title. I think that makes sense.
 4 Q When were the rates developed?
 5 A I don't know. We've had rates for a long
 6 time.
 7 Q Okay. Two years? Three years? Five
 8 years? Ten years? Fifteen years?
 9 A Our first rate sheet came out probably
 10 around a little after Title 16 came into effect for
 11 budgets. So '90, you know, maybe '94, around
 12 there. I mean it's a guess.
 13 Q Have any adjustments been made to those
 14 rate sheets?
 15 A All the time. All the time.
 16 Q What kind of adjustments do you make?
 17 You being what kind of adjustments does Illinois
 18 EPA make?
 19 A Well, we've taken samples, you know, and,
 20 of what people are submitting and readjust the
 21 rates based on what's out there today, 2002, as
 22 compared to what we've done in 1994. The rates
 23 have definitely changed. So we--
 24 Q So the rates you're using now are the

1 you would look at, you know, as many, we take a
 2 random sample of the budgets for any certain time
 3 period that came in, add up all those costs, take
 4 the average and the standard of deviation and that
 5 would be your maximum cost.
 6 Q When you say for a certain item, what
 7 kind of item are you talking about?
 8 A It could be a personnel rate. It could
 9 be a, a piece of equipment. Say a PID, a
 10 photoionization detector that runs per day.
 11 Q So you have charts that list all these
 12 rates for each of these individual items, like
 13 renting a PID or renting a backhoe or rates of
 14 different people?
 15 A Yes.
 16 Q How do you determine appropriate rates
 17 for people?
 18 A We have a general. I guess like job
 19 description and they would have, we've gone through
 20 the titles and lump together because each
 21 consultant calls their people different. Okay? So
 22 it would lump together what they would do by task,
 23 what the people were doing and so that it could be,
 24 so that, just so that, you know, just not because

1 current rates?
 2 A They're based on the recent data, yes.
 3 Q Recent data?
 4 A I'm not sure about, because when this
 5 deduction was made, if, you know, if there's a, a
 6 new rate or not, I don't know off hand.
 7 Q When looking at rates for personnel, is
 8 any allowance made for the experience of the
 9 person?
 10 A Maybe to some extent but it's pretty much
 11 based upon a task. I don't think that we could
 12 differentiate from someone that had 20 years doing
 13 one thing and 10 years doing the same thing. It's
 14 based on a task. Usually more experienced people
 15 do different tasks. So maybe there is some
 16 experience based in that.
 17 Q How about is any allowance made or
 18 flexibility made for complexity of the site?
 19 MR. KIM: Can we clarify? When you say
 20 allowance, you know, when this is taken into
 21 account, are you referring to when developing the
 22 information on the rate sheet or are you referring
 23 to when reviewing a reimbursement package?
 24 MS. HESSE: Well, let's ask that as two

1 separate questions. Good point, John.
 2 Q In developing the rate sheet, is
 3 there any allowance or consideration taken into
 4 account for the experience of the person? For
 5 example, do you have a separate rate for field
 6 supervisors who've had five years of experience
 7 versus ones that have had 20 years of experience?

8 A No.

9 Q When allowing requests or reviewing
 10 requests for reimbursement, do you take into
 11 account a field supervisor at a simple site who's
 12 had five years of experience versus a field
 13 supervisor at a site that's complex and has had
 14 more experience?

15 MR. KIM: Can you clarify what you mean by
 16 simple and complex? I know they're somewhat
 17 generic but just so there's some kind of dividing
 18 line somewhere.

19 MS. HESSE: What I'm trying to do with those is
 20 differentiate some of the sites that do not have,
 21 for example, by a simple site, a site where the,
 22 whatever it is that needs to be done is something
 23 that's relatively straight forward versus a site
 24 where you may have issues where contaminations

1 supervisor. Is that right?

2 A I would suppose so. That information
 3 though is not usually provided into, for us saying
 4 that so we never really, that's never come up.
 5 They don't provide that information to us saying
 6 that I got 20 years of experience, I should get
 7 more. I don't know but I would add too that we
 8 would, if additional information, you know, special
 9 circumstances arise, we would, we do make those
 10 considerations on rates or things like that if they
 11 provide additional documentation or something that
 12 would justify that.

13 Q Going back to the sheet you have with the
 14 various rates, is there just one set of numbers on
 15 the sheets or are there several numbers on the
 16 sheets like the mean and one standard deviation?
 17 How are the sheets set up?

18 A It's a maximum rate.

19 Q So on the sheet the only number there is
 20 the maximum rate?

21 A Correct.

22 Q In developing the rates, for example, for
 23 just one, for example, renting a PID--

24 A Uh-huh.

1 migrated off site or it's a site that due to
 2 neighboring structures, existing structures or
 3 other factors might be, require a greater level of
 4 skill to deal with. Does that clarify it any?

5 MR. KIM: I think that's, well, the point I was
 6 trying to make is Mr. Bauer can answer the question
 7 if he's able but I just wanted to sort of make
 8 clear that it's a, generally speaking it's a
 9 subjective kind of question because some people are

10 going to say my site is simple and other people
 11 might look at it and say it's a very complicated
 12 site and vice versa but with the sort of
 13 qualification of the description you've given, if
 14 Mr. Bauer can answer, go right ahead.

15 THE DEPONENT: I don't believe so.

16 MS. HESSE: Q So if a site is complicated,
 17 so if there's a complicated site with off site
 18 migration issues, with traffic pattern issues, with
 19 surrounding building structure issues, there would
 20 not be reimbursement for a field supervisor who's
 21 more experienced in dealing with those type of
 22 issues as opposed to a green supervisor who's on
 23 his first tank pull? In other words, a field
 24 supervisor is a field supervisor is a field

1 Q (Continuing.)--what is the range of cost
 2 that would be considered for a PID rental? I don't
 3 know what they rent for. Say they rent for a
 4 hundred dollars a day--

5 A Uh-huh.

6 Q (Continuing.)--on average. What would
 7 the maximum rate be allowed for a PID?

8 MR. KIM: Are you asking him basically what the
 9 figure is that exists right now on the rate sheet?

10 MS. HESSE: I'm trying to get an understanding
 11 of what the rate sheet represents.

12 MR. KIM: Okay.

13 THE DEPONENT: I can do a hypothetical.

14 MS. HESSE: That's fine.

15 THE DEPONENT: I don't, you know, I don't want
 16 to state that. I don't know, you know, without
 17 looking at the sheet.

18 MS. HESSE: Q I don't expect you to have
 19 all the numbers memorized. It's okay.

20 A But say the PID, for example, was, the
 21 dollar amount on the sheet is a hundred dollars,
 22 that would be the maximum cost we would pay and it
 23 would be like per day. We would pay each day.
 24 Like we pay a hundred dollars each day and that

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1 number is our maximum cost because that was the
2 average of one standard deviation and the range is
3 basically mathematically, I think, 97 and a half
4 percent of all costs under a hundred dollars of all
5 costs come into the agency have been under that
6 hundred dollar range.

7 Q How was one standard deviation selected
8 as the maximum as opposed to two standard
9 deviations or some other?

10 A I think two standard deviations was 99
11 and a half percent or something like that. I mean
12 it was, I don't know. It was just what we used. I
13 can't really say how we picked it but I think that
14 it just drove the cost up too high, I guess. I
15 really don't know.

16 Q Who picked the one standard deviation as
17 for setting the maximum cost?

18 A I don't know.

19 Q Was, it wasn't you?

20 A No. They were using that prior to my,
21 they've been using that for a long time.

22 Q If someone has costs that are above the
23 maximum on your sheet and they believe their costs
24 are justified, what would they, what kind of

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1 demonstration do they need to do to get the cost
2 reimbursed, their actual costs reimbursed?

3 A Write additional documentation that shows
4 that those costs are reasonable.

5 Q In some of the answers to
6 interrogatories, I think there were some that were
7 attributable to you, it says that the person
8 seeking reimbursement, and you were just mentioning
9 too, needs to demonstrate costs are reasonable.

10 What is it that they need to show to demonstrate
11 the costs, that their costs are reasonable?

12 A It could be anything. I mean I don't
13 have a specific example for stuff but, you know,
14 let's say their trucking charges or something like
15 that are, if we have a standard rate for that, we
16 say, oh, your rate is too high. They could provide
17 us with documentation that they had to go 200 miles
18 or something like that. Sort of the average,
19 whatever that might be and therefore it was a lot
20 higher and it took longer to do and costs more
21 money.

22 Q Would they need to make that kind of
23 demonstration if the costs were within the or below
24 the number on the IEPA charts of what the maximum

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1 number is?

2 MR. KIM: For example?

3 MS. HESSE: Q If your maximum number for a
4 PID that we were using before is a hundred dollars,
5 if I send you the package of invoices where I'm
6 asking for a PID rental of \$95, would I have to do
7 anything more to demonstrate my costs were
8 reasonable?

9 A No.

10 Q If I sent you a package where my PID
11 costs were \$105 a day, what would happen?

12 A And the rate was a hundred dollars?

13 Q And the rate was a hundred dollars. My
14 hypothetical.

15 A We would cut, we, I guess we would cut
16 five dollars per day off the rate.

17 Q And would you reimburse for the hundred
18 dollars then?

19 A If everything else was okay with the
20 reimbursement package, I mean there was no other
21 problems.

22 Q Are these rates for what IEPA believes
23 are reasonable published anywhere?

24 A No.

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1 Q Are there any rules?

2 A No.

3 Q Guidance documents?

4 A It's a guidance document, I would say.

5 Q Are they, is it a guidance document that
6 if I were submitting a claim for reimbursement I
7 could find and look at so--

8 A You being an, outside the agency?

9 Q Being outside the agency.

10 A No.

11 Q Are there any policy statements on what
12 rates are reimbursable?

13 A I don't believe so.

14 Q So basically the only way I could find
15 out what was reimbursable is to submit a claim and
16 see what happens after the agency reviews it?

17 A If you wanted to know the maximum rate,
18 yeah.

19 MR. KIM: Just to clarify that, do you mean if
20 you were trying to find out what information is on
21 the rate sheet or are you asking--

22 MS. HESSE: Q If I'm someone submitting a
23 claim for reimbursement and I know what my costs
24 are. I know what it cost me, is there any way I

1 could know in advance whether those rates that I'm
2 being charged are reasonable?

3 A No. You'd just charge the maximum then
4 if you knew the rates, wouldn't you?

5 Q How was the per diem determined for the
6 maximum rate that IEPA would allow?

7 A It was based on, I got it from the Fed.
8 It was, I think that's what the federal government
9 considers was, the IRS or if it was the, without
10 looking somewhere with the Fed. That's what they
11 might do, more than what the state gives out.

12 Q And do you know what the per diem amount
13 is?

14 A No, not off hand.

15 Q Do you know what the per diem covers?

16 A It's intended to cover lodging, meals and
17 incidentals.

18 Q And if someone typically would submit a
19 claim with a per diem for say \$40 and 35 was your
20 maximum number, what would you do with that claim?

21 A Cut it down to 35.

22 Q Would you approve the 35 for
23 reimbursement then?

24 A If everything else was all right with it,

1 Q Warning lights? The little lights that
2 flash at night when it's dark?

3 A Barricades?

4 Q Probably.

5 A Yeah.

6 Q What about things like personal safety
7 equipment? Disposable gloves, tie back suits,
8 respirators, first aid kits being on hand?

9 A I would say some of that equipment should
10 be, is just the cost of doing business and we don't
11 see that. I've never had anyone bill for a first
12 aid kit but things like disposable gloves, yes, but
13 those are usually billed out separately.

14 Q As what? Part of materials or something
15 else?

16 A Under stock items, I believe.

17 Q And how would cost for, how would you
18 determine what IEPA would allow for safety and
19 security equipment?

20 A Same way we would do a PID but we would
21 have to know the individual equipment that they
22 were billing for. Like the gloves, we have a rate
23 for gloves. Then we lump it all together. I don't
24 know what it is.

1 yes.

2 Q Referring to letter number two and the
3 technical deductions, item number 2, could you
4 explain that, please?

5 A \$1,200 deduction for cost due to lack of
6 supporting documentation. The deduction is for
7 costs associated with site safety and security
8 equipment.

9 Q Could you explain that, please?

10 A There was a rate for site safety and
11 security equipment billed per day, as I recall, and
12 we were unsure what site safety and security
13 equipment was. There was not documentation of
14 specifically what they're asking for.

15 Q So the, so that I can understand, does
16 IEPA allow for costs for safety and security
17 equipment in general?

18 A I don't know what you consider safety and
19 security equipment or what you would consider it.

20 Q Warning tape to warn of excavation holes,
21 barriers, barricades.

22 A We do allow for that.

23 Q You do allow for that?

24 A We do allow for barricades or tape.

1 Q Now, if, so on this one to try to
2 clarify, you're saying the reason you did not
3 reimburse for safety and security equipment is
4 because you did not know exactly what equipment
5 they had?

6 A Correct.

7 Q Did you contact Home Oil or its
8 consultant to ask for that information?

9 A No.

10 Q So you did not call them and say you did
11 not include information on this. Would you send me
12 that information, I'm reviewing your package.

13 A No.

14 Q Any particular reason?

15 A I typically don't do that. They have the
16 chance to submit the documentation after the fact
17 and send me a letter and I'll write up a memo and
18 process it if it's okay.

19 Q So they would have an opportunity to send
20 you a memo saying this is what our safety site,
21 safety and security equipment was?

22 A Yes.

23 Q And then once you got that, would you
24 compare it to the rates in your chart?

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1 A Sure.

2 Q And then what would happen if it was
3 within the rates in your chart? Would you approve
4 it for reimbursement?

5 A If everything else was okay, I would
6 approve it for reimbursement and send a memo over
7 to Doug Oakley's group or they, and they would
8 process it however they process it.

9 Q In the procedure for reviewing, how does
10 that work? You just triggered another question
11 here. When the reimbursement package comes in,
12 where does it go first?

13 A To Doug Oakley's group.

14 Q And what do they do?

15 A I don't know. I don't want to speak for
16 them, but, I guess.

17 Q What do you think, what is your
18 understanding that they do? I'll phrase it that
19 way. I'll let Doug speak for himself tomorrow.

20 A They do, they might do a completeness
21 review. I'm not sure but then they assign it to an
22 accountant. They do a technical review. Not a
23 technical. I take that back, an accounting review
24 and then they would send it over to the technical

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1 review to do a review.

2 Q And, okay. So they look at it first. Do
3 they always send it to the people in the technical
4 review to do a technical review?

5 A I don't believe so.

6 Q Do you know when they do and when they
7 don't?

8 MR. KIM: You're asking for his understanding?

9 MS. HESSE: Q Your understanding.

10 A Can I ask you something?

11 MR. KIM: Can we go off the record?
12 (Discussion off the record.)

13 MS. HESSE: Q Ready to go back on the
14 record?

15 A Yes. There are three reasons that they,
16 I believe that they would kick it over for a
17 technical review. If it was over a certain length
18 of time. I think it's ten years. Ten years over.

19 Q Is that for the certain length of time,
20 let me follow up on that point. Is that for the
21 entire length of the project being more than a ten
22 year project?

23 A Yes.

24 Q So it's not being reimbursed for work

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1 that was done ten years ago?

2 A It's based on the incident. If it's over
3 ten years old they kick it over to us
4 automatically. There is, sometimes if they have
5 technical questions that they might identify and
6 then all packages over \$30,000 are sent over to us
7 for review.

8 Q And I think you said there might be a
9 third one?

10 A If they have questions.

11 Q Okay.

12 A If it's over ten years or if it's over
13 \$30,000.

14 Q Then there's, they're sent to the
15 technical unit for review?

16 A Correct.

17 Q Item number 3 in letter number two, could
18 you explain what that's about?

19 A Item number 3, \$3,051.66 is deduction for
20 lack of supporting documentation. Failed to
21 demonstrate costs are for corrective action
22 performed in accordance with the plan. This
23 deduction is for costs incurred on May 11th and
24 12th, 2000 and June 19th, and 20th, 2000. I'm

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1 going to have to look at my notes. You got a copy
2 of them right there.

3 Q Which notes would you like to see?

4 A My notes.

5 Q I have a tabbed copy of a record here.
6 Which are your notes?

7 A I just need this one, I think. Maybe.

8 MR. KIM: Is there page numbers on there?

9 MS. HARVEY: It's the Bates pages on the
10 bottom.

11 MR. KIM: Why don't you identify which page
12 numbers you're looking at?

13 MS. HESSE: We'll mark those in Exhibit 2 to
14 make it easier.

15 THE DEPONENT: Page 15, May 11th and 12th,
16 2000.

17 MS. HESSE: Q Were things cut off the
18 bottom of those pages?

19 A Well, that don't help me either.

20 MR. KIM: I think one of the pages, I think the
21 page he just referred to was included with the
22 supplement to the record as part of the, identified
23 as pages from the administrative record and
24 identified as having been partially obscured when

1 copying and I believe that page 15 of the
 2 administrative record was one of those pages.
 3 MS. HESSE: Would this be the page?
 4 MR. KIM: That's not correct. The next page,
 5 page 3. You're looking at page 2. That is
 6 correct.
 7 MS. HESSE: Page 14 was cut off.
 8 THE DEPONENT: What does it say?
 9 MR. KIM: I think his notes were part of the
 10 documents identified as having been not copied
 11 clearly and have been provided separately with the
 12 supplement to the record.
 13 THE DEPONENT: I believe that on those
 14 particular dates there was time that was charged to
 15 go to the site but there was never an explanation
 16 of whatever was done on those particular days. The
 17 status report listed out days that things were done
 18 and, you know, when they visit the site and what
 19 they did, it listed all the times that were billed,
 20 just about, when they were at site and those
 21 particular times were not documented in the
 22 technical report.
 23 MS. HESSE: Q Did you look at, in the
 24 reimbursement packages, the summary of work

1 letter number two.
 2 A Can we take a break?
 3 MS. HESSE: Absolutely.
 4 (Whereupon a short break was
 5 taken.)
 6 MS. HESSE: Q Just before our break, I
 7 believe I asked you to describe or give me more
 8 information with respect to item number 4. This is
 9 on technical deductions for letter number two.
 10 A Item number 4, \$75,055.24 deduction.
 11 Owner operator failed to demonstrate were
 12 reasonable and for costs associated with corrective
 13 action that was not conducted in accordance with an
 14 agency approved plan. The basis for that
 15 determination was made, I'd have to say that the
 16 other letter, the third letter, the May 2nd, 2002
 17 letter, that reimbursement package, this
 18 reimbursement package were reviewed concurrently so
 19 that the determination was made using both data.
 20 It was the, the basis for this was, was the
 21 corrective action plan that was previously
 22 submitted to, for the proposed work indicated that
 23 to install the recovery wells and the trenching and
 24 the piping and stuff like that would cost

1 performed to see if there was a description there
 2 of what work was performed on those days?
 3 A Yes.
 4 Q Were there any entries?
 5 A I'm sure there were. I don't recall what
 6 they were.
 7 Q But the reason you did not allow for
 8 entries is that was not described in the status
 9 report. Is that correct? Am I understanding
 10 correct?
 11 A Right. The entries that they are given
 12 on the reimbursement package are kind of vague in
 13 nature. They don't really specifically tell you
 14 what was done. They might say that corrective
 15 action, you know, on site corrective action. I'm
 16 just giving that example. I'm sure they don't use
 17 that but, and then in the report another example is
 18 they told us that there was, you know, we were on
 19 site, we were digging a trench. We were doing
 20 stuff, you know, doing that and there was no
 21 documentation of that, those activities in Exhibit
 22 2.
 23 Q Looking at item number 4, could you
 24 explain what that's about, please, and this is in

1 approximately \$72,500, I'm saying approximately,
 2 and these two packages combined were for, I'd say
 3 about \$127,000. So that, they did not feel that
 4 that was a reasonable overall cost.
 5 Q So all the costs were denied then?
 6 A Correct.
 7 Q And the agency did not deny the amount up
 8 to what you thought was reasonable. Is that
 9 correct?
 10 A Correct.
 11 Q If you could refer to the information in
 12 the corrective action status report, what type of
 13 activities, and I'm saying because I don't expect
 14 you to keep everything memorized, what kind of
 15 activities were performed for which reimbursement
 16 was requested in the two packages that are
 17 reflected by letters number two and three?
 18 A I believe it was the installation of the
 19 SVE groundwater recovery wells and the, and the
 20 lines from the wells to wherever they were going.
 21 Stuff like that. Some of the trenching, things
 22 like that. I guess that's what they did during
 23 that period of time. This also documents, I guess
 24 they continued to do, tried to continue to do work

1 on the things that were beyond the range of the
2 billing period so I foresee additional costs coming
3 in on the, beyond the \$127,000 for the same work
4 that was proposed to be \$72,000.

5 Q Now, the work that they did that's
6 reflected in the status report, did we mark that as
7 an exhibit?

8 MR. KIM: I think that's Exhibit Number 1. No,
9 Number 2.

10 MS. HESSE: Q Was that work done work that
11 was completely on site, meaning the Home Oil
12 property?

13 A I think there was some off site work
14 done, if that's what you're referring to. I mean
15 there was some on site and also on the neighboring
16 property.

17 Q And if work was done on the neighboring
18 property, would that indicate that some of the
19 contamination had migrated off site?

20 A Yes.

21 Q Is there anything else reflected in the
22 status report for work that they did?

23 A I don't know what you're looking for.

24 Q You mentioned installation of the soil

1 plan?

2 A Yes.

3 Q Is this a plan that required approval by
4 Illinois EPA?

5 A I don't know if, if it required it but it
6 did receive approval. I suppose at some point in
7 time, yes, it would approve a corrective action
8 plan is necessary, so.

9 Q And that would be, that approval would
10 come from someone in the technical unit?

11 A That is correct.

12 Q You would review the plan for the
13 technical merits of it?

14 A Right, yes.

15 Q What is the purpose of that type of
16 review?

17 A To insure that what is, oh, I guess in
18 this particular case, to insure what was being
19 proposed would have a successful likelihood of
20 mediating the site.

21 MS. HESSE: Mark this as an exhibit.

22 (Whereupon said document was
23 duly marked for purposes of
24 identification as Exhibit 4,

1 vapor extraction system. Is that correct?
2 Different equipment or wells for it?

3 A Well, that was the main thing was the
4 installation of the recovery wells and the soil
5 vapor extraction well. They were one and the
6 same. I believe it was all combined.

7 Q Did the status report reflect if they had
8 any particular difficulties with the project?

9 A I think they refer to one point in time
10 where they weren't able to do work for a while
11 because of the weather.

12 Q And how could the weather impact doing
13 the work like installing systems?

14 A I don't know. I guess you'd have to ask
15 them. I suppose if it was too rainy they might not
16 be able to do it. You want to dig a hole in the
17 rain?

18 Q How about thunder storms?

19 A Could be the case too.

20 Q If the soil is extremely wet, could that
21 make it more difficult to install these systems?

22 A Yeah, I'm sure it could.

23 Q When you looked at these particular
24 costs, did you also look at the corrective action

1 as of this date.)

2 MS. HESSE: Q Mr. Bauer, I'm going to hand
3 you what's been marked as Deposition Exhibit Number
4 4. Could you identify what that is, please?

5 A It's an amended corrective action
6 groundwater soil remediation plan received November
7 6th, 1996.

8 Q And there's a cover letter addressed to a
9 Mr. Chris Kohrmann?

10 A Yes.

11 Q Is he still with the agency?

12 A Yes.

13 Q Was he the project manager at the time?

14 A Yes, I believe so.

15 Q So he would have been the person who
16 reviewed the plan for its technical merits, the
17 likelihood of being successful in remediating?

18 A Yes.

19 Q And so you would not have done that
20 review?

21 A No.

22 Q But you did look at this report in the
23 context of reviewing the reimbursement packages?

24 A Yes.

1 Q So you've seen it before?
 2 A Yes.
 3 Q What, could you describe to me what
 4 information is included in this report?
 5 A Basic site history and geologic
 6 situations and the, some results of their pump
 7 tests and I believe a pilot test and the
 8 documentation as to type of proposed remediation
 9 technology, how it's going to be applied to the
 10 site.
 11 Q Does it include any cost estimate
 12 information?
 13 A Yes, it does. Appendix E of the report,
 14 number, page number 434, implementation cost of the
 15 SVE system.
 16 Q And does it include installation of the,
 17 of an SVE system?
 18 A Yeah. It includes all components of the
 19 system and the recovery wells, the piping, things
 20 like that.
 21 Q How many wells does it assume that there
 22 are?
 23 A Twenty.
 24 Q And how many wells were installed?

1 system for cost or engineering time spent to design
 2 the actual system?
 3 A Not broken out but I would assume that it
 4 would be in the monthly leases.
 5 Q That the monthly lease would include the
 6 cost for designing the system?
 7 A You mean design the system over all?
 8 Q Yes.
 9 A Like, you know, where the wells are being
 10 placed and stuff like that?
 11 Q Yes.
 12 A No. I would assume that those costs were
 13 included in the, in part of the development of the
 14 corrective action plan so they would not be
 15 included on this page.
 16 Q Would these costs include any cost for
 17 obtaining air or water permits?
 18 MR. KIM: Are you asking him for his
 19 understanding?
 20 MS. HESSE: For his understanding of what's
 21 included. I understand that he did not write the
 22 report so yes, this is with respect to his
 23 understanding.
 24 THE DEPONENT: I might assume that would be in

1 A I don't recall.
 2 Q Does it include information with respect
 3 to how much piping was installed or--
 4 A Yes.
 5 Q (Continuing.)--they estimate would be
 6 installed?
 7 A Yeah.
 8 Q Do you recall off hand how much was
 9 installed?
 10 A No, I don't.
 11 Q Did these costs for the cost estimate for
 12 the SVE system include anything other than SVE well
 13 installation, piping installation?
 14 A Could you say that again, please?
 15 Q Did the, I'm trying to go over with you
 16 your interpretation of what you believe is included
 17 as part of the cost estimate for the SVE system.
 18 A Uh-huh.
 19 Q And you said, we covered wells, we
 20 covered piping. Now, is there a cost estimate for
 21 the treatment, for SVE treatment?
 22 A Yeah. They, for this actual system
 23 itself? Yes. There's costs in there for that.
 24 Q Are there any costs included for the SVE

1 the leases of something of that nature. They are
 2 supposed to give us a cost estimate. It's supposed
 3 to include everything. I mean I realize it is an
 4 estimate but it should cost that because they are
 5 doing a comparison to a conventional technology.
 6 MS. HESSE: Q What was the conventional
 7 technology?
 8 A It's usually dig and haul and they did do
 9 it on page 433, the page prior to. They did a,
 10 what they considered would be their conventional
 11 technology. So I mean this should be from here on
 12 out what we would assume would be the projected
 13 cost of the project over all. I mean if there was
 14 costs for permitting, I would assume they would be
 15 in here. If they wanted to charge additional
 16 costs, they should, you know, put a mark, \$2,000,
 17 permitting. I assume that would be a line item.
 18 Q Was a air permit issued for this project?
 19 A I believe so. I thought I saw one in the
 20 file.
 21 Q Do they have a water permit for the
 22 project?
 23 A Actually, I think I saw the water permit
 24 in the file. I'm not sure about the air permit. I

1 believe it's a permit from water. I'm not sure
2 about the air. I guess I'm pretty sure about the
3 water.

4 Q Earlier you said that you thought the
5 cost was about 72 thousand something dollars is the
6 cost estimate for installing the system?

7 A Correct.

8 Q Is that correct? Would you have obtained
9 that number by adding together the 49,500 as the
10 subtotal for the recovery wells and the 23,000 as
11 the subtotal for the piping?

12 A Uh-huh.

13 Q So that's where that number came from?

14 A Right.

15 Q And that's the number for the SVE
16 recovery wells and the piping. Correct?

17 A Correct.

18 Q Could you look at the prior page, the
19 administrative record? It's page 433.

20 A Uh-huh.

21 Q At the bottom of the page, there's a
22 phrase that's in asterisk. Could you tell me what
23 that phrase says?

24 A Groundwater treatment would be separate.

1 of driller time, equipment, time on the job to
2 install a groundwater well?

3 A But if they were in the same well, they
4 would be the same. I mean if it was all within the
5 same thing, they would propose to be that cost. I
6 guess if they were drilling, if they said they were
7 going to drill 15 feet and they had to drill 30
8 feet, yeah, it would be more money.

9 Q Could you look at page 381 and that's the
10 page for the administrative record. At the very
11 end there's a paragraph. Could you please read
12 that paragraph?

13 A Appendix E provides a cost estimate to
14 compare SVE system versus the conventional method
15 of dig and haul. The cost comparison is to compare
16 the cost effectiveness of the proposed system
17 only. Actual costs to implement the SVE may vary
18 as well as the fact that the cost for groundwater
19 treatment system were not included. With either
20 option, the groundwater treatment system would be
21 required. The conventional method of dig and haul
22 for off site disposal is not practiced since the
23 majority of contaminated soil is either at or below
24 the water table or off site which would not allow

1 433 you said, right?

2 Q Yes. Yes. Now, on page 434, are there
3 any entries here for installation of, any
4 additional costs for installation of groundwater
5 treatment system?

6 A Any additional costs?

7 Q Yes. Are there any costs on page 434
8 that reflect the costs of installing a groundwater
9 treatment system?

10 A I suppose not.

11 Q But they, according to this status
12 report, I believe you said they also installed a
13 groundwater treatment system?

14 A I was under the assumption that the wells
15 and the SVE wells and the groundwater recovery
16 wells were pretty much one and the same.

17 Q Would a groundwater recovery well need to
18 be installed deeper than a well for soil vapor
19 extraction?

20 A Of course. The groundwater recovery well
21 has to be within the, in the saturated zone below
22 the water table and the SVE should be located above
23 the water table.

24 Q So it would probably cost more in terms

1 for soil excavation.

2 Q So after reading that paragraph, would
3 you agree that the costs for the groundwater
4 treatment system are not included in Appendix E?

5 A Sure.

6 Q And that any cost for a groundwater
7 treatment system would be in addition to the
8 estimates that were provided for SVE. Is that
9 correct?

10 A I don't think so, no.

11 Q Why don't you think so?

12 A I think that they should be, some of the
13 infrastructure would be, they should be done
14 together concurrently and if you went out there
15 twice, then I don't think that would be right. If
16 you're going to lay piping, you can lay piping for
17 both but I don't think you'd end up digging the
18 site up once for SVE and come back and digging it
19 up for the groundwater system.

20 Q But would separate pipes handle the SVE
21 versus the groundwater?

22 A It depends on the system. Some systems
23 run, they do, they extract groundwater and the
24 vapor at the same time.

1 Q How about this system?
 2 A I'm not sure. I don't know the system.
 3 The system hasn't been in place yet. They only put
 4 the infrastructure in as far as I'm aware of at the
 5 time. I don't know about the system and what the
 6 capabilities of the system are.
 7 (Discussion off the record.)
 8 MS. HESSE: Q The information contained in
 9 Appendix, was it Appendix E of the amended
 10 corrective action groundwater slash soil
 11 remediation plan?
 12 A Uh-huh.
 13 Q Is that a budget for doing the work that
 14 needed to be approved by Illinois EPA?
 15 A Did the budget need to be approved?
 16 Q Yes. Is this a budget for approval by
 17 Illinois EPA?
 18 A No.
 19 Q Was it developed merely to compare the
 20 costs of installing an SVE system versus dig and
 21 haul?
 22 A Yes.
 23 Q So it's basically just a cost estimate.
 24 Is that correct?

1 that you did not participate in putting together
 2 Attachment A accounting deductions?
 3 A That would be correct.
 4 Q On the letter number three, the May 2,
 5 2002 letter, do you believe that Diana Gobelman
 6 would have participated in the putting together the
 7 accounting deductions?
 8 A You said letter two, April 19th letter?
 9 Q Letter three, May 2 letter.
 10 A May 2. Okay. I don't know. Based on
 11 her being the accountant contact, I would say that
 12 would be a pretty good guess.
 13 Q Sounds like a question for Diane.
 14 If we could go through the various items
 15 in the technical deductions and if you could
 16 explain to me what they mean. Item number 1, could
 17 you explain what that means?
 18 A \$750 deduction, lack of supporting
 19 documentation. This is the same deduction that was
 20 made in the previous letter for the site safety and
 21 security equipment. We did not know what they were
 22 billing for again.
 23 Q But generally, IEPA does allow
 24 reimbursement for site safety and security

1 A Right.
 2 Q Okay. If we could go to letter number
 3 three next.
 4 Could you mark this as an exhibit?
 5 (Whereupon said document was
 6 duly marked for purposes of
 7 identification as Exhibit 5,
 8 as of this date.)
 9 MS. HESSE: Q Mr. Bauer, I'm handing you
 10 what's been marked as Deposition Exhibit Number 5.
 11 Could you identify that, please?
 12 A May 2nd, 2002 letter to Home Oil Company
 13 projecting their reimbursement claim for \$43,180.80
 14 rejecting.
 15 Q Did you participate in the preparation of
 16 this letter or the attachments to the letter?
 17 A Yeah. I did the Attachment A, technical
 18 deductions.
 19 Q We could go through that and I assume
 20 then you did not participate in putting together
 21 Attachment A accounting deductions. Is that
 22 correct?
 23 A That's correct.
 24 Q Is the same true for letter number two,

1 equipment?
 2 A I guess generally, yes, for certain
 3 equipment if it's itemized out.
 4 Q Item number 2. Could you explain what
 5 that's about?
 6 A \$2,389.12, deduction for costs that are
 7 not corrective action activities. Deduction was
 8 for costs incurred on September 27th and 28th in
 9 2000. That deduction would be for costs associated
 10 with I believe seeding an area, landscaping type
 11 charges, stuff like that. Not corrective action
 12 activities.
 13 Q Is backfilling and excavation a
 14 corrective action activity?
 15 A Yes, it would. I don't know if it's
 16 considered it but we do consider, I guess we
 17 consider it a corrective action activity.
 18 Q Is it an activity that IEPA would
 19 typically reimburse for?
 20 A Yes.
 21 Q If when someone backfills an excavation,
 22 does settling ever occur after the backfill is
 23 initially put in place?
 24 A I suppose.

1 Q If someone digs a hole in soil, is it
2 sometimes necessary to come back later and add more
3 soil to bring it back up to grade because it
4 settled?

5 A I would, I guess so. We don't typically,
6 I can say I don't ever see bills for that. I've
7 never seen corrective actions costs for those costs
8 at any time.

9 Q Have you ever been out at a site where
10 any corrective action is being done for leaking
11 underground storage tank?

12 A Yes.

13 Q In what capacity?

14 A As with the agency to do a site visit.
15 See what's going on.

16 Q Have you ever been in charge of
17 corrective action for an underground storage tank
18 site where you were actually the one in charge of
19 getting the work done?

20 A No.

21 Q Could you explain item number 3, please?

22 A \$38,277.68, deduction. Owner operator
23 failed to demonstrate were reasonable. Costs
24 associated with corrective action that was not

1 or caused someone to prepare for you?

2 A No.

3 Q Page 8, is that a document you prepared
4 or caused someone to prepare?

5 A No.

6 Q Is there someone else I should ask about
7 this document or are you knowledgeable about it?

8 MR. KIM: Which document are you referring to?

9 MS. HESSE: Page 8.

10 THE DEPONENT: They're all associated, I
11 believe, with Dianna Gobelman. Their accounting
12 forms and documents or whatever that they prepare
13 for their review typical of a reimbursement
14 package.

15 MS. HESSE: Q Page 10, is that a document
16 you prepared or Diane Gobelman prepared it?

17 A I believe it would be Diana Gobelman.

18 Q Page 11. I believe your name is listed
19 on this page also. At the bottom of page 11,
20 there's a section called LUST Section. Could you
21 explain what that means?

22 A The whole form is just a tracking form.
23 When the accountants submit it, they prepare the
24 top part up and, and kick it over for a technical

1 conducted in accordance with an agency approved
2 plan. Coincides with the other one where, the
3 other deduction on the second letter where we
4 thought that the combined total of costs for
5 \$127,000 was not reasonable compared with the
6 projected cost of \$72,000 in considering that the
7 work that was conducted also has not been
8 completely billed to the agency yet.

9 Q What I would like to do now is to go
10 through the various documents in the record that
11 reflect your review notes, perhaps review notes of
12 others. You can tell me which are yours and which
13 are questions I need to ask someone else.

14 Before I get started on that, what time
15 do you usually take a lunch break?

16 A Noon.

17 Q Okay. So we have a little more to go.

18 (Discussion off the record.)

19 MS. HESSE: Q If you could, refer please to
20 page 5 of the fiscal report. Is this document a
21 document you prepared or caused someone to prepare
22 for you?

23 A No.

24 Q Page 7, is that a document you prepared

1 review and then I wrote, wrote my name on it and
2 the date it was sent over and I wrote, I actually
3 denied box, see Attachment A. It was in my
4 writing.

5 Q The unit manager initials at the bottom.
6 Who is that?

7 A Cut off on my version but I believe it's
8 Harry Chapel, H-A-C. I believe that's Harry's.

9 MS. HESSE: Is that an extra copy we could use
10 as an exhibit?

11 MR. KIM: Actually, I do have an extra copy of
12 this, I think. Let me make sure.

13 MS. HESSE: Because that one is much clearer
14 than the copy I have.

15 MR. KIM: Yeah, I've got, you want the whole
16 supplement or just those pages? I can give you all
17 of this which is all the additional documents we
18 discussed with the new Bates stamp and that stuff
19 at the very end or just the stuff at the very end,
20 whatever you want. This, obviously, you've already
21 received. If you want the extra copy, you can have
22 it.

23 MS. HESSE: Okay. If you don't mind.

24 MR. KIM: It's not bound. I'm sorry.

1 MS. HESSE: Would you mark this as an exhibit?
 2 (Whereupon said document was
 3 duly marked for purposes of
 4 identification as Exhibit 6,
 5 as of this date.)

6 MS. HESSE: Q Mr. Bauer, I'm going to hand
 7 you what was marked as Exhibit 6. Is that a
 8 complete copy of page number 11 from the
 9 administrative record?

10 A I believe so.

11 Q Can you identify whose initials are at
 12 the bottom then?

13 A I believe they're Harry Chapel's.

14 Q Would he have been the one who would have
 15 asked you to review the record or the reimbursement
 16 package?

17 A No.

18 Q Okay. Who would have asked you to review
 19 those two particular reimbursement packages?

20 A Tom Henninger.

21 Q Who's Tom Henninger?

22 A He's another unit manager. That's his
 23 handwriting up there, I believe, that wrote my
 24 name. Tom gets all the reimbursement packages from

1 Doug Oakley and then he just, I don't know what his
 2 take in it is but he distributes them out to the
 3 unit managers. I guess he just wants to make sure
 4 of the work load that comes over to us.

5 MR. KIM: Henninger is spelled
 6 H-E-N-N-I-N-G-E-R and Oakley is spelled
 7 O-A-K-L-E-Y.

8 MS. HESSE: Q And Mr. Henninger is the
 9 person who distributes all the reimbursement
 10 packages for review?

11 A Yes.

12 Q And that's within the technical section?

13 A Correct.

14 Q As opposed to the accounting section?

15 A Correct, yes.

16 Q So he would have been the one who would
 17 have asked that you review this. Is that correct?

18 A Yeah.

19 Q But he's not your unit manager?

20 A Correct.

21 Q Does he routinely assign packages to
 22 people in other units or just his unit?

23 A I get all the packages that are
 24 unassigned and he just gives them to me for, they

1 don't have a project manager assigned to it, I
 2 receive those packages. He just gives them to me
 3 but if he just gives me, if there is a project
 4 manager, he would just put it in the other project
 5 manager's basket.

6 MS. HESSE: Q Okay. So if Joe Smith over
 7 here is assigned a project at XYZ Company, then if
 8 a package came in on XYZ Company, it would go to
 9 Joe Smith?

10 A Correct.

11 Q And if there's no one assigned to XYZ
 12 Company, you automatically get it?

13 A Correct.

14 Q Have you reviewed other packages for Home
 15 Oil?

16 A Other than the two?

17 Q Other than the two that are the subject
 18 of these appeals.

19 A I don't believe so.

20 Q Earlier you said that John Barret is now
 21 the technical project manager for Home Oil. Is
 22 that correct?

23 A Correct, yes.

24 Q So if any future packages came in for

1 review for Home Oil, would Mr. Barret look at those
 2 or would, since you've already had your hands on
 3 Home Oil, would they go back to you?

4 A It might come back to me. It might not.

5 I don't know. It just, if someone sees that I've
 6 had a lot of involvement in it, it might come to
 7 me, especially if it's the exact same package that
 8 came back or something in question it might come
 9 back to me. It's hard to tell.

10 Q If you could look at page 12, is this a
 11 document that you generated or had someone generate
 12 for you?

13 A No.

14 Q Page 13 has a number of handwritten
 15 notes. Could you explain what this is, please?

16 A They, they're my review notes.

17 Q And this is all your handwriting?

18 A Yes.

19 Q Okay. Could you go over what the various
 20 numbers here signify?

21 A All the numbers?

22 Q Well, could you help me interpret your
 23 notes?

24 A Okay. Other than the file heading and

1 the date and my name and all of the stuff like
 2 that, there's RQ, would be for what they requested
 3 and it would be package number 1, \$83,896.74 and BP
 4 is billing period, billing period from 10/1/99 to
 5 7/31, 2000 and second billing package, package
 6 number 2 is \$43,180.80. The billing period is
 7 8/1/00 to 3/31/01. The bottom is kind of a note
 8 about the total amount requested for the two
 9 packages being \$127,000.77. I'm messing up the
 10 numbers. \$127,077.54.

11 MS. HESSE: Could you mark this, please?
 12 (Whereupon said document was
 13 duly marked for purposes of
 14 identification as Exhibit 7,
 15 as of this date.)

16 MS. HESSE: Q Mr. Bauer, I'm going to hand
 17 you what's marked as Exhibit Number 7. Could you
 18 identify what that is, please?

19 A It's the first page to my notes.

20 Q And is this, is that Exhibit 7 basically
 21 the same thing as page number 13?

22 A Yes.

23 Q Is it a more, is it a complete copy of
 24 page 13 where page 13 is cut off at the bottom?

1 Yeah, it was something related to that. We wanted
 2 the system to be, I thought that at the time when
 3 the system was installed and we had all the costs
 4 for that we would be able to even make better
 5 judgement as to what the total cost to install the
 6 system would have been because they're still, based
 7 on technical documentation has been provided and
 8 there's still additional costs for the installation
 9 of the system to be provided to the agency.

10 MS. HESSE: Could you mark this as an exhibit,
 11 please?

12 (Whereupon said document was
 13 duly marked for purposes of
 14 identification as Exhibit 8,
 15 as of this date.)

16 MS. HESSE: Q Could you refer to page 14 of
 17 the record, please?

18 A Uh-huh.

19 Q And what is that page?

20 A Page two of my notes.

21 Q I'm going to hand you what's been marked
 22 as Exhibit Number 8. Could you identify that,
 23 please?

24 A Page two of my notes.

1 A Yes.

2 Q Could you describe what is below the line
 3 drawn on 13?

4 A It's just a note concerning the
 5 installation of the equipment and the total cost
 6 again of the two combined packages.

7 Q And could you read the bottom for me,
 8 please?

9 A The whole thing?

10 Q Yes.

11 A Total requested \$127,077.54 for two
 12 packages for installation equipment slash
 13 infrastructure for an SVE slash pump and treat but
 14 to date no SVE, it says not SVE, has been installed
 15 at the site. Per cap it should cost 72,500 to
 16 install everything, question mark in parentheses.
 17 All costs will be cut until a system is in place
 18 and running. That's it.

19 Q What did you mean by the question mark in
 20 parentheses?

21 A The billing, I believe it was the billing
 22 periods did not cover what was documented for them
 23 to install the system so that, I think that's what
 24 I was trying to go to, you know, and maybe not.

1 Q Is it a more complete copy whereas page
 2 14 was cut off at the bottom?

3 A Yes.

4 Q Could you go through page 2 of your notes
 5 and explain what's there, please?

6 A This was the, regarding the, okay. It
 7 starts out December 1999. For that particular
 8 month, they requested \$38,077.05 I believe and then
 9 it just goes on to list my cuts that I made. Oh,
 10 okay. The first one was a handling charge cut for,
 11 I think it was for \$2,116.04.

12 Q And what was the reason? If your notes
 13 indicate there is a reason why that was cut what
 14 was it?

15 A That they were not reasonable and there
 16 was no documentation that the costs were incurred.
 17 It's a subcontractor, CW3M.

18 Q Okay. What if a subcontractor charge is
 19 billed directly to an owner operator? Is that
 20 something that would be reimbursable?

21 A The subcontractor charge would be. The
 22 handling charge would not be.

23 Q And what typically makes up the handling
 24 charge?

1 A There's a sliding scale that's based on
 2 the amount of subcontractor charge and--
 3 Q What type of expenses are included in the
 4 handling charges? What type of activities is
 5 contemplated to be covered as a handling charge?
 6 A I don't understand. There is no
 7 activities. A handling charge a mark up through
 8 that subcontractor for when, a consultant hires
 9 somebody else do some work and they pay them, it's
 10 for their time to, because, you know, they had to
 11 cut the check and they were out, you know, this
 12 money for 30 days or whatever it happens to be.
 13 It's their time and expense for, to pay that
 14 subcontractor and if it was billed right to the
 15 owner operator, they didn't have to incur those
 16 costs or expenses.
 17 Q What if they spent time reviewing the
 18 invoices to, before approving them for the owner
 19 operator to pay directly?
 20 A They got paid for doing that time.
 21 Q So that would be covered as reimbursable
 22 time for the main contractor?
 23 A Under 731 it would not be, no. Under
 24 732, it would be. It would be costs associated

1 Q So they would need to submit the package
 2 to IEPA and see what happens. Is that correct?
 3 A That would be correct.
 4 Q The field supervisor rate. Could you
 5 explain what that is?
 6 A The field supervisor, they requested \$110
 7 per hour rate. We thought it was not reasonable.
 8 We allowed \$83 per hour. Cut \$27 per hour.
 9 Charged 28 hours times \$27 per hour was \$756.
 10 Q So would you have approved payment of a
 11 field supervisor then at \$83 per hour for the work
 12 at the site?
 13 A Yes, we would have.
 14 Q At that rate?
 15 A At that rate. We didn't because we cut
 16 the whole thing.
 17 Q And the reason you cut the whole thing
 18 again?
 19 A Was because we thought that the combined
 20 total of the project was not reasonable.
 21 Q The next one, construction labor
 22 foreman.
 23 A Uh-huh.
 24 Q Could you explain what that is?

1 with seeking reimbursement.
 2 Q Okay. The next item listed there,
 3 backhoe operator. Could you explain what that is,
 4 please?
 5 A Backhoe operator. He requested \$85 an
 6 hour. We did not think that rate was reasonable.
 7 We allowed 63. We cut \$22 per hour. He sent 26
 8 hours times \$22, \$572.
 9 Q Did you allow reimbursement then for the
 10 backhoe operator at the rate of \$63 an hour?
 11 A I don't think we allowed reimbursement
 12 for anything because we took the whole cut, the
 13 whole package.
 14 Q If you had not cut the whole package,
 15 would you have allowed reimbursement at a rate of
 16 \$63 an hour?
 17 A Yes.
 18 Q Now, if it cost Home Oil \$85 per hour for
 19 the backhoe operator, how could they know in
 20 advance whether that is something that they would
 21 be reimbursed for or not?
 22 A You mean their particular rate?
 23 Q Yes.
 24 A I guess you couldn't.

1 A Okay. They have a field supervisor
 2 billing at the same time as a construction labor
 3 foreman. Exact same hours. It was not reasonable
 4 to have both. They have two bosses on the job is
 5 basically what it was. So we cut one down to a
 6 labor rate of \$12 per hour, six hours. \$72 was
 7 cut.
 8 Q Have you approved rates before for field
 9 supervisors at a rate of \$110 per hour in any other
 10 packages?
 11 A I may have.
 12 Q And what would have been the
 13 circumstances where you would have done that?
 14 A I didn't catch it.
 15 Q How about a labor foreman at a rate of
 16 \$65 an hour?
 17 A I may have. I don't know. It wasn't the
 18 fact that it was a labor, the rate, the labor
 19 foreman, that might have been a rate. What we were
 20 saying is what they were doing was not, we didn't
 21 argue the rate but we didn't think that the job he
 22 was doing was a labor foreman rate.
 23 Q The last entry there, and it was cut off
 24 on the page that has the Bates number 14 on it,

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1 site safety security equipment. Could you read
2 what's there for us, please?

3 A Site safety slash security equipment,
4 \$150 per day. Lacks documentation. I didn't know
5 what it was for. Billed three days, \$150 for a
6 total cut of \$450.

7 Q Could you refer to the next page, page
8 15?

9 (Whereupon said document was
10 duly marked for purposes of
11 identification as Exhibit 9,
12 as of this date.)

13 MS. HESSE: Q Could you identify what I
14 just handed you as Exhibit Number 9?

15 A Page 3 from my notes.

16 Q And is that page 15 of the record?

17 A Yes.

18 Q And what is indicated on that page?

19 A Do you want me to go through again?

20 Q Please.

21 A Backhoe operator. Again, we took the, we
22 thought the rate was not reasonable. So we cut \$22
23 per hour and they charged, in February of 2000,
24 40.5 hours. So it was \$891 and I just noted that,

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1 I circled both these backhoe operator ones on this
2 page and also on page 2, Exhibit 8 and I indicated
3 okay. I didn't make those cuts when I found that.
4 I just noted that in there. Those cuts were never
5 really made in the final note, letter to me, I
6 believe, because I think they were done by the
7 accountants, so.

8 Q So?

9 A Just noted.

10 Q The accountants might have made the cuts
11 instead of you?

12 A Correct.

13 Q The rate cuts.

14 A I didn't, it's not, it's not listed on
15 the attachments. I believe I circled it. It
16 wasn't something that, because they had taken care
17 of the rate for that particular item.

18 Next one was field supervisor. Again, we
19 cut \$27 per hour, 49 hours. So the total cut there
20 was \$1,323. Cut site safety fence. Again, there
21 were \$150 per day, five days, \$750. Per diem, the
22 3.25 days times 28. Okay. They were charging per
23 diem when they didn't stay overnight and that's
24 what it was. That was. I wrote that, didn't stay

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1 overnight. It was not reasonable. It wasn't
2 reasonable for them to charge per diem when they
3 didn't stay overnight.

4 Q Okay. If someone's traveling for
5 business where they're gone a full complete day and
6 leave very early in the morning and get home very
7 late at night even though they don't stay
8 somewhere, are you saying that you don't think it
9 would be reasonable for them to have the per diem?

10 A Correct.

11 Q Okay. What else is on this page?

12 A May 2000. We got listed as May 11th,
13 2000, May 12th, 2000. It's where they went to the
14 site and there was no technical documentation what
15 was done. So there was, referring back to the
16 status, corrective action status report that was
17 submitted was not indicated within, anything was
18 done at the site during those days. We didn't know
19 what was done. That was cut for that, I believe.

20 Q Did you call anyone to ask them to send
21 in additional documentation or send you an
22 explanation for those days?

23 A No.

24 Q Have you done that for other

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1 reimbursement claims, where someone may have not
2 provided all the information? Have you ever called
3 anyone else and asked them to submit the
4 information?

5 A I may have called on the other people but
6 as a standard practice, I do not.

7 Q Could you refer to page 16 and what is
8 this?

9 A Page 4 of my notes.

10 Q And could you go through what information
11 is here?

12 A June 19th and 20th, 2000. Again same
13 issues as before. They're at the site, mileage,
14 stuff like that. No documentation for what was
15 done technically so those costs were cut.

16 Q Okay. Further down on the page there's
17 RQ?

18 A Okay. It's just kind of a summary for
19 that particular billing package. Requested amount
20 was \$83,896.74. I note that the accountants had
21 cut \$2,347.84.

22 Q And those cuts would be what, generally
23 what type of cuts?

24 A Whatever Diana Gobelman cut. Accountant

1 type cuts.
 2 Q Is Kevin Mably an accountant?
 3 A Yes, or maybe he did it too. I am
 4 sorry. I forgot. They might have each done one.
 5 Q And then under that looks like the word
 6 cut?
 7 A Yeah.
 8 Q I'm sorry. Before that.
 9 A There's technical cuts that are itemized
 10 for \$7,956.66.
 11 Q And what kind of cuts would be the
 12 technical cuts?
 13 A Whatever I didn't cut. Those were the
 14 individual ones that we listed out.
 15 Q And then below that is the word cut?
 16 A Cut, the \$73,592.24 and it was cut as not
 17 reasonable.
 18 Q And what does the number 18 signify?
 19 A It's from our stored documents that we
 20 have, a store document that I know that what I want
 21 to site. The not reasonable citation, I just use
 22 number 18. Fifteen is a different citation on the
 23 word processor, on the computer.
 24 Q Oh. So if you write the number 18,

1 A The number?
 2 Q Yes.
 3 A The 15 is again with the variable that I
 4 use for not done in accordance with the approved
 5 plan.
 6 Q The number \$1,463, what does that
 7 reflect?
 8 A All right. Okay. I couldn't figure
 9 out. The 73 was cut for both those reasons. It
 10 wasn't, the number 18 and 15 was relating to, to
 11 the 73,000, or to the, actually I guess to the 75,
 12 I guess. I have to refer back to the letter. I'm
 13 not a very good note taker. Yeah. If you'll look
 14 back at Exhibit 3, the technical deduction with
 15 attachment, I cut \$75,055.24 which is what the
 16 bottom line circled there is for, not reasonable
 17 and not done in accordance with approved plan. So
 18 those are referring to that. It was just the way I
 19 was doing my math.
 20 Q Okay. Then at the bottom of the page
 21 there's a 7956.66. What does that mean?
 22 A That was the itemization that was
 23 referred to on the page a little bit better but
 24 again, that was just notes and variable numbers

1 whoever's typing it up--
 2 A I type out the attachment. I just write
 3 18. I know 18 when I, variable number 18 in the
 4 computer pops up that attachment I just fill in
 5 that number.
 6 Q So a paragraph or whatever automatically
 7 pops up and you put in 18?
 8 A Right, the paragraph.
 9 Q No wonder your letters all look so
 10 similar.
 11 MR. KIM: Theoretically.
 12 THE DEPONENT: Who do you think came up with
 13 the letters?
 14 MS. HESSE: Q The 73,592 and 24 cents you
 15 have not reasonable. The basis for that again was
 16 what?
 17 A The cumulative costs of the two
 18 reimbursement packages was the not reasonable
 19 compared to what the projected amount cost and the
 20 work that should have been done, or was done.
 21 Q And the line below that one?
 22 A \$1,463, number 15, not done in accordance
 23 with approved plan.
 24 Q What does that mean. relate back to?

1 from my paragraphs and how they were broken out and
 2 they refer, if you look back, they refer back to,
 3 you know, I made the same numerical references
 4 throughout the, you know, on page 2 and 3 of the
 5 notes.
 6 Q Page 17, could you explain what that is,
 7 please?
 8 A I believe page 17 is the start of the
 9 second reimbursement package and started off August
 10 of 2000. Site safety security equipment \$150 per
 11 day, five days times \$150. Cut \$750 for reason
 12 number 6 and number 18. September 2000--
 13 Q Is there an easy way we can find out what
 14 numbers 6 and 18 are? Do you have these memorized?
 15 A Yeah. Lack of supporting documentation
 16 and not reasonable. You just go back to the
 17 letter. I mean, that's what they are.
 18 Q So if I compare the dollars here with
 19 what's in the letter, I can figure out which code
 20 fits?
 21 A Yeah.
 22 Q Okay.
 23 A September 2000, cut 1506 for grass seed.
 24 Billed one of the equipment \$137 for site

1 restoration. 9/27, mowed for site restoration.
 2 Plant grass seed, three people, nine hours each.
 3 Two cars, personnel, \$2,071. Mileage, \$166 and 6
 4 cents. Cumulative total was \$2,389.12 cut for not
 5 corrective action, number 22.
 6 Q Which is?
 7 A Not corrective action costs.
 8 Q The site restoration, grass seed
 9 planting, was that on the Home Oil property or was
 10 that on neighboring property?
 11 A I don't know.
 12 Q Do you often get requests for
 13 reimbursement where people have to install
 14 remediation systems like soil vapor extraction,
 15 groundwater treatment systems on neighboring
 16 property?
 17 A We do get a few.
 18 Q But typically, that's not the situation.
 19 Is that correct?
 20 A I would say typically, yeah, because the
 21 owners don't want to cause other people grief.
 22 Q So it might, so that could be why it's
 23 unusual for you to see a request for reimbursement
 24 to restore soil that might have sunken in over time

1 \$2,389.12 for reason number 22, noncorrective
 2 action and then the big cut was the \$38,277.68 for
 3 variables 18 and 15, not in accordance with
 4 approved plan and not reasonable.
 5 MS. HESSE: Can we go off the record for a
 6 minute?
 7 (Discussion off the record.)
 8 MR. KIM: Lunch break until 1:00 o'clock.
 9 (Whereupon a lunch break was
 10 taken.)
 11 MS. HESSE: This is continuation of Mr. Bauer's
 12 deposition.
 13 Q Mr. Bauer, would you refer to page 22
 14 of the record and could you identify what that page
 15 is?
 16 A This is a cover page to a reimbursement
 17 package, for one of the reimbursement packages.
 18 Q And is this a cover page that would have
 19 been submitted by the consultant for Home Oil?
 20 A Yes.
 21 Q Are there some handwritten marks on the
 22 page?
 23 A Yes.
 24 Q Are those your marks?

1 and reseed with grass?
 2 A I have seen grass seed, people try to get
 3 reimbursed for that in the past but I've never had
 4 anybody specifically bill for coming back to the
 5 site to fill in sunken in excavation, as you call.
 6 I believe usually they mound up the excavation and
 7 put the same amount of dirt on there that you took
 8 out and you leave a mound and that sinks in.
 9 That's the way they did on my property.
 10 Q And what are the additional--
 11 A The dates, it's just, I review it by
 12 month and I just wrote down month and I had no
 13 comments for those particular months.
 14 Q Any particular reason you did not have
 15 comments for those months?
 16 A No. Had no cuts. It was fine otherwise
 17 itemized cuts for those months.
 18 Q Could you look at page 18, please, and
 19 tell me what this is?
 20 A It's a, page 6 of my notes. Summary of
 21 the second reimbursement package. They requested
 22 \$43,180.80. Accountants cut \$1,764. First was a
 23 technical itemization of \$3,139.12 where I broke
 24 those two out to \$750 for variables 6 and 8 and

1 A No.
 2 Q Who would have made those marks?
 3 A Probably the accountant reviewer.
 4 Q So you don't know what those marks mean?
 5 A No.
 6 Q Okay. Could you look at page 31, please,
 7 and tell me what that page is?
 8 A It's the women's and minorities business
 9 form. Something like that. Women's business
 10 enterprise and minority business enterprise form.
 11 Q Okay, and what does that form indicate?
 12 A That none of the firms were minority or,
 13 or owned by a woman.
 14 Q Were any marks made on this page by
 15 someone at the IEPA?
 16 A Not on my copy.
 17 Q Would you look at page 32, please, and
 18 identify what this is?
 19 A Personnel summary sheet.
 20 Q Is there a handwritten mark on the page?
 21 A A couple.
 22 Q Did you make those marks?
 23 A No, I did not.
 24 Q Who would have done that?

1 A The accountant reviewer.
 2 Q Could you look at page 34, please?
 3 A I don't write on forms.
 4 Q Okay. Could you identify what this is,
 5 please?
 6 A A weekly worksheet for personnel time, I
 7 believe.
 8 Q And what is indicated on this page?
 9 A It lists employees, type of work
 10 performed and when they performed it, their hourly
 11 in and out times.
 12 Q What type of work is indicated as having
 13 been the type of work performed?
 14 A Groundwater treatment installation,
 15 piping, well, transfer lines, power, etcetera.
 16 Q Anything else?
 17 A Corrective action, mobilization,
 18 installation of groundwater slash vapor recovery
 19 lines slash utilities.
 20 Q Any other activities indicated?
 21 A It says SCA city discharge permit
 22 application slash development.
 23 Q So some of this time then was
 24 attributable to installing a groundwater treatment

1 Q Okay. Like documentation?
 2 A Pardon?
 3 Q Documentation, continuing the entry for
 4 RJ Montgomery.
 5 A Oh. Correct. CA documentation, field
 6 notes, maps, installation layout. Do you want me
 7 to read all these?
 8 Q How about JJ Shaw?
 9 A CA mobilization slash installation, GW
 10 slash vapor recovery slash transfer lines,
 11 materials slash city sewer slash utility locates.
 12 Q So in reading that, are there activities
 13 here above and beyond installation of an SVE
 14 system?
 15 A I think they're all related to the SVE
 16 groundwater remediation system, the installation.
 17 They're all necessary components of doing, of the
 18 total system.
 19 Q So those are things that are needed to be
 20 done in order to install the groundwater SVE
 21 system?
 22 A Yeah.
 23 Q Okay. That's what you're saying?
 24 A Uh-huh.

1 system?
 2 A That's what they've indicated.
 3 Q And some of this time would have been
 4 attributable to obtaining a city discharge permit?
 5 A Uh-huh.
 6 Q Okay. If you look at page 35, is this
 7 also a weekly worksheet for personnel?
 8 A Yes.
 9 Q And what types of activities are
 10 indicated here?
 11 A Groundwater treatment, system
 12 installation, piping slash wells slash transfer
 13 line slash power, etcetera is one. It says CA
 14 mobilization, installation groundwater slash vapor
 15 recovery, transfer lines slash materials slash city
 16 sanitary sewer slash utility locates.
 17 Q Okay. What else is indicated here?
 18 A CA city discharge permit application
 19 slash development slash CA mobilization
 20 installation GW. I believe groundwater slash vapor
 21 recovery slash transfer lines, materials.
 22 Q Any other activities indicated?
 23 A Groundwater treatment installation.
 24 piping, wells, transfer lines, power, etcetera.

1 Q Okay, that they're all related to the
 2 installation of the system?
 3 A Yes.
 4 Q Okay. Could you look at page 39,
 5 please? What is this sheet?
 6 A Equipment weekly worksheet.
 7 Q Okay, and what is indicated in the
 8 left-hand column?
 9 A The equipment.
 10 Q Okay. What kind of equipment is listed?
 11 A First one is a Cat 416 backhoe. Second
 12 one is a site safety equipment.
 13 Q And what's listed there?
 14 A SCBA, PPE, first aid, oxygen supply,
 15 masks, fence slash panels, posts, barricades,
 16 caution tape, no smoking signs, etcetera.
 17 Q Okay. So this is site safety and
 18 security equipment then, I assume?
 19 A That's what they're calling it, yes.
 20 Q Would you agree?
 21 A I suppose you could categorize it that
 22 way.
 23 Q So that they did give an explanation here
 24 on this page 39 of what some of the site safety and

Page 101

1 security equipment is. Correct?

2 A I don't think they gave an explanation of

3 what it was. They lumped a bunch of stuff in there

4 and called it site safety equipment. I would

5 venture to guess that they probably didn't use a

6 SCBA at the site at that period of time.

7 Q But for safety purposes, would they have

8 been required to have them on hand?

9 A I don't know.

10 Q How about, what does PPE mean?

11 A Personal protective equipment. Could

12 mean a whole host of things.

13 Q How about fences, panels? Would that be

14 considered safety equipment or is that, let me

15 rephrase that.

16 Is that something that could be used in,

17 that's for safety and site security?

18 A We, yeah, I guess they would use it for

19 that term. You would see it as a broken down cost.

20 Q And barricades, I think earlier we talked

21 about barricades being something that IEPA would

22 allow for safety and security.

23 A Uh-huh.

24 Q And what is the rate charged there per

Page 102

1 day?

2 A \$150.

3 Q And that's the rate they asked for.

4 Correct? That's the rate they asked for in the

5 reimbursement package?

6 A Right.

7 Q That's the rate you cut because you

8 didn't, what was the reason again?

9 A They didn't provide what it specifically

10 was. They lumped it all together and they didn't

11 provide the documentation of what specifically they

12 used.

13 Q Okay. What kind of documentation would

14 you request? What kind of documentation?

15 (Discussion off the record.)

16 MS. HESSE: Q Let me restate that

17 question. What kind of documentation would someone

18 need to provide to get reimbursed for site safety

19 and security equipment?

20 A I think if they used a, if they used

21 fencing material or barricade, they would say they

22 used a barricade and they would write us how long

23 they used it for and provide us with, typically

24 they provide us with a receipt from where they

Page 103

1 would rent the barricades from.

2 Q What about caution tape? How much detail

3 do you need on that if they use caution tape to

4 mark off an area?

5 A I don't know. I don't typically see it

6 as an itemized cost.

7 Q But caution tape typically would be

8 something that would be used to indicate that

9 perhaps there's an open excavation or something.

10 Correct?

11 A Sure.

12 Q Now, would you review something like the

13 equipment weekly worksheet and the rates charged

14 there? Is that something you would typically

15 review or someone in accounting?

16 A I could look at it as part of my review.

17 Q Do you recall if you looked at this page?

18 A I don't recall.

19 Q And then these equipment weekly

20 worksheets, are those for specific periods of time?

21 A Yes.

22 Q And does it indicate which days the

23 equipment was used on?

24 A Yes.

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1 Q So for example, site safety and security

2 equipment during the week of August, would that be

3 August 13th through 19th, 2000? Is that correct?

4 A Uh-huh.

5 Q Does that indicate that the site safety

6 and security equipment were used two days that

7 week?

8 A Yes.

9 Q Which days?

10 A Thursday and Friday.

11 Q If you look at page 40, what is that

12 page?

13 A The following week's weekly equipment

14 worksheet.

15 Q And does that also indicate which

16 particular days and from that you can figure out

17 which days various pieces of equipment were used?

18 A Uh-huh.

19 Q Including site safety and security?

20 A Yes.

21 Q Would you look at page 42, please? What

22 is this page?

23 A Materials and expendables page.

24 Q Okay. Did you review this page?

1 A I might have glanced over it.
 2 Q Okay. It looks like there's some marks
 3 to the right hand part of that page. Do you know
 4 what those indicate?
 5 A No.
 6 Q Okay. Page 45. Did you review that
 7 page?
 8 A I probably looked at it, yes.
 9 Q Did you, are there marks on the
 10 right-hand side of the page?
 11 A Yes.
 12 Q Are those your marks?
 13 A No.
 14 Q Would you look at page 52, please, and
 15 tell me what this page is?
 16 A I believe it's a description of their
 17 expenses.
 18 Q Does it indicate particular dates?
 19 A Yes.
 20 Q Does it describe what the expense is?
 21 A Yes.
 22 Q And how much the cost is?
 23 A Yes.
 24 Q Okay. If you look at the fourth line

1 wells, transfer lines, power, etcetera. There's no
 2 personnel associated with it so I don't know what
 3 it's for. You have to go back to the previous
 4 sheet.
 5 Q Okay. If you look down at August 17th,
 6 are there a number of entries there for, that could
 7 correspond to dollar amounts entered under labor?
 8 A Yes.
 9 Q And is there a description for the type
 10 of work on the same line across from where there's
 11 dollar amounts entered for labor?
 12 A Yes.
 13 Q And what is the description of the work
 14 on those days?
 15 A Ground water treatment system
 16 installation, piping, wells, transfer lines, power,
 17 etcetera.
 18 Q And what does that indicate to you?
 19 A They did something associated with the
 20 groundwater treatment system installation.
 21 Q Is there similar information indicated
 22 for August 18th?
 23 A Yep.
 24 Q How about August 21st?

1 down, the fourth item listed there, what is the
 2 date?
 3 A August 17th, 2000.
 4 Q And what's the description?
 5 A Site safety slash security equipment.
 6 One day at 150 per day.
 7 Q So that would indicate that on that date
 8 they used site safety and security equipment. Is
 9 that correct?
 10 A Uh-huh.
 11 Q Would you look at page 54, please? Tell
 12 me what this page is.
 13 A Looks like a summary page of everything
 14 for the month.
 15 Q And how is this broken out?
 16 A Daily.
 17 Q So looking at this, is there an entry for
 18 August 1st?
 19 A Yes.
 20 Q Does it describe what was done on August
 21 1st?
 22 A The only thing I see is an expense for
 23 \$17.56. It doesn't really say what it is. It just
 24 says groundwater treatment installation, piping,

1 A Yep.
 2 Q And August 22nd?
 3 A Yep.
 4 Q Are there individual's names listed here?
 5 A Yes.
 6 Q Are there various descriptions for a
 7 position?
 8 A Yes.
 9 Q And then it describes the type of work
 10 they did?
 11 A Yes.
 12 Q Towards the bottom of page 56, the second
 13 to last entry, it has, what do you see there?
 14 A Second to the last entry?
 15 Q Yes.
 16 A The 7, 8 to 1630 hundred hours. C, I
 17 don't know. Who's that? Lemme? Operator in Cat
 18 416 backhoe. Is that what you're talking about?
 19 Q Yes. So would that indicate to you that
 20 the \$85 is for the operator and the Cat backhoe?
 21 A I don't know. I'd have to look in other
 22 places to see if it wasn't but quite possibly.
 23 Q So \$85 could be for both?
 24 A It could. I don't know. Maybe that's

1 why I didn't cut it.
 2 Q If you were going to cut any of the rates
 3 or the time or anything like that, would you have
 4 indicated that on a page like page 56?
 5 A What do you mean indicated on page 56?
 6 Q Okay. For example, we were just talking
 7 about the entry for C Lemme at \$85 an hour.
 8 A Right.
 9 Q If you were going to reduce the \$85 an
 10 hour, would you have indicated that on this page?
 11 A I don't write on the documents. I write
 12 my stuff in notes. I would not indicate it on that
 13 page.
 14 Q Would you look at page 59, please, and
 15 what is page 59?
 16 A List of subcontractors.
 17 Q Are there marks on that page?
 18 A Yes, there are.
 19 Q Are those your marks?
 20 A No, they're not.
 21 Q Do you know who made them?
 22 A I would believe the accounting reviewer
 23 did.
 24 MR. KIM: If it's going to speed things up,

1 A SA slash CA, IEPA project correspondence
 2 slash status report slash SA off site investigation
 3 slash access request slash correspondence slash
 4 agreements slash negotiations slash CA mobilization
 5 slash GW slash vapor recovery slash transfer lines,
 6 installation.
 7 Q Does that indicate to you that C Senatrow
 8 did something in addition to the actual
 9 installation of an SVE system?
 10 A She could have done just the installation
 11 of the system. I don't know. She lumped together
 12 so much stuff in there that it's hard to tell what
 13 she did and she did mention stuff about, you know,
 14 the groundwater vapor recovery system and stuff
 15 like that in that description, so.
 16 Q So, you don't know if she was installing
 17 the system or not or if she was doing other
 18 things--
 19 A I couldn't tell you, no.
 20 Q (Continuing.)--not related to that?
 21 Did you ask for additional information or
 22 explanation as to what she did?
 23 A No.
 24 MS. HESSE: I'm trying to lump things together

1 obviously on some of these things you've got
 2 questions about specific entries but just as a
 3 notation, he hasn't made any marks on those and the
 4 marks are probably made by somebody else.
 5 MS. HESSE: Q Would you look at page 81,
 6 please, and is this also a weekly worksheet for
 7 personnel?
 8 A It is.
 9 Q For the week of September 10th through
 10 16th?
 11 A Yes.
 12 Q There is an entry for DJ Egleston. Do
 13 you see that?
 14 A Yes, I do.
 15 Q And what, for the type of work performed
 16 what's listed?
 17 A SA off site investigation access request
 18 slash correspond slash agreements slash
 19 negotiations slash CA mobilization slash GW slash
 20 vapor recovery slash transfer line installation.
 21 Q Is there another listing below that for
 22 CL Sinadrell?
 23 A Yes, there is.
 24 Q And what does that say?

1 so it doesn't get too repetitious.
 2 MR. KIM: I understand. That's fine.
 3 MS. HESSE: Q Could you look at page 93,
 4 please, and what is this page?
 5 A The September 2000 project work summary
 6 page.
 7 Q Does it indicate specific dates when work
 8 was done?
 9 A Yes.
 10 Q Does it indicate individuals who did
 11 work?
 12 A Yes.
 13 Q Does it describe the type or provide
 14 information on type of work that was done?
 15 A Yes.
 16 Q What were some of the types of work that
 17 were done on that day?
 18 A Which day?
 19 Q Any particular day. I'm sorry. Any
 20 particular day starting September 1st.
 21 A SA review and log soil analytical
 22 results, CA mobilization.
 23 Q On September 11th, what were some of the
 24 things that were done?

1 A SA CA IEPA project correspondence slash
 2 status report, SA off site investigation, CA
 3 mobilization.
 4 Q So that would indicate that they did some
 5 off site investigations on those days. Is that
 6 correct?
 7 A I don't think they did actual off site
 8 investigations.
 9 Q You don't?
 10 A Not on that particular day. They only
 11 spent a half an hour. They might have done some
 12 office work related to that type of activity but no
 13 physical off site investigation. I could be wrong
 14 though. That's what I would assume.
 15 Q Would you look at page 96, please? Are
 16 those handwritten comments there probably someone
 17 else's?
 18 A Probably.
 19 Q Please refer to page 99. Is this a
 20 weekly worksheet for personnel?
 21 A Yes, it is.
 22 Q Is there an entry for DJ Egleston?
 23 A Yep.
 24 Q And what type of work did he perform?

1 SA preparation and drilling plans slash off site
 2 investigation slash plume delineation slash
 3 negotiations slash property owner slash building
 4 access slash coordination.
 5 Q Is there anything there indicating that
 6 work or the work done there was part of
 7 installation of an SVE system?
 8 A It doesn't come out and tell you that,
 9 no.
 10 Q So this work might be in addition to the
 11 actual installation of an SVE system, the actual
 12 SVE system itself?
 13 A Yes, and it could be associated with it
 14 too. You know, I mean stretching it. You know,
 15 negotiations to access the property to put the sv
 16 system over there. Might be part of that, you know
 17 installation of the system too.
 18 Q Would you refer to page 101, please?
 19 Does this, is this also a weekly worksheet?
 20 A Yes.
 21 Q Are there indications for the type of
 22 work performed during that week?
 23 A Yes.
 24 Q And what are some of the types of work

1 A SA off site investigation slash access
 2 agreement, slash correspondence slash negotiations,
 3 CA mobilization, off site CA, recovery systems
 4 slash utilities.
 5 Q What does CA stand for?
 6 A I'm assuming corrective action.
 7 Q What does SA stand for?
 8 A I would assume site assessment, maybe.
 9 Q Is there also an entry for Senatrow on
 10 that day or on that sheet, I should say?
 11 A Yes.
 12 Q And what does that indicate?
 13 A SA mobilization, off site drilling plan,
 14 scheduling, arrangements, SA off site
 15 investigation, access agreement, correspondence,
 16 negotiations.
 17 Q Page 100, is this also a weekly
 18 worksheet?
 19 A Yes.
 20 Q And what types of activities are
 21 indicated on that weekly worksheet?
 22 A You mean type of work performed again?
 23 Q Yes.
 24 A SA mobilization slash arrangements slash

1 performed?
 2 A First one is SA mobilization slash
 3 arrangements, off site investigation, drilling
 4 sample.
 5 Q Is there another entry?
 6 A SA drilling slash off site investigation,
 7 drilling, monitoring, well installation, basement
 8 samples, SA field report, logs, maps.
 9 Q Does that indicate to you that monitoring
 10 wells were being installed possibly at off site
 11 locations?
 12 A Yes.
 13 Q And that samples were collected from
 14 somebody's basement?
 15 A Yes.
 16 Q When you reviewed the, what's called the
 17 corrective action status report, did you recall if
 18 it provided a description of collecting samples at,
 19 in a neighbor's basement?
 20 A I don't recall if it was in that report
 21 exactly. I do know that was an issue though.
 22 Q So, okay. So it is an issue that
 23 contamination migrated to a neighbor's property?
 24 A Right. There was some correspondence in

1 the file regarding that.
 2 Q Is there also an entry for TE Fitzgerald
 3 for that time period?
 4 A Yes.
 5 Q And what type of work was performed?
 6 A SA drilling, off site investigation,
 7 drilling, monitoring, well installation, basement
 8 samples.
 9 Q Does that also indicate to you that there
 10 was time spent in dealing with off site issues?
 11 A It could be because I think that the way,
 12 sometimes they don't get precise in their
 13 descriptions. They lump so many things in together
 14 it's very hard for us to know exactly what they
 15 did. If they were sampling in the basement or if
 16 they were installing a monitor. I don't know. I
 17 don't exactly know what they were going to do.
 18 Q If you don't know what they did, what
 19 would you do? What would your response be? Did
 20 you call them and ask them to clarify what they
 21 did?
 22 A No.
 23 Q Did you send them a letter?
 24 A No.

1 recovery wells, the pipes, the SVE treatment system
 2 and some culture sampling, general categorization.
 3 Q Can you tell me where in this report it
 4 says that the costs listed in Appendix E are the
 5 total costs for doing work through installation of
 6 an SVE system?
 7 A I don't understand.
 8 Q I'll break it down. Now, we just talked
 9 about some of the work that was done related to
 10 investigation of off site contaminant migration.
 11 Correct?
 12 A Uh-huh.
 13 Q Where in this report is an estimate
 14 provided for investigating off site contaminant
 15 migration?
 16 A I don't think it's in there. It's not
 17 part of the corrective action plan. I don't think
 18 it was, it's mentioned in there at all. Is it? It
 19 doesn't indicate that they were going to do it so
 20 it probably wouldn't have been included.
 21 Q Where in this amended corrective action
 22 plan does it provide the cost to install a
 23 groundwater treatment system?
 24 A Well, I was under the impression that the

1 Q Did you just simply deny all the costs
 2 because you couldn't understand it?
 3 A I didn't deny the costs because I
 4 couldn't understand it.
 5 Q Did you deny the costs?
 6 A I did deny the costs.
 7 Q And why did you deny the costs?
 8 A As I indicated before, the cumulative
 9 reimbursement claims were determined to be
 10 unreasonable compared to what the projected costs
 11 could have been, should have been.
 12 Q Let's go back to, could we go back to
 13 Exhibit Number 4, please?
 14 A Okay.
 15 Q Okay. Now, can you tell me where in
 16 Exhibit Number 4 and I, back up.
 17 Appendix E provides cost estimates.
 18 Correct?
 19 A Uh-huh.
 20 Q And what is included in those cost
 21 estimates that are listed in Appendix E?
 22 A What's included in them?
 23 Q Yes.
 24 A I would, you mean the installation of the

1 system was a dual phase system, one that included
 2 both the SVE and the groundwater remediation
 3 through the extraction wells and the piping all in
 4 one. That's what this plan indicated. I mean I
 5 just saw it on page 380. It says a dual phase
 6 extraction of groundwater and soil vapor has been
 7 proposed under the, so I mean, that I believe means
 8 that those are, this included that type of
 9 activity.
 10 Q Okay. If it turned out that this cost
 11 estimate did not include that type of activity,
 12 would you then try to separate out which costs were
 13 included out of the reimbursement package as part
 14 of the SVE system that was proposed here and which
 15 costs were in addition to the SVE system?
 16 A Say that again..
 17 Q Okay. I'm just thinking for a moment.
 18 A That was kind of convoluted.
 19 Q Now, we just, we're talking about some
 20 activities that were covered in the reimbursement
 21 package, correct? A number of activities?
 22 A Correct.
 23 Q Some of them were for installing the SVE
 24 system, correct, as near as you could tell?

1 A Yeah. We didn't, I don't think we
 2 pointed out any, but yeah.
 3 Q And then there were also costs that were
 4 not direct costs of installing the SVE system. By
 5 direct costs, I mean costs that were not the actual
 6 cost of drilling the hole, laying the pipes.
 7 Correct?
 8 A You're talking about the off site
 9 investigation?
 10 Q Off site investigation.
 11 A And basement sampling. Yes, there were
 12 those costs.
 13 Q Now, I think you also said that the costs
 14 for the off site investigation were not included
 15 within the scope of what was covered under the
 16 amended corrective action plan, is that correct, or
 17 did I misinterpret that?
 18 A Yeah. I don't believe they, you have to
 19 go back and you have to determine if word for word
 20 but I mean if the, you know, in the proposed
 21 drilling they proposed 20 wells. If some of those
 22 wells were part of that investigation, maybe they
 23 were included. Maybe they weren't. I really,
 24 without, without really digging into it right now,

1 A Yes.
 2 Q So that costs in the packages submitted
 3 for reimbursement included costs for activities
 4 that were beyond the scope of the estimate that was
 5 in this corrective action plan for SVE. Correct?
 6 A Yes, but the way that they put so many
 7 different details into a, the type of work
 8 performed it was very hard. It's almost impossible
 9 to weave that information out.
 10 Q So you did not attempt to try to separate
 11 which of the costs--
 12 A No.
 13 Q (Continuing.)--in the package were for
 14 implementing and installing the SVE versus other
 15 costs?
 16 A No.
 17 Q Am I correct?
 18 A That's correct.
 19 Q What kind of information would you need
 20 to see or would you want to see to make it
 21 possible, whatever you want to call it, to review
 22 these packages so that you would be able to approve
 23 them?
 24 MR. KIM: Just as clarification, are you

1 I would say possibly no, that those costs were
 2 additional costs. Investigation costs were not
 3 included in this.
 4 Q Now, some of the costs that we also
 5 covered sounded like they were for preparing
 6 correspondence or receiving correspondence and
 7 sending reports to IEPA. Is that correct? Some of
 8 the costs we were just talking about.
 9 A Yeah, there was.
 10 Q In the reimbursement package.
 11 A Yeah. It could have been attributed to
 12 that. It could have been attributed to a lot of
 13 different things.
 14 Q Okay. Could I refer you to page 434
 15 again, please?
 16 A Uh-huh.
 17 Q Now, what does the foot note at the
 18 bottom say?
 19 A These costs are estimates are
 20 implementation only. They do not include costs for
 21 design, planning, permitting and reporting.
 22 Q So this report specifically states then
 23 that the cost estimate does not include any costs
 24 for preparing reports. Correct?

1 referring to this specific package when you say
 2 these packages?
 3 MS. HESSE: In general.
 4 MR. KIM: In general. For a plan involving a
 5 treatment technology similar to this? I guess I'm
 6 just trying to, it's a little bit open ended, your
 7 question. I'm just trying to get it as narrow as
 8 possible.
 9 MS. HESSE: I understand. I'll withdraw the
 10 question.
 11 Q Okay. Just for completeness sake,
 12 page 111. Would those be cuts made by accounting?
 13 A I would believe so.
 14 Q Page 113. Are those your notes?
 15 A No.
 16 Q Did you have anything to do with
 17 establishing the laboratory rate for PAH analysis?
 18 MR. KIM: Which rate are you referring to? The
 19 rate on the invoice or some other rate?
 20 MS. HESSE: Q Well, I'm sorry. Not the
 21 rate on the invoice. For determining the rate that
 22 IEPA would have approved.
 23 A I don't believe I had anything to do with
 24 this, the rate that was used to make the

1 determination.

2 Q Would you look at page 127, please, and

3 is this a weekly worksheet?

4 A Yes.

5 Q And does it indicate that there was some

6 work performed during that time period?

7 A Yes.

8 Q And what was that work?

9 A SA review and log, run water analytical

10 results.

11 Q Is there any entry corresponding to that

12 in Appendix E of the amended corrective action

13 plan, Exhibit 4?

14 A I'd say no.

15 Q Okay. Page 136, refer you to, let me

16 back up.

17 Is this a project work summary?

18 A Yes.

19 Q Is there, are there entries for November

20 6th, 2000?

21 A Yes.

22 Q And does it indicate a type of work that

23 was performed on that date?

24 A Groundwater, sample collection and

1 correspondence, site assessment, SA results slash

2 report.

3 Q Was the cost for this type of work

4 included in Appendix E for the amended corrective

5 action plan?

6 A I would, I guess not, no.

7 Q Would you refer to page 160, please? Is

8 this also a weekly worksheet?

9 A Yes.

10 Q Were there entries listed on this

11 worksheet related to off site access requests and

12 off site investigation?

13 A Yes.

14 Q Would you refer to page 182, please? Are

15 there entries for January 12th?

16 A Yes.

17 Q And what, does it indicate a type of work

18 done on that date?

19 A SA off site investigation.

20 Q On January 16th, does it indicate that

21 were activities?

22 A SA site mapping and groundwater

23 mobilization arrangements, groundwater sample

24 collection, surveying.

1 surveying.

2 Q In Appendix E of Exhibit 4, page 434 of

3 the record, are there any line items corresponding

4 to that work?

5 A You could, and they do have a list but I

6 don't think they would be applicable in this

7 situation. We have a monthly operation maintenance

8 data collection line item of \$90,000 but that would

9 be for when the system was installed and the system

10 was not installed at that date. So I would say no.

11 Q The cost reflected there is a cost that's

12 not included within the scope of what's covered in

13 Appendix E to the ACAP. Right?

14 A Right.

15 Q If you look at page 159, please, is this

16 a weekly worksheet for personnel?

17 A Yes.

18 Q Is there an entry for a DJ Egleston?

19 A Yes.

20 Q And does it indicate a type of work

21 performed?

22 A Yes.

23 Q And what is that work?

24 A SA off site investigation, property owner

1 Q Are any of those costs that are referred

2 to as line items in Exhibit E, I'm sorry, Exhibit E

3 page 434 of the record?

4 MR. KIM: Appendix E.

5 MS. HESSE: Sorry. Thank you.

6 THE DEPONENT: I would say no.

7 MR. KIM: Can we go off the record?

8 (Discussion off the record.)

9 MS. HESSE: Back on the record.

10 Q Mr. Bauer, could you refer to page,

11 okay, let's do pages 99 and 109.

12 A Okay.

13 Q Do you see the end? Ninety-nine is a

14 weekly worksheet and 109 is a project work summary

15 for Home Oil. Is that correct?

16 A That's correct.

17 Q Please refer to the entry on one listed

18 as Friday and as Friday, October 20th on page 109.

19 Do you see those entries?

20 A Uh-huh.

21 Q Earlier you had mentioned that on the

22 weekly worksheet, back up a second.

23 Is the weekly worksheet an IEPA form?

24 A Yes.

1 Q And that's a form that they're required
 2 to fill out?
 3 A Yes.
 4 Q Now, if you refer to the entry for
 5 Egleston, are there a number of things listed
 6 there?
 7 A Uh-huh.
 8 Q And then are there two different amounts
 9 of time listed for him on Friday, the in and out
 10 times?
 11 A Yeah. 9:30 to 10:00 and 10:00 to 10:15.
 12 Q Now, look at page 109, please, and for
 13 Egleston on Friday, October 20th, does it provide
 14 separate descriptions or two different descriptions
 15 of types of work done?
 16 A Yes.
 17 Q What is one type?
 18 A SA off site investigation.
 19 Q And is there another type?
 20 A CA mobilization.
 21 Q Does that help separate the work that was
 22 done that was listed on the weekly worksheet?
 23 A Sure.
 24 Q Does that help give you an understanding

1 reasonable?
 2 Q Tells them what they need to do to show
 3 costs are reasonable. What kind of description do
 4 they need to include?
 5 A No.
 6 Q Anything that tells them what kind of
 7 documentation they have to provide?
 8 MR. KIM: I'm sorry, but where are you making
 9 reference back to?
 10 MS. HESSE: If there's any guidance documents
 11 or other information available publicly to owners
 12 or operators that IEPA has.
 13 MR. KIM: Okay. Are you, and I apologize--
 14 MS. HESSE: I'm not talking about the internal
 15 IEPA documents. I'm talking about the--
 16 MR. KIM: Right. I missed the first part of
 17 your question but that's fine. I'll withdraw my
 18 statements.
 19 THE DEPONENT: Just, there is one guidance
 20 document called the 1991 LUST manual or something
 21 like that. I can't even remember what it's called
 22 that has some guidance as to what reimbursement but
 23 I don't know to what extent. It's been a while
 24 since I looked at it and the only other thing I

1 of in one case it was off site work that was done
 2 for a certain period of time and that there was
 3 also work done for CA mobilization?
 4 A Whatever those may be. Yes, I guess.
 5 Q Does IEPA have any guidance documents
 6 that would help an owner operator of an underground
 7 storage tank or their consultants understand what
 8 type of descriptions they need to provide for work
 9 performed when submitting reimbursement packages?
 10 A No. There is instructions, forms but I
 11 would assume it doesn't give you the specifics. It
 12 doesn't tell you what to put down.
 13 Q Does it tell you how much detail you need
 14 to include?
 15 A I don't think so. I don't know. I don't
 16 believe so.
 17 Q Is there any place in guidance documents
 18 or anywhere else that gives any type of description
 19 that must be provided to show costs are reasonable?
 20 A In guidance documents?
 21 Q In anything that's available to owners or
 22 operators of underground storage tanks or their
 23 consultants.
 24 A That tells them that costs have to be

1 could offer is I guess in this case the Act had
 2 some requirements as to, you know, certain things
 3 that were required. There might be some stuff in
 4 there.
 5 MS. HESSE: Q But you're not certain if
 6 there is?
 7 A I'm not. It doesn't get specific as to,
 8 I'm sure it's pretty vague.
 9 Q And when you review requests for
 10 reimbursement, I believe earlier you said you
 11 referred to some charts to compare cost
 12 information?
 13 A Yes.
 14 Q Is there anything else that you refer to?
 15 A No.
 16 Q Okay. Under 732, or new law, is there a
 17 requirement that beyond early action that someone
 18 submit a budget for corrective action work for IEPA
 19 approval?
 20 A Yes.
 21 Q Is there a similar requirement under 731,
 22 the old rule?
 23 A No.
 24 Q And these two appeals are both under 731,

1 old rule?
 2 A Right.
 3 Q So there was no budget that was approved
 4 for the work done for these. Correct?
 5 A Correct.
 6 Q Did you assist in putting together
 7 answers to interrogatories?
 8 A Yes.
 9 Q Did you assist in putting together
 10 documents that were attached to the answers to
 11 interrogatories?
 12 A No. I was unaware that there was any
 13 documents attached to them.
 14 (Whereupon said document was
 15 duly marked for purposes of
 16 identification as Exhibit 10,
 17 as of this date.)
 18 MS. HESSE: Q Mr. Bauer, I'm going to hand
 19 you what's been marked as Exhibit Number 10. Could
 20 you identify what that is, please?
 21 A It appears to be an old law billing
 22 package form that the agency used to provide.
 23 Q Are these all forms that were developed
 24 by IEPA?

1 and what is that?
 2 A A weekly worksheet.
 3 Q And what information is required on that
 4 form?
 5 A Employee, type of work performed, hours
 6 in and out, total hours.
 7 Q Is the following page instructions for
 8 filling out that form?
 9 A Yes.
 10 Q And what information is provided there as
 11 to providing a description for work that was
 12 performed?
 13 A The contractor will write the type of
 14 work performed by each employee as stated on the
 15 appropriate labeled rate sheet.
 16 Q Is there any requirement that they
 17 provide a detailed break out of how the work was
 18 performed or what was performed?
 19 MR. KIM: Can you clarify that question? If
 20 you're asking for if there's a legal requirement, I
 21 think that calls for a legal conclusion. If you're
 22 asking for what the information on the sheet
 23 provides, I think he can answer that.
 24 MS. HESSE: Q I'm asking for what the

1 A Yes.
 2 Q If you look at, up at the fifth page that
 3 I handed you, I think in the upper right-hand
 4 corner it has 17 out of 41 on the fax indication
 5 line, what is this form?
 6 A Personnel summary sheet.
 7 Q And does it allow for name of an
 8 employee?
 9 A Yes.
 10 Q Work classification?
 11 A Yes.
 12 Q ST slash OT. Do you know what that
 13 stands for?
 14 A Standard time, overtime.
 15 Q The next page it says summary sheet
 16 personnel. Are those instructions for filling out
 17 the form?
 18 A Yes.
 19 Q Is there any indication on that that a
 20 description be provided as to the work that was
 21 performed?
 22 A The closest thing to that, I believe,
 23 would be work classification.
 24 Q Would you refer to the next page, please.

1 information on the sheet provides.
 2 A As for the type of work that was
 3 performed? I don't understand. Maybe say your
 4 question again.
 5 Q Okay. If you were filling out this form,
 6 what kind of information would you enter on that
 7 line?
 8 A If I was doing something? If I was
 9 filling out the form?
 10 Q Yes.
 11 A I would put what I did. If I wrote a
 12 letter to the agency, I would write I wrote a
 13 letter to the agency. If I did, if I was out there
 14 while they were drilling, I would say I was out
 15 there while they were drilling.
 16 Q So something like agency correspondence
 17 is a shorthand for I wrote a letter to the agency?
 18 A Yeah.
 19 Q And something like MW installation is a
 20 shorthand for I was out there while they were
 21 drilling?
 22 A I would think it would be but I don't
 23 think they, it was, it's always used that way.
 24 MR. KIM: Okay. I'm going to, I guess it

1 sounds like he's answering a different question
 2 than you're asking. You're asking him whether he
 3 would use the shorthand abbreviation you're
 4 referring to and I get the sense Mr. Bauer is
 5 answering in terms of what is provided on the rate
 6 sheet, information that is provided by this
 7 particular consultant and I thought you were asking
 8 him hypothetically how he would answer something or
 9 how he would provide information. So I just want
 10 to make clear I don't think he's answering. I
 11 think he's trying to answer in terms of what
 12 information is quoted in the administrative record
 13 as opposed to what you were just asking and so if
 14 that's, if that's the case, I think you need to
 15 clarify your question just to make sure you're both
 16 on the same page. Are you asking him what the
 17 information on the worksheets, how that should be
 18 interpreted or are you asking him how he would fill
 19 out the worksheets?
 20 MS. HESSE: I'm only asking him how he would
 21 fill out the worksheets.
 22 THE DEPONENT: Okay.
 23 MS. HESSE: Q Based on that, would you
 24 change your answer?

1 the rates?
 2 A I had no comment on them.
 3 Q You didn't have an objection to them?
 4 A Correct. I should say the accountants
 5 did their review of the rates and I might have so I
 6 wouldn't comment on something they already did
 7 either.
 8 Q And if they would have reviewed the rates
 9 before you did?
 10 A That's right.
 11 Q I'm going to hand you a big package of
 12 documents. Depending on your answer, I will or
 13 won't have it marked as an exhibit. I'm not going
 14 to tell you the correct answer yet. Did you review
 15 that reimbursement package?
 16 A No. I don't believe I ever seen it
 17 before. Is it total for \$14,638.62? No,
 18 \$14,882.59.
 19 Q I'll hand you a couple of more documents
 20 then and perhaps that can help you.
 21 A No, I didn't see this. I didn't write
 22 this or--
 23 MR. KIM: Look at the signature on the contact
 24 page.

1 A I didn't think that was, I thought the
 2 question was, you questioned me what would I write,
 3 what did you say?
 4 Q Hypothetically would you--
 5 A Would you put GW installation?
 6 Q Yes. That was my question.
 7 A If I was doing it, no, I wouldn't put
 8 that down. I'd put something else down. I'd try
 9 to be more specific but that's just me.
 10 Q Mr. Bauer, I think I have just a couple
 11 of more questions. Now, just to recap, your, so I
 12 understand your role in reviewing these two
 13 reimbursement packages, did you review specific
 14 rates, hourly rates like field supervisor rates
 15 or--
 16 A I did review the field supervisor rates.
 17 Q Did you make adjustments to that rate?
 18 A I did.
 19 Q Did you make any adjustments to any other
 20 personnel rates?
 21 A No. I think that was the only one in the
 22 per diem.
 23 Q In the per diem. Okay. Does that mean
 24 that you viewed the other rates as reasonable for

1 THE DEPONENT: It's Kevin Mably. No. I don't
 2 know anything about that.
 3 MS. HESSE: Okay. I have no further questions
 4 at this time.
 5 MR. KIM: Okay. We will not waive signature so
 6 we'll wait to get the full transcript and then
 7 he'll sign it.
 8 FURTHER DEPONENT SAITH NOT.
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1 I, BRIAN BAUER, having read the above and
 2 foregoing, find the same to be true and correct
 3 with the following additions and/or corrections, if
 4 any:

5 Page _____ Line _____ Change:

6 Page _____ Line _____ Change:

7 Page _____ Line _____ Change:

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24 BRIAN BAUER (12/19/02) DATE

1 STATE OF ILLINOIS } ss

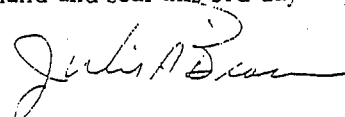
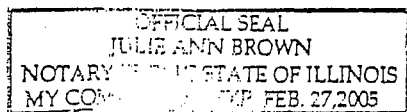
2 COUNTY OF CHRISTIAN)

3 CERTIFICATE

4 I, Julie A. Brown, a Notary Public and
 5 Certified Shorthand Reporter in and for said County
 6 and State do hereby certify that the Deponent
 7 herein, BRIAN BAUER, prior to the taking of the
 8 foregoing deposition, and on the 19th of December
 9 A.D., 2002, was by me duly sworn to testify to the
 10 truth, the whole truth and nothing but the truth in
 11 the cause aforesaid; that the said deposition was
 12 on that date taken down in shorthand by me and
 13 afterwards transcribed, and that the attached
 14 transcript contains a true and accurate translation
 15 of my shorthand notes referred to.

16 Given under my hand and seal this 3rd day
 17 of January A.D., 2003.

18 Notary Public and
 19 Certified Shorthand Reporter

23 License No. 084-004174

24

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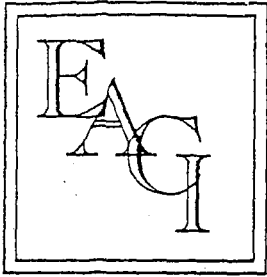
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| 102:9 | 102:11 122:22 | | 9:9 | | 62:22 | 63:14 63:17 | | | | 86:22 | 92:11 97:11 |
| specifics [1] | 130:11 | | stuff [18] | 19:19 | 64:8 | 64:18 64:20 | | | | 129:10 | |
| speed [1] | 109:24 | | 27:10 | 38:13 50:20 | 65:20 | 78:13 78:14 | | | | title [2] | 31:3 31:10 |
| spell [1] | 5:20 | | 51:24 | 52:21 59:10 | 78:14 | 99:13 99:15 | | | | titles [1] | 30:20 |
| spelled [2] | 74:5 | | 68:11 | 72:18 72:19 | 99:20 | 111:9 115:7 | | | | today [2] | 7:15 |
| 74:6 | | | 77:1 | 88:14 101:3 | 115:11 | 115:12 119:1 | | | | 31:21 | |
| spend [1] | 19:8 | | 109:12 | 111:12 111:13 | 119:6 | 120:2 120:14 | | | | together [14] | 30:20 |
| spent [4] | 59:1 | | 111:14 | 132:3 | 120:15 | 120:23 121:4 | | | | 30:22 | 43:23 61:9 |
| 81:17 | 113:11 117:10 | | subcontractor [6] | 80:17 80:18 80:21 | 123:5 | 123:14 | | | | 64:14 | 66:20 67:1 |
| Springfield [4] | 1:16 | | 81:2 | 81:8 81:14 | sworn [5] | 5:2 | | | | 67:6 | 102:10 111:11 |
| 2:10 | 4:6 8:20 | | subcontractors [1] | 109:16 | 5:4 | 7:8 7:10 | | | | 111:24 | 117:13 133:6 |
| SS [1] | 142:1 | | 109:16 | | 142:9 | | | | | 133:9 | |
| ST [1] | 134:12 | | subject [1] | 75:17 | system [64] | 54:1 | | | | Tom [3] | 73:20 73:21 |
| Stadelman [1] | 21:13 | | subjective [1] | 34:9 | 57:15 | 57:17 57:19 | | | | 73:24 | |
| stamp [2] | 25:12 | | submit [9] | 20:7 | 58:12 | 58:17 58:22 | | | | tomorrow [1] | 45:19 |
| 72:18 | | | 24:11 | 40:15 41:18 | 59:1 | 59:2 59:6 | | | | too [13] | 8:12 28:11 |
| stamped [1] | 25:11 | | 44:16 | 71:23 83:1 | 59:7 | 61:6 62:5 | | | | 28:15 | 35:7 37:14 |
| stand [2] | 114:5 | | 88:3 | 132:18 | 62:9 | 62:13 63:14 | | | | 38:9 | 38:16 54:15 |
| 114:7 | | | submitted [6] | 25:2 | 63:16 | 63:19 63:20 | | | | 54:19 | 89:3 112:1 |
| standard [10] | 30:4 | | 29:20 | 51:22 87:17 | 64:4 | 64:7 64:19 | | | | 115:14 | 115:17 |
| 35:16 | 37:2 37:7 | | 95:19 | 123:2 | 64:22 | 65:1 65:2 | | | | took [4] | 38:20 82:12 |
| 37:8 | 37:10 37:16 | | submitting [4] | 31:20 | 65:3 | 65:5 65:6 | | | | 85:21 | 94:7 |
| 38:15 | 88:6 134:14 | | 40:6 | 40:22 130:9 | 65:20 | 78: - 23 | | | | top [1] | 71:24 |
| stands [1] | 134:13 | | subtotal [2] | 61:10 | 79:2 | 79:5 6 | | | | torture [1] | 6:22 |
| start [2] | 18:23 92:8 | | 51:11 | | 79:9 | 98:1 6:11 | | | | total [13] | 70:4 |
| started [3] | 11:15 | | | | 99:14 | 99:16 99:18 | | | | | |
| | | | | | 99:21 | 100:2 107:15 | | | | | |
| | | | | | 107:20 | 111:9 111:11 | | | | | |
| | | | | | 111:14 | 111:17 115:7 | | | | | |



Miller, June - UST-tech
ENVIRONMENTAL AUDITS & CONSULTANTS, INC.

1111 N. 5th Street • Vandalia, IL 62471

Phone: (618) 283-3037 • FAX (618) 283-3662

February 4, 2002

Illinois Environmental Protection Agency
Bureau of Land #24
LUST Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Re: Incident #972081 High Priority Corrective Action Plan – CAP 3

Dear Sir or Madam:

Please find enclosed the original and one copy of the High Priority Corrective Action Plan – CAP 3 for the above referenced incident number. If you have any questions please don't hesitate to call our office.

Sincerely,

Tari L. Jahn
Office Manager

Enclosure

Cc: File

RECEIVED
FEB 06 2002
IEPA/BOL

RELEASABLE

FEB 22 2002

REVIEWER MD

Other Costs - A listing and description of all other costs which will be/were incurred and are not specifically listed on this form should be attached. The listing should include a cost breakdown in a time and materials format.

| Other Costs | Quantity | Price/Item | Total Cost | Do Handling Charges Apply? |
|---|-----------|---------------|------------|----------------------------|
| Mileage | 1600 | \$0.40/mile | \$640.00 | NO |
| 2" PVC line Pipe | 500' | \$3/ft | \$1,500.00 | YES |
| 1" PVC line Pipe | 600' | \$2/ft | \$1,200.00 | YES |
| PVC Connections | 1 | \$1,000.00 | \$1,000.00 | YES |
| Glue, cleaner | | | | |
| AS/SVE Well drilling & Materials | 250' | \$30/Ft | \$7,500.00 | YES |
| Manhole Covers | 15 | \$125 | \$1,875.00 | YES |
| Sparge Points | 10 | \$200.00 | \$2,000.00 | YES |
| Electrician | 1 | \$4,000 | \$4,000.00 | YES |
| Illinois Power, set 480 3-phase pole & transformers | 1 | \$6,000 | \$7,500.00 | YES |
| AS/SVE Equipment rental | 24 mo | \$4,500.00/mo | \$108,000* | YES |
| AS/SVE startup/delivery | 1 | \$1,000.00 | \$1,000.00 | YES |
| Trenching, backhoe | 40 | \$75/hour | \$3,000.00 | YES |
| Grout | 50 | \$4/sks | \$200.00 | YES |
| Sand for trenches | 160 cu yd | \$10/cu yd | \$1,600.00 | YES |
| Disposal of impacted Surface soils when Installing trenches | 250 tons | \$15.00/ton | \$3,750.00 | YES |
| Hauling soil | 250 tons | \$18/ton | \$4,500.00 | YES |

* purchase of system will cost \$70,000

TOTAL OTHER COSTS = \$ 149,265.00

Subtotal Page I-1 \$990.00

Total Pages I-1 and I-2 \$ 150,255.00



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY *Miller, June*
Hustick

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

RENEE CIPRIANO, DIRECTOR

217/782-6762

FEB 25 2002

CERTIFIED MAIL

7000 1670 0008 16731784

Double T Marathon
Attn: Norma June Miller
1241 Thistle
Vandalia, IL 62471

Re: LPC #027458002 -- Clinton County
Keysport/Double T Marathon
504 West Main Street
LUST Incident No. 972081
LUST Technical File

Dear Ms. Miller:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated February 4, 2002, was received by the Illinois EPA on February 15, 2002. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 IAC).

Pursuant to 35 IAC Section 732.405(c) and Section 57.7(c)(4) of the Act, the plan is approved. The activities proposed in the plan are appropriate to demonstrate compliance with 35 IAC Part 732 and Title XVI of the Act.

In addition, the total proposed budget for the High Priority Corrective Action Plan has been approved for the amounts listed in Section 1 of Attachment A. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of reimbursement may be limited by 35 IAC Sections 732.604, 732.606(s), and 732.611 as well as Sections 57.8(e), 57.8(g) and 57.8(d) of the Act.

All future correspondence must be submitted to:

Illinois Environmental Protection Agency
Bureau of Land - #24
LUST Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

RELEASABLE

MAR 12 2002

REVIEWER MM

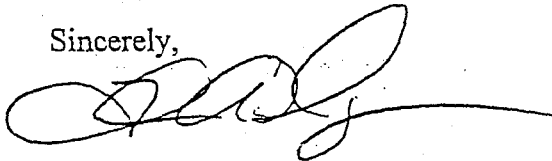
GEORGE H. RYAN, GOVERNOR

Please submit all correspondence in duplicate and include the "Re:" block shown at the beginning of this letter.

Within 35 days after the date of mailing of this final decision, the owner or operator may petition for a hearing before the Illinois Pollution Control Board (Board) to contest the decision of the Illinois EPA. (For information regarding the filing of an appeal, please contact the Board at 312/814-3620.) However, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the owner or operator and the Illinois EPA within the 35-day initial appeal period. (For information regarding the filing of an extension, please contact the Illinois EPA's Division of Legal Counsel at 217/782-5544.)

If you have any questions or need further assistance, please contact Chris Covert at 217/785-3943.

Sincerely,



Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

TAH:CC\

Attachment: Attachment A

cc: Environmental Audits & Consultants, Inc.
Division File

Attachment A

Re: LPC # 027458002 -- Clinton County
Keysport/Double T Marathon
504 West Main Street
LUST Incident No. 972081
LUST Technical File

NOTE: Citations in this attachment are from 35 Illinois Administrative Code (35 IAC) and the Environmental Protection Act.

SECTION 1

The following amounts have been approved:

| | |
|--------------|---------------------------------|
| \$0.00 | Investigation Costs |
| \$6,572.50 | Analysis Costs |
| \$43,120.00 | Personnel Costs |
| \$1,840.00 | Equipment Costs |
| \$150,255.00 | Field Purchases and Other Costs |
| \$8,003.95 | Handling Charges |

SECTION 2

The total budget approved to-date for corrective action is:

| | |
|--------------|---------------------------------|
| \$12,214.50 | Investigation Costs |
| \$10,657.50 | Analysis Costs |
| \$66,560.00 | Personnel Costs |
| \$3,945.00 | Equipment Costs |
| \$151,163.50 | Field Purchases and Other Costs |
| \$10,155.65 | Handling Charges |

TAH:CC\



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

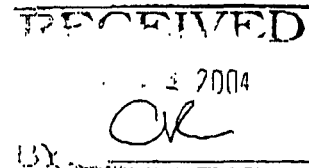
1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
 JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR RENEE CIPRIANO, DIRECTOR

217/782-6762

MAR 22 2004

Home Oil Company
 Mr. Keith Stadelman
 P. O. Box 571
 Carlinville, Illinois 62626



Re: LPC #1630105092 – St. Clair County
 Belleville/Home Oil Company
 2700 West Main St.
 LUST Incident No. 910367
 LUST FISCAL FILE

Dear Mr. Stadelman:

The Illinois Environmental Protection Agency (Illinois EPA) has received the Miscellaneous Correspondence from CW³M Company for the above-referenced LUST Incident. This information was dated March 2, 2004 and was received by the Illinois EPA on March 2, 2004.

The Agency's letter of January 28, 2004 constitutes the Agency's final action. As stated in that letter, an underground storage tank owner or operator may appeal the final decision to the Illinois Pollution Control Board (Board) pursuant to Section 22.18b(g) and Section 40 of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. This 35-day period expired on March 4, 2004. Since no request for extension was received by the Illinois EPA prior to March 4, 2004, your option to appeal has expired. No further consideration of this decision is possible.

Please submit future correspondence to:

Illinois Environmental Protection Agency
 Bureau of Land - #24
 Leaking Underground Storage Tank Section
 1021 North Grand Avenue East
 Post Office Box 19276
 Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

ROCKFORD – 4302 North Main Street, Rockford, IL 61103 – (815) 987-7760 • DES PLAINES – 9511 W. Harrison St., Des Plaines, IL 60016 – (847) 294-4000
 ELGIN – 595 South State, Elgin, IL 60123 – (847) 608-3131 • PEORIA – 5415 N. University St., Peoria, IL 61614 – (309) 693-5463
 BUREAU OF LAND - PEORIA – 7620 N. University St., Peoria, IL 61614 – (309) 693-5462 • CHAMPAIGN – 2125 South First Street, Champaign, IL 61820 – (217) 278-5800
 SPRINGFIELD – 4500 S. Sixth Street Rd., Springfield, IL 62706 – (217) 786-6892 • COLLINSVILLE – 2009 Mall Street, Collinsville, IL 62234 – (618) 346-3170
 MARION – 2309 W. Main St., Suite 116, Marion, IL 62959 – (618) 993-7200

Page 2

If you have any questions or need further assistance, please contact John Barrett of my staff at (217) 782-4869.

Sincerely,



Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

TAH:JDB

c: CW³M Company
Division File