

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

MARINE BANK SPRINGFIELD TRUST #53-0051,))
Petitioner,)
v.) PCB 24-81)
) (UST Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

NOTICE OF FILING AND PROOF OF SERVICE

TO: Carol Webb, Hearing Officer Richard Kim
Illinois Pollution Control Board Division of Legal Counsel
2520 W Iles Ave 2520 W Iles Ave
P.O. Box 19274 P.O. Box 19276
Springfield, IL 62794-9274 Springfield, IL 62794-9276
(carol.webb@illinois.gov) (richard.kim@illinois.gov)

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, Petitioner's Motion for Authorization of Payment of Attorney's Fees as Costs of Corrective Action, copies of which are herewith served upon the above persons.

The undersigned hereby certifies that I have served this document by e-mail upon the above persons at the specified e-mail address before 5:00 p.m. on the 31st day of December, 2025. The number of pages in the e-mail transmission, excluding exhibits, is 7 pages.

Respectfully submitted,

MARINE BANK SPRINGFIELD TRUST #53-0051
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
80 Bellerive Road
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MARINE BANK SPRINGFIELD TRUST #53-0051,)	
Petitioner,)	
)	
v.)	PCB 24-81
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
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PETITIONER’S MOTION FOR AUTHORIZATION OF PAYMENT OF ATTORNEY’S FEES AS COSTS OF CORRECTIVE ACTION

NOW COMES Petitioner, MARINE BANK SPRINGFIELD TRUST #53-0051, by its undersigned counsel, and pursuant to Section 57.8(1) of the Illinois Environmental Protection Act (415 ILCS 5/57.8(1)), petitions the Illinois Pollution Control Board (hereinafter “the Board”) for an order authorizing payment of legal costs, and in support thereof states as follows:

1. On December 4, 2025, the Board entered an interim opinion and order finding that Petitioner’s corrective action budget would not violate the Act or Board rules and directed Petitioner “to file a statement of legal fees that may be eligible for reimbursement and its arguments why the Board should exercise its discretion to order reimbursement of legal fees from the UST Fund.” Interim Opinion at 7.

2. Attached hereto is the Affidavit of Patrick D. Shaw, documenting the legal costs in this matter, which are \$12,061.00, consisting of \$11,986.00 in attorney-time and \$75.00 in costs (which consist entirely of the filing fee). This affidavit is modeled on previous affidavits utilized by undersigned counsel and found to have been sufficient by the Board. E.g., Prime Location PROPERTIES v. IEPA, PCB No. 9-67, at p. 5 (Nov. 5, 2009). It sets forth the legal services provided, the identity of the attorney providing the legal services, and itemization

of the time expended for the individual service, and the hourly rate charged. Id.

3. The Board has previously recognized undersigned counsel's experience in underground storage tank appeals. Prime Location Properties v. IEPA, PCB No. 9-67, at p. 6 (Nov. 5, 2009). As of January 1, 2024, his billing rate has been \$260 per hour, which is believed to be a reasonable rate for environmental attorneys who practice before the Board, and which has been an acceptable billing rate in previous attorney-fee awards. Dickerson Petroleum v. IEPA, PCB 09-87, slip op. at 4 (Dec. 2, 2010) (\$295.00 per hour); Chatham BP v. IEPA, PCB 14-1 (Feb. 5, 2015)(\$275.00 per hour detailed in motion)

4. All of the legal costs sought herein were incurred "seeking payment under Title XVI and the plain language of Section 57.8(l) of the Act allows for the awarding of legal fees." Illinois Ayers Oil Co. v. IEPA, PCB 03-214, at p. 8 (Aug 5, 2004).

5. The award of legal costs are discretionary with the Board. Ted Harrison Oil Co. v. IEPA, PCB 99-127 (Oct. 16, 2003). Historically, the Board has initially and fully considered the reasonableness of the claimed legal defense costs before exercising its discretion to authorize their payment. Evergreen FS, v. IEPA, PCB No. 11-51 (Sept. 6, 2012). In Illinois Ayers Co. V. IEPA, PCB 03-214 (Aug. 5, 2004), the petitioner urged the Board to follow federal precedents arising under public interest statutes, which assume that a prevailing party "should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust." Hensley v. Eckerhart, 461 U.S. 424, 429 (1983). While the Board has made no express comment on this presumption, the Board has generally awarded litigation costs whenever the petitioner has prevailed on the issues either completely or substantially. See ABP Properties v. IEPA, PCB 25-1, at p. 5 (April 17, 2025) (awarding \$10,995.00); 1441 Kingshighway v. IEPA, PCB PCB 24-32,

at p. 1 (Aug. 22, 2024) (awarding \$19,729.00); Singh v. IEPA, PCB 23-90, at p. 5 (Nov. 16, 2023) (awarding \$19,759.77); Parker's Gas & More v. IEPA, PCB 19-79, at p. 5 (July 6, 2023) (awarding \$20,054.00); Reliable Stores v. OSFM, PCB 19-2, at p. 5 (Dec. 15, 2022) (awarding \$33,106.65); Dersch Energies v. IEPA, PCB 17-003, at p. 4 (Oct. 20, 2022) (awarding \$32,676.30); KB Sullivan v. IEPA, PCB 21-78, at p. 3 (Oct. 20, 20, 2022) (awarding \$7,860.00); Abel Investments v. IEPA, PCB 16-108, at p. 4 (Mar. 2, 2017) (awarding \$13,519.37); City of Benton Fire Department, PCB No. 17-1, slip op. at 3 (Feb. 4, 2016) (awarding \$20,357.80); Knapp Oil Co. v. IEPA, PCB 16-103, at p. 3 (Nov. 17, 2016) (awarding \$9,990.38); Burgess v. IEPA, PCB 15-186, at p. 11 (Nov. 5, 2015) (awarding \$11,304.16); Estate of Gerald D. Slightom v. IEPA, PCB 2011-025 (Nov. 5, 2015) (awarding \$79,455.26 following appeal); Chatham BP v. IEPA, PCB 15-173 (Sept. 3, 2015) (awarding \$11,485.08); McAfee v. IEPA, PCB 15-84 (May 21, 2015) (awarding \$10,315.00); PAK-AGS v. IEPA, PCB 15-14 (March 5, 2015) (awarding \$10,355.00); Chatham BP v. IEPA, PCB 14-1 (Feb. 5, 2015)(awarding \$21,314.70); Evergreen FS v. IEPA, PCB 11-51 (Sept. 6, 2012) (awarding \$ 13,473.80); Wheeling/GWA Auto Shop v. IEPA, PCB 10-70 (Sept. 22, 2011) (awarding \$78,915.86); Zervos Three, v.IEPA, PCB 10-54 (June 2, 2011) (awarding \$73,347.88); Dickerson Petroleum v. IEPA, PCB 09-87 (Dec. 2, 2010) (awarding \$53,019.29); Prime Location PROPERTIES v. IEPA, PCB 9-67 (Nov. 5, 2009)(awarding \$10,088.18); Swif-T Food Mart v. IEPA, PCB No. (Aug. 19, 2004) (awarding \$11,291.37); Illinois Ayers Co. v. IEPA, PCB No. 03-214 (Aug 5, 2004) (awarding \$44,456.49); Ted Harrison Oil Co. v. IEPA, PCB 99-127 (Oct. 16, 2003) (awarding \$19,421.75).

6. Petitioner prevailed in full in obtaining from the Board a reversal of the IEPA's decision and an order for IEPA to approve the budget as submitted. Interim Opinion, at pp. 6-7.

The legal costs were reasonable given the novelty of the issue of first impression, which include the required documentation for a budget for obtaining a groundwater ordinance and for installation of a concrete engineered barrier. The decision may help resolve other pending appeals with similar issues.

7. Accordingly, Petitioner asks the Board to exercise its discretion to award the legal defense costs incurred seeking payment for corrective action under Title XVI.

Respectfully submitted,

MARINE BANK SPRINGFIELD TRUST #53-0051,
Petitioner

By its attorneys,
LAW OFFICE OF PATRICK D. SHAW

By: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
80 Bellerive Road
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com

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AFFIDAVIT OF PATRICK D. SHAW
VERIFYING ATTORNEY FEES

Affiant, Patrick D. Shaw, being first duly sworn, states as follows:

1. The statements made herein are based upon my personal knowledge, and I am competent to testify hereto.
2. I am an attorney duly licensed to practice law in the State of Illinois; and I am the attorney of record for Petitioner in the case entitled MARINE BANK SPRINGFIELD TRUST #53-0051 v. IEPA, PCB 24-81.
3. Attached hereto as Exhibit A is a printout from my bookkeeping software detailing legal defense costs incurred in this matter. At all times relevant hereto my hourly rate was \$260 per hour, which is the regular and ordinary billing rate charged all of my clients. I am generally familiar with the hourly rates of environmental attorneys practicing in Springfield, Illinois and before the Board, and believe this rate to be comparable, if not less, than other such attorneys.
4. This appeal involved a fairly straight-forward process of preparing a petition for review, receiving the administrative record, and drafting a motion for summary judgment. During the preparation of the motion for summary judgment, documents inadvertently omitted

from the Administrative Record were identified which resulted in discussions with the Agency attorney and consultant about the attachments included with the documents and a motion to supplement the record was prepared and filed. There was no hearing.

5. Exhibit A identifies the legal work performed and the attorney's fees incurred in this matter. It reveals the date the work was performed, the description of the work performed, the amount of time spent, and the total fees incurred. Filing fees, postage and photocopying charges are also identified when applicable.

6. The legal defense costs incurred in seeking payment for corrective action herein total \$12,061.00, consisting of \$11,986.00 in attorney-time and \$75.00 in costs (which consist entirely of the filing fee).

FURTHER AFFIANT SAYETH NOT.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


Patrick D. Shaw

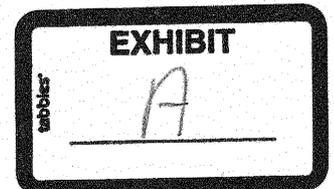
Law Office of Patrick D. Shaw
 80 Bellerive Road
 Springfield, IL 62704

Invoice submitted to:
 CW3M Company
 701 South Grand West
 Springfield IL 62704

December 31, 2025

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
6/3/2024 Receive & Review Agency decision Marine Bank Trust #53-0051	0.30 260.00/hr	78.00
6/7/2024 Review materials and e-mail opinions; receive response Marine Bank Trust #53-0051	0.50 260.00/hr	130.00
6/10/2024 Receive & review CAP; e-mails and attachments; draft part of petition Marine Bank Trust #53-0051	1.50 260.00/hr	390.00
6/24/2024 Draft petition for review; e-mail to client Marine Bank Trust #53-0051	2.30 260.00/hr	598.00
6/27/2024 E-mail w/ client Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
Receive & review e-mail; revise and file petition for review Marine Bank Trust #53-0051	0.30 260.00/hr	78.00
7/11/2024 Receive & review Board order & Hrg Officer order Marine Bank Trust #53-0051	0.20 260.00/hr	52.00
7/22/2024 Draft waivers Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
7/25/2024 Tel IEPA atty; tel status conf. w/ Hrg Officer; receive & review Hrg Officer order Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
7/29/2024 Review administrative record; draft memo to file Marine Bank Trust #53-0051	3.70 260.00/hr	962.00



	<u>Hrs/Rate</u>	<u>Amount</u>
7/30/2024 E-mail client re review of administrative record and opinions going forward Marine Bank Trust #53-0051	0.60 260.00/hr	156.00
8/29/2024 Tel conf. w/ Hrg Officer and IEPA atty; receive & review Hrg Officer order Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
9/6/2024 Draft and file waiver Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
11/7/2024 Tel Conf. w/ Hrg Officer and IEPA; prepare for tel conf. Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
11/22/2024 Draft motion for summary judgment Marine Bank Trust #53-0051	1.50 260.00/hr	390.00
11/26/2024 Draft motion for summary judgment Marine Bank Trust #53-0051	0.70 260.00/hr	182.00
12/2/2024 Draft and file waiver Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
12/16/2024 Draft motion for summary judgment Marine Bank Trust #53-0051	1.60 260.00/hr	416.00
12/18/2024 Draft motion for summary judgment Marine Bank Trust #53-0051	1.40 260.00/hr	364.00
12/19/2024 Draft motion for summary judgment Marine Bank Trust #53-0051	1.10 260.00/hr	286.00
12/20/2024 Draft motion for summary judgment Marine Bank Trust #53-0051	3.00 260.00/hr	780.00
12/30/2024 Draft motion for summary judgment Marine Bank Trust #53-0051	3.40 260.00/hr	884.00
12/31/2024 Draft motion for summary judgment Marine Bank Trust #53-0051	1.40 260.00/hr	364.00
1/7/2025 Draft motion for summary judgment Marine Bank Trust #53-0051	3.10 260.00/hr	806.00
1/8/2025 Draft motion for summary judgment Marine Bank Trust #53-0051	1.70 260.00/hr	442.00
1/10/2025 Draft motion for summary judgment Marine Bank Trust #53-0051	2.00 260.00/hr	520.00
1/16/2025 Conf. call w/ IEPA attorney and Hrg Officer; receive & review Hrg Officer order Marine Bank Trust #53-0051	0.10 260.00/hr	26.00

	<u>Hrs/Rate</u>	<u>Amount</u>
1/25/2025 Revise and forward draft motion for summary judgment to client Marine Bank Trust #53-0051	2.00 260.00/hr	520.00
1/27/2025 Receive & review e-mail from client Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
1/30/2025 Revise motion for summary judgment Marine Bank Trust #53-0051	0.50 260.00/hr	130.00
1/31/2025 Draft motion to supplement record; e-mail documents to IEPA to be supplemented; receive response; e-mail client regarding IEPA question Marine Bank Trust #53-0051	1.40 260.00/hr	364.00
2/6/2025 Receive & review e-mail from consultant regarding supplemental documents Marine Bank Trust #53-0051	0.30 260.00/hr	78.00
2/10/2025 Review documents; e-mail IEPA attorney re supplementing record Marine Bank Trust #53-0051	0.80 260.00/hr	208.00
2/11/2025 Revise and file motion to supplement record Marine Bank Trust #53-0051	0.30 260.00/hr	78.00
2/13/2025 Receive & review Hrg Officer order on motion to supplement record Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
2/25/2025 Revise motion for summary judgment Marine Bank Trust #53-0051	2.60 260.00/hr	676.00
2/26/2025 Revise and file motion for summary judgment Marine Bank Trust #53-0051	2.80 260.00/hr	728.00
2/28/2025 Review e-mail from IEPA atty; respond Marine Bank Trust #53-0051	0.10 260.00/hr	26.00
3/6/2025 Receive proposal from IEPA; e-mails w/ client re same; review Hrg Officer order w/ revised deadline Marine Bank Trust #53-0051	1.40 260.00/hr	364.00
3/17/2025 Tel Kim re proposal; tel conf. w/ Hrg Officer; receive & review Hrg Officer order Marine Bank Trust #53-0051	0.20 260.00/hr	52.00
3/27/2025 E-mail status of appeal to client Marine Bank Trust #53-0051	0.20 260.00/hr	52.00
4/3/2025 Receive & review IEPA response; e-mail to client w/ comments Marine Bank Trust #53-0051	0.30 260.00/hr	78.00
7/28/2025 Telephone conf. w/IEPA & PCB; file waiver Marine Bank Trust #53-0051	0.10 260.00/hr	26.00

CW3M Company

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	<u>Hrs/Rate</u>	<u>Amount</u>
12/5/2025 Receive & review Board decision; e-mail client Marine Bank Trust #53-0051	0.60 260.00/hr	156.00
12/29/2025 Review file; draft atty fee petition & affidavit Marine Bank Trust #53-0051	0.90 260.00/hr	234.00
12/31/2025 Revise and file atty fee petition Marine Bank Trust #53-0051	0.30 260.00/hr	78.00
For professional services rendered	<hr/> 46.10	<hr/> \$11,986.00
Additional Charges :		
6/27/2024 Pollution Control Board filing fee Filing Fee		75.00
Total additional charges		<hr/> \$75.00