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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BOB AND SHARON LAMMA,

Petitioner,

vs.

No. PCB 99-182

OFFICE OF THE STATE FIRE MARSHAL,

Respondent.

Proceedings held on December 5, 2000, at 9:00 a.m., at the Illinois Pollution Control Board, 600 South Second Street, Suite 403, Springfield, Illinois, before Steven C. Langhoff, Hearing Officer.

Reported by: Darlene M. Niemeyer, CSR, RPR
CSR License No.: 084-003677

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A P P E A R A N C E S

STATE OF ILLINOIS, OFFICE OF THE ATTORNEY
GENERAL

BY: Sally A. Carter
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
On behalf of the People of the State
of Illinois.

On behalf of Petitioner:
Pro se

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1 P R O C E E D I N G S

2 (December 5, 2000; 9:00 a.m.)

3 HEARING OFFICER LANGHOFF: Good morning, everyone. My name
4 is Steven Langhoff. I am the Pollution Control Board Hearing
5 Officer who will be handling this matter. The matter before us
6 today is PCB 99-182, Bob Lamma and Sharon Lamma versus Office of
7 the State Fire Marshal. For the record, Hearing Officer Amy
8 Muran-Felton was the Hearing Officer in this matter for a portion
9 of time before I was assigned as Hearing Officer.

10 For the record, it is Tuesday, December 5th of 2000, and we
11 are beginning at 9:00 a.m. Are there any members of the public
12 present? I want to note for the record that there are no members
13 of the public present. Members of the public are encouraged and
14 allowed to provide public comment if they so choose.

15 This case is a petition for review of an Office of the
16 Illinois State Fire Marshal's denial of an underground storage
17 tank, UST, fund reimbursement decision in excess of \$10,000.00.
18 The location of the site is the Auburn Tire and Service Company,
19 402 West Jackson, Auburn, Sangamon County, Illinois.

20 I want to take a brief moment to let you know what is going
21 to happen today and after the proceeding today. You should know
22 that it is the Pollution Control Board and not me that will make
23 the final decision in this case. My job as a Hearing Officer
24 requires that I conduct the hearing in a neutral and orderly

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1 manner so that we have a clear record of the proceedings here
2 today. During the course of the hearing, please address me
3 either as Mr. Hearing Officer or Mr. Langhoff.

4 It is also my responsibility to assess the credibility of
5 any witnesses giving testimony today, and I will do so on the
6 record at the conclusion of the proceedings.

7 We will begin with opening statements from the parties and
8 then we will proceed with Mr. & Mrs. Lamma's case, followed by
9 the Office of the State Fire Marshal's case. We will conclude
10 any closing arguments that the parties wish to make, and then we
11 will discuss off the record a briefing schedule which will then
12 be set on the record at the conclusion of the proceedings.

13 The Board's procedural rules and the Environmental
14 Protection Act provide that members of the public shall be
15 allowed to speak or submit written statements at hearing. Any
16 persons offering such testimony today shall be subject to
17 cross-examination by both of the parties. Any such statements
18 offered by the members of the public must be relevant to the case
19 at hand. I will call for any statements from members of the
20 public at the conclusion of the proceedings.

21 This hearing was noticed pursuant to the Illinois
22 Environmental Protection Act and the Board's rules and
23 regulations and will be conducted pursuant to Sections 107.240

24 through 107.260 of the Board's rules.

6

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1 Before beginning, I would ask the parties to make their
2 appearances on the record beginning with the petitioner. Ms.
3 Lamma, would you make an appearance on the record.

4 MS. LAMMA: My name is Sharon Lamma. My address -- would
5 you want my address?

6 HEARING OFFICER LANGHOFF: No, that's fine. Thank you. It
7 is Ms. Lamma and not Lamma?

8 MS. LAMMA: Yes.

9 HEARING OFFICER LANGHOFF: Ms. Lamma, you are not an
10 attorney, correct?

11 MS. LAMMA: No.

12 HEARING OFFICER LANGHOFF: And you have elected to proceed
13 today without the benefit of legal counsel, correct?

14 MS. LAMMA: Right.

15 HEARING OFFICER LANGHOFF: Okay. Thank you very much.

16 MS. CARTER: I am Sally Carter, representing the Office of
17 the State Fire Marshal.

18 HEARING OFFICER LANGHOFF: Thank you, Ms. Carter. Do we
19 have any preliminary matters that need to be discussed on the
20 record?

21 MS. CARTER: The only preliminary matter that the Office of
22 the State Fire Marshal may have is simply that we will be
23 tendering for evidence the entire record that has previously been

24 filed in this matter. I don't know if the Hearing Officer would

7

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1 prefer that that be done with the witness on the stand or at this
2 time.

3 HEARING OFFICER LANGHOFF: At this time would be fine.

4 Ms. Lamma, do you have any objections?

5 MS. LAMMA: That's fine. No.

6 HEARING OFFICER LANGHOFF: Okay.

7 MS. CARTER: That is People's Exhibit Number 1, then.

8 HEARING OFFICER LANGHOFF: Would you briefly describe that
9 for the Board's record.

10 MS. CARTER: Okay. The People's Exhibit Number 1 is the
11 record that has previously been filed in this case back -- I
12 don't recall the exact date.

13 HEARING OFFICER LANGHOFF: It is numbered, Ms. Carter?

14 MS. CARTER: It is numbered pages one through -- just a
15 moment. It is 1 through 88.

16 HEARING OFFICER LANGHOFF: Okay. Pages 1 through 88.
17 That's fine. Thank you.

18 Are there any prehearing motions that the parties would
19 like to present before we proceed?

20 MS. CARTER: No.

21 MS. LAMMA: No.

22 HEARING OFFICER LANGHOFF: Ms. Lamma, would you like to

23 give a brief opening statement.

24 MS. LAMMA: Well, I am here to represent the Auburn Tire

8

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1 and Service, which is now closed. My husband could not come
2 today because of health problems, so I am here to ask for some
3 help with the deductible on the tank removal. I have never had
4 to do anything like this before, so please bear with me. And I
5 just want to thank you for letting me come today.

6 HEARING OFFICER LANGHOFF: Thank you, Ms. Lamma.

7 Ms. Carter, do you have a brief opening statement?

8 MS. CARTER: Yes, very brief, Mr. Hearing Officer.

9 HEARING OFFICER LANGHOFF: Thank you.

10 MS. CARTER: On September 11th of 1991, the petitioners,
11 Bob and Sharon Lamma, registered two gasoline tanks with the
12 Office of the State Fire Marshal and eventually the fees
13 associated therewith were paid. Since that time, the tanks were
14 removed and a release was discovered. Ultimately, the Illinois
15 Emergency Management Agency was notified of the release and the
16 Lammass submitted a UST fund eligibility and deductibility
17 application to the Office of the State Fire Marshal.

18 The Office of the State Fire Marshal made an eligibility
19 determination based on these facts and the information supplied
20 in the application that was consistent with the information
21 contained in the Office of the State Fire Marshal files. The
22 Office of the State Fire Marshal made the appropriate eligibility

23 determination, as authorized by the applicable law, that the
24 petitioners were eligible for a deductible of \$100,000.00 for the

9

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1 site located at the Auburn Tire and Service Company, in Auburn,
2 Sangamon County, Illinois. Thank you.

3 HEARING OFFICER LANGHOFF: Thank you, Ms. Carter.

4 Ms. Lamma, would you please put on your case-in-chief now.

5 MS. LAMMA: Okay.

6 HEARING OFFICER LANGHOFF: Would you like to be the first
7 witness in your behalf?

8 MS. LAMMA: That would be fine.

9 HEARING OFFICER LANGHOFF: Okay. I am going just have you
10 go ahead and sit there, but I will have the court reporter go
11 ahead and swear you in.

12 (Whereupon the witness was sworn by the Notary
13 Public.)

14 HEARING OFFICER LANGHOFF: Thank you, Ms. Lamma. Go ahead
15 and proceed.

16 MS. LAMMA: In August of 1982 we bought a filling station,
17 contract for deed, from Lewis and Gloria Nichols, and Lewis has
18 since passed away. In 1986 we quit pumping gas and turned it
19 into a small coffee shop. After my husband had lots of health
20 problems, we rented it out, and I work directly across the street
21 from the Auburn Tire and Service.

22 On August 22nd of 1991, Mr. Spradlin, who was the Fire
23 Marshal, came to my work and wanted to know if I knew anything
24 about the tanks being registered across the street. I told him

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1 that I was buying the property from the Nichols, contract for
2 deed, so I presumed that they had registered them and taken care
3 of all of the necessary papers. He told me that they hadn't,
4 which was devastating.

5 But he told me it was in my best interest for me to
6 register them. So I asked him to explain the procedure and he
7 was very nice and he did so. He told me that it would cost
8 \$200.00 to register them, and that -- I asked him what the
9 registration -- what that entailed, and he said that there was a
10 deductible on the tanks and that there was a fund with the State
11 of Illinois, and that if they were registered that then there
12 would be a \$10,000.00 deductible. So I gave him a check right
13 then for the \$200.00.

14 So do you want me to go ahead and finish it?

15 HEARING OFFICER LANGHOFF: Yes, please.

16 MS. LAMMA: Okay. On January the 10th of 1992, I received
17 a late notice fine of \$1,000.00 from the Illinois Fire Marshal,
18 and at that time I was informed that -- I wrote a letter back to
19 the Illinois State Fire Marshal and asked them who was
20 responsible to pay the fees, and that I have an exhibit here, and
21 they said that the Nichols' were responsible to pay it. But I

22 approached them and they were real reluctant. I finally got them
23 to pay \$200.00 of it, and I ended up paying the remaining
24 \$800.00.

11

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1 HEARING OFFICER LANGHOFF: Excuse me. You mentioned that
2 you have an exhibit?

3 MS. LAMMA: Yes, I do. That would be Number 4.

4 HEARING OFFICER LANGHOFF: What is that, Ms. Lamma?

5 MS. LAMMA: This is, like, a bill for the \$1,000.00, and
6 then this is what I received back from the Fire Marshal, and it
7 says that the Nichols have the responsibility to pay the fine.

8 HEARING OFFICER LANGHOFF: Does that have a heading from
9 the Office of the State Fire Marshal on the top?

10 MS. LAMMA: It says in review of your letter.

11 HEARING OFFICER LANGHOFF: Does it have a date, Ms. Lamma?

12 MS. LAMMA: It is February the 25th of 1992.

13 HEARING OFFICER LANGHOFF: Okay. Thank you.

14 MS. CARTER: Mr. Hearing Officer, if I could just interject
15 a moment. I don't mean to interrupt, but for clarification I
16 note there were different page numbers on each of the exhibits.

17 Could you just clarify for me, ma'am, what the page numbers
18 are on each of the pages within that exhibit, if that's
19 acceptable.

20 MS. LAMMA: Okay. This one is 42 and this one is 61.

21 MS. CARTER: Okay. Thank you.

22 MS. LAMMA: And then on page 58 there was a letter in the
23 file to the Nichols from the State Fire Marshal and it is saying
24 that they had received notice. The Nichols were the owners of

12

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1 the Auburn Tire and Service at that time.

2 HEARING OFFICER LANGHOFF: Is there another page on the
3 document?

4 MS. LAMMA: Yes, 58.

5 HEARING OFFICER LANGHOFF: Okay. At this time, I believe,
6 Ms. Lamma would tender Exhibit Number 10, Ms. Carter.

7 MS. CARTER: As long as it is correct that it is pages 42,
8 61, and 58, I do not have any objection.

9 MS. LAMMA: Okay. That's what they are. The copies of the
10 checks are on page 46 and 45, 45 and 46.

11 MS. CARTER: That is also included within Plaintiff's 1.

12 MS. LAMMA: Yes.

13 MS. CARTER: Okay. So 45 and 46?

14 MS. LAMMA: Yes.

15 MS. CARTER: Are there any other pages, ma'am, included in
16 plaintiff's Number 4?

17 MS. LAMMA: No.

18 MS. CARTER: Mr. Hearing Officer, I don't have any
19 objections.

20 HEARING OFFICER LANGHOFF: Okay. Thank you. Ms. Lamma

21 that is Exhibit Number 4?

22 MS. LAMMA: Yes, Number 4.

23 HEARING OFFICER LANGHOFF: Okay. Thank you. That will be
24 admitted.

13

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1 (Whereupon said document was duly marked for
2 purposes of identification as Petitioner's Exhibit
3 4 and admitted into evidence as of this date.)

4 HEARING OFFICER LANGHOFF: Okay. Go ahead with your
5 testimony Ms. Lamma.

6 MS. LAMMA: Okay. Then we had five different contractors
7 look at the removal and every one of them had a different
8 conclusion to the problem. So we finally went with Bodine
9 Environmental from Decatur. We contracted them to take out the
10 tanks, and they removed them, then, on January the 12th of 1999.

11 In Exhibit Number 5, this is a log of the underground
12 storage tank removal and Mr. Kirk has signed it. It is on page
13 20, 18 and 19. So 18, 19, and 20, would be his paperwork.

14 HEARING OFFICER LANGHOFF: Thank you. Ms. Carter, do you
15 have Exhibit Number 5?

16 MS. CARTER: No. I am just checking to see. You said
17 pages 18 --

18 MS. LAMMA: Pages 18, 19, and 20.

19 HEARING OFFICER LANGHOFF: Oh, the pages are the State's

20 record?

21 MS. CARTER: Yes.

22 HEARING OFFICER LANGHOFF: Oh, I am sorry. I understand
23 now.

24 MS. CARTER: So I just want to make sure that it is clear

14

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1 for the record, though. Page 19 is actually a notification that
2 was provided to IEMA. The State has no objection to that. Isn't
3 that correct?

4 MS. LAMMA: It is a field report.

5 MS. CARTER: Up at the top, ma'am, it says Illinois
6 Emergency Management Agency, IEMA.

7 MS. LAMMA: Yes.

8 MS. CARTER: That is IEMA.

9 MS. LAMMA: Oh, okay. Thank you.

10 HEARING OFFICER LANGHOFF: Thank you, Ms. Carter. That is
11 admitted.

12 (Whereupon said document was duly marked for
13 purposes of identification as Petitioner's Exhibit
14 5 and admitted into evidence as of this date.)

15 HEARING OFFICER LANGHOFF: Okay. Go ahead, Ms. Lamma.

16 MS. LAMMA: So then Bodine prepared what they called a 45
17 day report and the site clarification work plan. And that is
18 Exhibits 7 and 8.

19 (Whereupon said documents were duly marked for

20 purposes of identification as Petitioner's
21 Exhibits 7 and 8 as of this date.)

22 HEARING OFFICER LANGHOFF: Ms. Carter, do you have Exhibits
23 7 and 8?

24 MS. CARTER: Exhibit 7 is the 45 day report and Exhibit 8

15

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1 is the site classification?

2 MS. LAMMA: Right.

3 MS. CARTER: The work plan. Yes, I do, Mr. Hearing
4 Officer.

5 HEARING OFFICER LANGHOFF: Any objections?

6 MS. CARTER: Yes, I do have an objection. I do not have an
7 objection to the fact that it is a business record of Bodine
8 Environmental Services. However, my concern is simply that these
9 are two documents that the Office of State Fire Marshal did not
10 have before them when they made their eligibility determination.
11 And as such, as we are here today to review the Office of the
12 State Fire Marshal's determination, I don't see the relevancy in
13 either of these documents.

14 HEARING OFFICER LANGHOFF: What are the dates on those
15 documents, Ms. Lamma?

16 MS. LAMMA: One is March of 1999 and the other one is April
17 of 1999.

18 HEARING OFFICER LANGHOFF: Okay. Thank you. I am going to

19 sustain your objection, Ms. Carter, and not admit those
20 documents. However, I will take them into my possession and put
21 them into a sealed envelope in case the Board would overrule me.

22 MS. LAMMA: Okay.

23 HEARING OFFICER LANGHOFF: Please continue, Ms. Lamma.

24 MS. LAMMA: Then Bodine advised me that I was to send the

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1 application for the reimbursement eligibility and deductible
2 application to the State, the Illinois State Fire Marshal. I
3 received my answer back on April the 22nd of 1999, and when I
4 opened the letter I nearly fainted, because it said it was
5 \$100,000.00 deductible.

6 And, I mean, I just couldn't believe it because all these
7 years I had understood that -- I had thought it was going to be
8 \$10,000.00 deductible. And as far as I am concerned, I would not
9 have gone ahead and paid on the property and such as that, had I
10 thought that it was not going to be \$10,000.00, because I could
11 have just paid the -- I could have just paid it as rent, if it
12 was that.

13 So then in the letter, it was signed by Mr. Emkey (spelled
14 phonetically). So I called him and he, of course, advised me
15 then to call Jim Boone, who was in the State Fire Marshal's
16 Office. And they explained to me that -- and I explained my
17 circumstances to them, and they explained to me that since the
18 tanks were not registered before 1987, that this was the

19 procedure per the law. And I understand this. And I know rules
20 are rules, and I know that is what they were going by.

21 But, I mean, I just asked them if there was anything else
22 that I could do to -- since I didn't know about it before 1987,
23 if there was any other procedure that I could do. I have already
24 paid Bodine a total of \$8,953.14. And since then my husband has

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1 had triple bypass, prostate cancer, and both knees operated on.
2 I would like to sell the property, but I can't even sell it until
3 we get this matter cleared up. I have gone to the bank. The
4 banks won't take it either. I mean, they don't want to put a
5 loan on it or anything because of the situation. So we are kind
6 of between a rock and a hard place.

7 On exhibit -- okay. Exhibit Number 9 is the \$100,000.00
8 deductible. I believe you have that.

9 MS. CARTER: Okay. The determination made by the Office of
10 State Fire Marshal?

11 MS. LAMMA: Yes.

12 HEARING OFFICER LANGHOFF: Does that have a page number,
13 Ms. Lamma?

14 MS. LAMMA: I have my original letter.

15 HEARING OFFICER LANGHOFF: Okay.

16 MS. CARTER: Just for the record, Mr. Hearing Officer, it
17 is also pages four and five of People's Number 1.

18 HEARING OFFICER LANGHOFF: Okay. Thank you.

19 MS. LAMMA: And...

20 HEARING OFFICER LANGHOFF: Do you have any other testimony,
21 Ms. Lamma, that you would like to give today.

22 MS. LAMMA: I already -- I have Exhibits 6 and 10. They
23 are letters that I received back from the State Fire Marshal
24 saying that after a review of our records that I had complied

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1 with the orders that had been sent to me. So I just feel, you
2 know, that I tried to do everything that was right. I mean,
3 whenever I was -- I have two letters here. That would be on page
4 seven, and this is dated January of 2000. So I don't know if it
5 is in here or not. It is Exhibit Number 10.

6 (Whereupon said document was duly marked for
7 purposes of identification as Petitioner's Exhibit
8 10 as of this date.)

9 HEARING OFFICER LANGHOFF: Do you have Exhibit Number 10,
10 Ms. Carter?

11 MS. CARTER: I believe I do, Mr. Hearing Officer. Yes, I
12 do.

13 HEARING OFFICER LANGHOFF: Any objections?

14 MS. CARTER: On Plaintiff's Exhibit Number 10, is that the
15 one you are taking first, sir?

16 HEARING OFFICER LANGHOFF: Yes.

17 MS. CARTER: My only concern with this is I understand

18 where Ms. Lamma is coming from. However, my only concern is that
19 this letter was, again, issued by the Office of the State Fair
20 Marshal after they made their deductibility determination. So,
21 again, I am concerned about the relevancy of this document.

22 HEARING OFFICER LANGHOFF: Okay. I will sustain your
23 objection and not admit that exhibit. However, I will take it
24 into my possession. I will admit Exhibit Number 6 and Number 9.

19

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1 (Whereupon said documents were duly marked for
2 purposes of identification as Petitioner's
3 Exhibits 6 and 9 and admitted into evidence as of
4 this date.)

5 HEARING OFFICER LANGHOFF: Ms. Lamma, do you have any other
6 testimony that you would like to give today?

7 MS. LAMMA: And Exhibit Number 11, I have the --

8 HEARING OFFICER LANGHOFF: I would like to take care of the
9 exhibits in just a minute.

10 MS. LAMMA: Okay.

11 HEARING OFFICER LANGHOFF: I would like to get all of your
12 testimony on.

13 MS. LAMMA: Okay. I talked to a Mr. Sevrans (spelled
14 phonetically) at Bodine. He said he couldn't send a
15 representative today, but he said he would be happy to talk to
16 anyone on the phone if we wanted to talk to him. And in my two

17 letters from them they are saying that it is going to be in
18 excess of over \$10,000.00. I have one dated March the 30th of
19 2000.

20 HEARING OFFICER LANGHOFF: That's a letter?

21 MS. LAMMA: That is Exhibit 12, uh-huh.

22 HEARING OFFICER LANGHOFF: Okay. Thank you.

23 MS. LAMMA: I mean, that is specifically saying that it is
24 no further action and it is either going to be low or high

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1 priority. They already sunk one well. That's what determined
2 this, they sunk one well already.

3 HEARING OFFICER LANGHOFF: Okay. Exhibit 12, Ms. Carter?

4 MS. CARTER: On this one I do not have any objections in
5 terms of the business record or anything along those lines. So I
6 don't think there would be a need to contact anyone from Bodine
7 today on the telephone. I would like to state for the record
8 that my concern with this document is, again, it was not in the
9 Office of State Fire Marshal files when they made their
10 determination.

11 However, before you, Mr. Hearing Officer, were the assigned
12 Hearing Officer in this case there was an issue outstanding with
13 Ms. Felton as to whether or not they would even exceed the
14 \$10,000.00 limit. Obviously, if they would not exceed the
15 \$10,000.00 limit that Ms. Lamma perceived there to be, then there
16 wouldn't even be an issue. So for that limited purpose, I do not

17 have an objection to this document that they do exceed
18 \$10,000.00. That is my stipulation to this document, I guess.

19 HEARING OFFICER LANGHOFF: I will take your stipulation and
20 admit that into evidence for that purpose.

21 MS. CARTER: Okay.

22 (Whereupon said document was duly marked for
23 purposes of identification as Petitioner's Exhibit
24 12 and admitted into evidence as of this date.)

21

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1 HEARING OFFICER LANGHOFF: Anything further, Ms. Lamma?

2 MS. LAMMA: I have a letter from Bodine dated September the
3 13th of 1999 that I have attached with this, and it just is a
4 status letter, and it also states that if it is a no further
5 action then it would be under \$10,000.00. If it is going to be a
6 low or high priority, that it will exceed the \$10,000.00
7 deductible. Of course, they say an accurate cost estimate cannot
8 be provided until the site procedures have been completed and the
9 actual classification of the site has been determined. Like they
10 tell me, they don't know until they get in there, you know, what
11 it is going to be.

12 HEARING OFFICER LANGHOFF: What is the date on that letter,
13 Ms. Lamma?

14 MS. LAMMA: September the 13th of 1999.

15 HEARING OFFICER LANGHOFF: Okay. Ms. Carter.

16 MS. CARTER: Are --

17 HEARING OFFICER LANGHOFF: That is Exhibit 12, Ms. Lamma?

18 MS. LAMMA: Yes, I have it attached.

19 HEARING OFFICER LANGHOFF: I am sorry, Ms. Carter. Go
20 ahead.

21 MS. CARTER: Previously, Mr. Hearing Officer, when I was
22 discussing Exhibit Number 12, I was simply discussing the March
23 30th portion of Exhibit Number 12. I was not discussing the
24 September 13th of 1999 portion of Exhibit 12. Ms. Lamma has

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1 those attached together. I just wanted to make sure that is
2 clear. My concern with the September 13th letter, again, is the
3 same as it has been in the past, that the Office of the State
4 Fire Marshal did not have this document when they made their
5 deductibility determination.

6 Also, I guess I am concerned as well about the additional
7 relevancy of it in light of the March 30th document wherein it
8 indicates that it is not a no further action site, but it is a
9 low priority or high priority site and, therefore, it will exceed
10 the \$10,000.00 deductible. So I don't know what additional
11 relevancy the September 13th document would provide.

12 HEARING OFFICER LANGHOFF: I will sustain your objection.
13 Ms. Lamma?

14 MS. LAMMA: I don't have anything else.

15 HEARING OFFICER LANGHOFF: Nothing further? Okay. I

16 noticed you had Exhibits 1 through 12.

17 MS. LAMMA: Uh-huh.

18 HEARING OFFICER LANGHOFF: At this time I have not seen
19 Exhibits 1 through 3 or Exhibit Number 11.

20 MS. LAMMA: Okay. Exhibit 1 is the contract for deed that
21 I have with Nichols, and I have a copy of our tax bill showing
22 that it is in their name.

23 HEARING OFFICER LANGHOFF: Okay. And Exhibit Number 2?

24 MS. LAMMA: That is a copy of the check that I paid for

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1 the -- to register the tanks and then my number.

2 HEARING OFFICER LANGHOFF: Thank you. Exhibit 3?

3 MS. LAMMA: Exhibit 3 is -- this is a letter from the Fire
4 Marshal stating that our records -- in review of our records, it
5 appears that you have complied with the order that we were given.

6 HEARING OFFICER LANGHOFF: Thank you. Exhibit Number 11?

7 MS. LAMMA: That is a copy of our bills that I paid Bodine,
8 which total \$8,953.14.

9 HEARING OFFICER LANGHOFF: All right. Ms. Carter, with
10 regards to Exhibit 1 through 3, any objections?

11 MS. CARTER: If I could simply ask for clarification in
12 terms of page numbers that Plaintiff's 1, 2 and 3 are?

13 MS. LAMMA: Sure.

14 HEARING OFFICER LANGHOFF: Do you have them in front of

15 you?

16 MS. CARTER: No, I don't.

17 HEARING OFFICER LANGHOFF: You don't have 1, 2 and 3 in
18 front of you?

19 MS. CARTER: No. I did not ask Ms. Lamma for certain
20 exhibits that simply cross-referenced.

21 HEARING OFFICER LANGHOFF: Oh, okay. I understand. Thank
22 you.

23 MS. CARTER: Okay. Could you have Ms. Lamma --

24 HEARING OFFICER LANGHOFF: Yes. Ms. Lamma, what pages of

24

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1 the --

2 MS. LAMMA: Okay. Exhibit 1 is 83, 84, 85, 86, 87, 88, and
3 then this is a copy of my tax bill.

4 MS. CARTER: Have I seen that?

5 MS. LAMMA: I guess not.

6 MS. CARTER: Okay. Mr. Hearing Officer, if I could
7 just look at --

8 HEARING OFFICER LANGHOFF: Sure, please.

9 (Ms. Lamma passed a document to Ms. Carter.)

10 MS. CARTER: Mr. Hearing Officer, in terms of pages 83
11 through 88 of Plaintiff's Exhibit Number 1, I don't have any
12 objection to that. However, I do have a concern pertaining to
13 the tax bill that is attached to Plaintiff's Exhibit Number 1. I
14 have never seen this document before. I don't believe that it is

15 in the record. I am not certain on that.

16 If you could just give me a little bit more time. My only
17 concern is that it does not have a page number on it. But it may
18 have been cut off. If you could just give me a moment to check.

19 HEARING OFFICER LANGHOFF: Ms. Lamma, do you know if that
20 document is in the record?

21 MS. LAMMA: I don't think so.

22 MS. CARTER: Okay. Mr. Hearing Officer, I have located it.

23 MS. LAMMA: Oh, here it is. It is 62.

24 MS. CARTER: It is 62. So I have no objection to it.

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1 HEARING OFFICER LANGHOFF: Okay. Thank you. Exhibit 1
2 will be admitted.

3 (Whereupon said document was duly marked for
4 purposes of identification as Petitioner's Exhibit
5 1 and admitted into evidence as of this date.)

6 HEARING OFFICER LANGHOFF: All right. Exhibit Number 2.

7 MS. LAMMA: Okay. Exhibit 2 is on page 75 and 72.

8 HEARING OFFICER LANGHOFF: That is all part of the People's
9 record?

10 MS. CARTER: Yes. No objection.

11 HEARING OFFICER LANGHOFF: Okay. It is admitted.

12 (Whereupon said document was duly marked for
13 purposes of identification as Petitioner's Exhibit

14 2 and admitted into evidence as of this date.)
15 HEARING OFFICER LANGHOFF: Okay. Exhibit 3?
16 MS. LAMMA: Exhibit 3 is on page 69.
17 MS. CARTER: No objection.
18 HEARING OFFICER LANGHOFF: That is admitted.
19 (Whereupon said document was duly marked for
20 purposes of identification as Petitioner's Exhibit
21 3 and admitted into evidence as of this date.)
22 HEARING OFFICER LANGHOFF: Okay. Exhibit Number 11?
23 (Whereupon said document was duly marked for
24 purposes of identification as Petitioner's Exhibit

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1 11 as of this date.)
2 MS. LAMMA: This is the copy.
3 HEARING OFFICER LANGHOFF: Ms. Carter, do you have a copy
4 of that?
5 MS. CARTER: Yes, I do. Mr. Hearing Officer, I have the
6 same objection to this document as I have had to the previous
7 ones, that this was not in the Office of State Fire Marshal
8 files, and they did not utilize it in making their eligibility
9 determination.
10 HEARING OFFICER LANGHOFF: I will sustain your objection.
11 Thank you, Ms. Carter.
12 Ms. Lamma, is there anything else that you would like to
13 testify as today for the Board to consider?

14 MS. LAMMA: No.

15 HEARING OFFICER LANGHOFF: No? Okay. Thank you very much.

16 MS. LAMMA: I can't think of anything else. Thank you.

17 HEARING OFFICER LANGHOFF: Did you want to call another
18 witness, Ms. Lamma?

19 MS. CARTER: Mr. Hearing Officer, if I could possibly do a
20 cross-examination of Ms. Lamma.

21 HEARING OFFICER LANGHOFF: Oh, I am sorry, Ms. Carter. I
22 apologize.

23 MS. CARTER: If I may, if that is okay.

24 HEARING OFFICER LANGHOFF: Yes, please go ahead.

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1 MS. CARTER: Okay. Thank you.

2 CROSS EXAMINATION

3 BY MS. CARTER:

4 Q. Ms. Lamma, I will just try to keep this real brief,
5 then, okay?

6 A. All right.

7 Q. You mentioned before that you entered into a contract
8 for deed in August of 1982?

9 A. 1982, uh-huh.

10 Q. Okay. And when you entered into that contract for deed,
11 you purchased not only the land but the appurtenances associated
12 with it? Do you know what I mean by appurtenances?

13 A. Um...

14 Q. If I could just direct your attention, Ms. Lamma, to
15 People's Exhibit Number 1, page 83?

16 A. Okay.

17 Q. Yes, I am looking at the contract for deed.

18 A. Okay.

19 Q. Are you -- you have found that document?

20 A. Yes, uh-huh.

21 Q. If I can just -- and on the first page, on page 83, in
22 the middle of the page, it indicates what you have purchased.
23 Are you on that page, ma'am?

24 A. Right.

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1 Q. If you go to the middle portion of the last paragraph in
2 that middle section, does it indicate that you have also
3 purchased the appurtenances?

4 A. Yes.

5 Q. Okay. And once you entered into the contract for deed
6 in 1982, did you maintain possession of the property from that
7 time?

8 A. Yes.

9 Q. Okay. I think you indicated before that the tanks were
10 used until 1986?

11 A. Yes, 1986.

12 Q. And then --

13 A. I think it was the late part of 1985, maybe the early
14 part of 1986.

15 Q. Okay. After that time that area was then used as a
16 restaurant, is that what you indicated?

17 A. Uh-huh.

18 Q. You have to say yes or no, ma'am, for the court
19 reporter.

20 A. Oh, I am sorry. Yes.

21 Q. Okay. And then you rented it out?

22 A. After about 1991, I think it was. We ran it as a
23 restaurant ourselves.

24 Q. Oh, okay.

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1 A. Until 1991.

2 Q. Okay. If I could direct your attention, ma'am, to page
3 71 of People's Number 1.

4 A. Okay.

5 Q. Actually, if I can first direct your attention to page
6 70.

7 A. Uh-huh.

8 Q. Do you recognize this document?

9 A. Yes, I do.

10 Q. What is this document?

11 A. Notification for underground storage tanks, it says.

12 Q. Did you complete this document, ma'am?
13 A. Yes, I did.
14 Q. And if I could just direct your attention to page 71,
15 the next page.
16 A. Okay.
17 Q. The first paragraph, where it indicates status of tank.
18 Do you see that paragraph?
19 A. Yes, I do.
20 Q. And do you also see the line pertaining to whether or
21 not the tank is currently in use?
22 A. Yes.
23 Q. Do you see that?
24 A. Uh-huh.

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1 Q. Okay. And what did you indicate at that time?
2 A. It says currently in use.
3 Q. Okay. Were the tanks currently in use when you filled
4 this out in 1991?
5 A. Well, we were not selling gas from them, no.
6 Q. Were they in use at that time?
7 A. No.
8 Q. Then why did you fill it out in such a manner?
9 A. Well, they were still in there.
10 Q. Okay. When you indicated that they were currently in
11 use you meant that they were still in the ground?

12 A. Right.

13 Q. Okay. If I could just direct your attention, ma'am, to
14 page 23 of People's Exhibit Number 1.

15 A. Okay.

16 Q. Again, do you know who this document was filled out by?
17 Let me back up for a second.

18 A. Okay.

19 Q. Can you identify that document?

20 A. It is an application for the permit for the removal of
21 the underground tanks.

22 Q. And who does it indicate that this document was filled
23 out by?

24 A. I would say that it was Bodine that did it.

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1 Q. Again, Bodine Environmental was working at your
2 direction?

3 A. Right, right.

4 Q. And, again, do you see the middle table under paragraph
5 three where it says tanks? Do you see that?

6 A. Oh, yes, uh-huh.

7 Q. Then it indicates the date that the tanks were last
8 used. Do you see that paragraph?

9 A. Yes, uh-huh.

10 Q. What does it indicate?

11 A. That says 1993.

12 Q. Is it your understanding that this information is
13 correct?

14 A. Well, they were still in there in 1993.

15 Q. And that's what they meant by that --

16 A. Yes.

17 Q. -- that the tanks were last used at that time? Okay.

18 MS. CARTER: If I could have just one moment, Mr. Hearing
19 Officer, I may be done.

20 HEARING OFFICER LANGHOFF: Certainly, Ms. Carter.

21 MS. CARTER: Thank you.

22 Q. (By Ms. Carter) Again, Ms. Lamma, when were the tanks
23 registered?

24 A. 1991, I think it was. August of 1991.

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1 Q. Okay. At that time you had possession of the property
2 at 402 West Jackson in Auburn?

3 A. It was mine by contract for deed then, yes.

4 MS. CARTER: Okay. I don't have anything else, Mr. Hearing
5 Officer.

6 HEARING OFFICER LANGHOFF: Thank you, Ms. Carter.

7 Ms. Lamma, is there anything that you would like to
8 retestify concerning any questions that Ms. Carter has just asked
9 you?

10 MS. LAMMA: No.

11 HEARING OFFICER LANGHOFF: We would call that redirect if
12 you were an attorney.

13 MS. LAMMA: No, I guess not.

14 HEARING OFFICER LANGHOFF: No?

15 MS. LAMMA: I guess not.

16 HEARING OFFICER LANGHOFF: Okay. Thank you. Ms. Lamma,
17 would you like to call your next witness, please.

18 MS. LAMMA: Mr. Spradlin, who was the Fire Marshal at that
19 time.

20 HEARING OFFICER LANGHOFF: Would you swear in the witness,
21 please.

22 (Whereupon the witness was sworn by the Notary
23 Public.)

24 HEARING OFFICER LANGHOFF: All right, Ms. Lamma.

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1 MS. LAMMA: Okay.

2 TOM SPRADLIN,
3 having been first duly sworn by the Notary Public, saith as
4 follows:

5 DIRECT EXAMINATION

6 BY MS. LAMMA:

7 Q. Mr. Spradlin was the Fire Marshal at that time. He was
8 very, very helpful and a very, very nice man. I think we need
9 more people working for the State of Illinois like him.

10 I just wanted to ask you, did you come to where I was
11 working in August of 1991 to ask me about the registration of the
12 tanks at 402 West Jackson?

13 A. Yes, ma'am.

14 Q. And did you tell me that they did need to be registered,
15 that on your records that they had not been at that time?

16 A. Yes, ma'am.

17 Q. And did you advise me that I needed to register them?

18 A. Yes, ma'am.

19 Q. Did I register them when you told me to do it?

20 A. Shortly thereafter. Yes, you registered them, yes,
21 ma'am.

22 Q. Did I cooperate and -- I mean, did I give you, you know,
23 any argument or anything about it or did I try to do what was
24 right?

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1 A. No, ma'am. You were very cooperative.

2 Q. Did we discuss the deductible? I mean, you explained to
3 me what the \$200.00 entailed, I mean, what it would do for me?

4 A. Well, I don't know what has happened there, because ever
5 since the program has been started, if your tanks are not
6 registered on time, then it is an automatic \$500.00 fine per
7 tank. Then in 1998 -- or 1988 they changed it, a law, that for
8 each tank in the ground you were assessed \$100.00. So your bill
9 should have been \$600.00 per tank at that time.

10 I don't know whether you got this confused about the
11 \$100.00 per tank. That was strictly for a one time 1988 annual
12 fee. And then the late fee was \$500.00 per tank regardless of
13 the size. So if I mislead you there, I am sorry. But that's the
14 way it has always been. I don't know why I would have said that,
15 because from the day we started -- I started working the program,
16 it has always been that way.

17 Q. Well, that's basically all I wanted, is that I did
18 cooperate and I did what you told me to do and did it in good
19 faith, right?

20 A. You were very nice to work with.

21 HEARING OFFICER LANGHOFF: Thank you. Ms. Lamma. Anything
22 else?

23 MS. LAMMA: That's all I have.

24 HEARING OFFICER LANGHOFF: Ms. Carter, any questions for

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1 Mr. Spradlin?

2 MS. CARTER: Just one question, I believe, Mr. Hearing
3 Officer.

4 HEARING OFFICER LANGHOFF: Okay.

5 CROSS EXAMINATION

6 BY MS. CARTER:

7 Q. Mr. Spradlin, do you recall specifically stating that
8 the registration of the underground storage tanks would each cost

9 \$100.00?

10 A. No, ma'am. No, I didn't. I am sure.

11 MS. CARTER: Okay. Thank you. I have nothing further.

12 HEARING OFFICER LANGHOFF: Thank you, Mr. Spradlin.

13 (The witness left the stand.)

14 HEARING OFFICER LANGHOFF: Ms. Lamma, I take it that was
15 your last witness.

16 MS. LAMMA: Yes, uh-huh.

17 HEARING OFFICER LANGHOFF: Okay. Thank you, Ms. Lamma.
18 Ms. Carter?

19 MS. CARTER: Yes, Mr. Hearing Officer. The Office of the
20 State Fire Marshal calls Vicky Cox-Fraase.

21 HEARING OFFICER LANGHOFF: Could you swear in the witness,
22 please.

23 (Whereupon the witness was sworn by the Notary
24 Public.)

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1 HEARING OFFICER LANGHOFF: All right, Ms. Carter.

2 V I C K Y C O X - F R A A S E ,

3 having been first duly sworn by the Notary Public, saith as
4 follows:

5 DIRECT EXAMINATION

6 BY MS. CARTER:

7 Q. Could you state your name for the record, please.

8 A. Vicky Fraase.

9 Q. Okay. Can you tell me a little bit about your post high
10 school education?

11 A. I graduated from high school in 1977. I enrolled in the
12 Robert Morris College program. It was a year long program. It
13 was the secretarial, medical assistant program. From there I was
14 employed by Memorial Medical Center for approximately 16 years.

15 Q. Okay. Did you also attend Lincoln Land College?

16 A. Yes, I did, in the 1980s.

17 Q. What type of course work did you take?

18 A. I took law enforcement classes, took some basic -- I had
19 basic chemistry classes that I took, math classes.

20 Q. Okay. And with whom are you currently employed?

21 A. The Office of the State Fire Marshal.

22 Q. Okay. How long have you been employed by the Office of
23 the State Fire Marshal?

24 A. Since February of 1997.

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1 Q. Okay. What were your original duties when you were
2 employed -- when you first became employed by the Office of the
3 State Fire Marshal?

4 A. When I first started I was an office assistant. I had
5 telephone, reception, as well as computer database entry.

6 Q. All right. How long did you hold that position?

7 A. Approximately a year.

8 Q. Okay. Then from there what position did you hold within
9 the Office of the State Fire Marshal?

10 A. From there I went to an office associate and I was the
11 permitting person. I issued the -- I did the clerical review on
12 the permits.

13 Q. Okay. How long did you hold that position?

14 A. Approximately, I think, a year. Not quite a year.
15 About six months, I think.

16 Q. Okay. You referenced permits. What types of permits
17 were you referring to?

18 A. We did all kinds; removals, abandonment, installations,
19 realignments, and upgrades.

20 Q. Okay. When you say realignments, what does that mean?

21 A. It is a permit that is required when they need to
22 realign their tank.

23 Q. Okay. What is your current position with the Office of
24 the State Fire Marshal?

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1 A. My current position is administrative assistant.

2 Q. How long have you held that position?

3 A. Since January of 1999.

4 Q. What are your duties as administrative assistant?

5 A. I work with the eligibility in the LUST section fund.

6 Q. Okay.

7 HEARING OFFICER LANGHOFF: For the record, would you -- for

8 Ms. Lamma, would you spell out LUST or what does LUST mean?

9 THE WITNESS: I am sorry. LUST is leaking underground
10 storage tank.

11 HEARING OFFICER LANGHOFF: Okay. Thank you.

12 Q. (By Ms. Carter) Do the course of your duties involve
13 making eligibility determinations?

14 A. Yes.

15 Q. And have you been making eligibility determinations
16 since January of 1999?

17 A. Yes.

18 Q. Was there some sort of training that you went through to
19 determine how to make eligibility determinations?

20 A. Yes. It was on-the-job training. I trained under Jim
21 Boone, who at the time was my -- the other administrative
22 assistant in our section, for approximately six to eight weeks.
23 I would work the applications up. I sat with him for about the
24 first three weeks, or four weeks probably. It was very detailed,

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1 learning different parts of the regulations. Then we got into
2 working of the applications, and I would work up the applications
3 and have him review them for approximately -- I don't recall
4 exactly. It was probably six to eight weeks.

5 Q. Once you worked up the applications and he reviewed
6 them, would you discuss the determinations that you made?

7 A. Yes, he would review all of my work and make sure that
8 the decision that I had made was one that he would make.

9 Q. Okay. You just discussed eligibility determinations.
10 Who is eligible to access this fund?

11 A. Any operator of a motor vehicle that pays for any
12 gasoline tanks. There is different products. We have used oil,
13 kerosene, gasoline, diesel, and also there is heating oil tanks
14 that are eligible to access the fund, too.

15 Q. Are you familiar with the site located at Auburn Tire
16 Service Company in Auburn, Sangamon County, Illinois?

17 A. Yes.

18 Q. How are you familiar with this site?

19 A. I made the determination on the letter.

20 Q. Do you recall approximately when you made this
21 eligibility determination?

22 A. Approximately -- it was probably around January maybe.

23 Q. January of --

24 A. Of 1999. I don't recall the specific date.

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1 MS. CARTER: Okay. Mr. Hearing Officer, I am just handing
2 to the witness People's Exhibit Number 1.

3 HEARING OFFICER LANGHOFF: Thank you, Ms. Carter.

4 Q. (By Ms. Carter) Just in general, before getting into
5 People's Exhibit Number 1, ma'am, when you first began an
6 eligibility determination, what is the first thing that you look

7 to or what is the process that you go through to make an
8 eligibility determination?

9 A. We pull the division file, which is the hard copy. We
10 completely start -- we start from the very beginning and
11 completely work through the entire file.

12 Q. Okay.

13 A. You cover every -- you make sure that everything that is
14 in our computer system matches what is in the file.

15 Q. Okay. Specifically, if I could direct your attention to
16 pages 9 through 12, I believe, of People's Exhibit Number 1.

17 Have you seen this document before?

18 A. Yes.

19 Q. Can you identify it for me?

20 A. This is the eligibility and deductibility application.

21 Q. Is this one of the first things that you look to to make
22 an eligibility determination?

23 A. Yes, along with the file.

24 Q. Okay. If I could simply direct your attention to

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1 paragraph one. What does that paragraph indicate?

2 A. The applicant's name.

3 Q. What about below the name of the applicant? What does
4 that line indicate?

5 A. It is checked as tank owner.

6 Q. And what does that information indicate to you?

7 A. That Sharon Lamma was the applicant and that she was
8 also the owner of the tank.

9 Q. Okay. Did that information indicate to you that she is
10 eligible to access the fund?

11 A. Yes.

12 Q. If I could direct your attention to paragraph two on
13 page nine. Are you there, ma'am?

14 A. Yes.

15 Q. What is that information that is contained in that
16 paragraph?

17 A. It, again, lists the owner of the tank and the property
18 as Bob and Sharon Lamma.

19 Q. Okay. And, again, if I could direct your attention to
20 paragraph 2E. Are you there, ma'am?

21 A. Yes.

22 Q. What is that information that is contained in that
23 paragraph?

24 A. There is a question that asks have you ever operated

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1 these tanks, pumped product in or out, during the extraordinary
2 course of operations and she has checked, yes, that she has
3 operated the tanks.

4 Q. What does that information indicate to you ma'am? Does
5 that indicate that Ms. Lamma or Mr. Lamma is eligible to access

6 the UST fund?

7 A. Yes.

8 Q. If I could simply direct your attention to page 12.

9 A. Okay.

10 Q. And if I could -- there is some columns there, and under

11 the first column it says product code and a G is listed. What

12 does that G stand for?

13 A. Gasoline.

14 Q. What is the significance that it is listed as gasoline

15 on this sheet?

16 A. Gasoline tanks had to be registered by July 28th of

17 1989.

18 Q. Okay. If you go over a couple of columns where it

19 indicates date out of service --

20 A. Yes.

21 Q. -- what date is indicated there?

22 A. 1985.

23 Q. Okay. The date out of service characterization, does

24 this indicate when the tanks were last used?

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1 A. Yes.

2 Q. If I could simply direct your attention to date

3 registered, what date is included there?

4 A. September of 1991.

5 Q. Okay. Did you verify this date with the records
6 included in the Office of the State Fire Marshal file?

7 A. Yes, I did.

8 Q. If I could direct your attention to pages 70 through 71
9 of People's Exhibit Number 1.

10 A. Yes.

11 Q. Is this the document that you utilize to verify the
12 information that was contained on page 12?

13 A. Yes.

14 Q. Okay. Can you simply identify this document for me?

15 A. This is a registration notification form.

16 Q. Does this document indicate the date that the tanks were
17 registered?

18 A. Yes. The date signed by Ms. Lamma was 08-22-91,
19 received in on our office on September 11th of 1991.

20 Q. Okay. If I could simply take you back again, Ms.
21 Fraase, to page 12.

22 A. Okay.

23 Q. There is the third to the last column over from the
24 right, I guess. There is something that indicates registration

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1 fees paid. Do you see that?

2 A. Yes.

3 Q. What does it indicate under registration fees paid?

4 A. That the fees were paid.

5 Q. Okay. Did you verify that the payment of these fees
6 had, in fact, occurred?

7 A. Yes.

8 Q. If I could simply direct your attention to page 59.

9 A. Okay.

10 Q. Can you identify this document for me?

11 A. This is a Division of Petroleum Chemical Safety invoice.

12 Q. Okay.

13 A. For fees for underground storage tanks.

14 Q. What information is contained on this page? What does
15 it indicate?

16 A. It indicates the fees due.

17 Q. Does it indicate that the fees were paid?

18 A. It shows that out of the \$1,200.00 that was billed, that
19 \$200.00 of the fees had been paid.

20 Q. So at this time, then, there is still \$1,000.00
21 outstanding?

22 A. Yes.

23 Q. Okay. If I could simply direct your attention to pages
24 44 and 45 of the record of People's Exhibit Number 1.

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1 A. Yes.

2 Q. Okay. Actually, if I could direct your attention -- I
3 misspoke -- to pages 45 and 46.

4 A. Okay.

5 Q. Do you recognize page 45?

6 A. Yes.

7 Q. Have you seen that before?

8 A. Yes.

9 Q. What is that?

10 A. That is a check received payable to the Illinois State
11 Fire Marshal's Office for UST registration.

12 Q. Okay.

13 A. For late fees.

14 Q. Okay. What is the amount on this page?

15 A. \$800.00.

16 Q. Okay. If I could, again, direct your attention to page
17 46.

18 A. Okay.

19 Q. Have you seen this page before?

20 A. Yes.

21 Q. What is this?

22 A. This is the remainder of the \$200.00 that was
23 outstanding, tank fees.

24 Q. Is it fair to say, ma'am, that these two pages verify

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1 that the remaining \$1,000.00 had been paid?

2 A. Yes.

3 Q. If I could direct your attention back to page 12 of the

4 People's Exhibit Number 1.

5 A. Okay.

6 Q. And there is a column there where it says IEMA number.

7 Do you see that?

8 A. Yes.

9 Q. What does IEMA stand for?

10 A. The Illinois Emergency Management Association -- or
11 Agency. Excuse me.

12 Q. Okay. When it says IEMA number, what are they
13 referencing there?

14 A. The IEMA number is required to be called in -- if you go
15 to a tank removal, which would be in Ms. Lamma's case, you have
16 to -- if there is a leak discovered, they are required within 24
17 hours to report that leak to IEMA.

18 Q. Okay.

19 A. They are issued a number and that's the number that they
20 were given.

21 Q. Okay. Then in the next column where it says date IEMA
22 notified, what is the significance of that column?

23 A. That's the date that this release was notified, was
24 called in to IEMA.

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1 Q. Okay. Did you verify this information with the
2 information contained in the Office of the State Fire Marshal

3 file?

4 A. Yes.

5 Q. Okay. If I could direct your attention to page 19.

6 A. Okay.

7 Q. Can you identify this page for me?

8 A. This is the IEMA field report.

9 Q. Okay. Again, you have seen this before then, ma'am?

10 A. Yes.

11 Q. What does this document indicate?

12 A. This indicates that there was a release called in on

13 January the 13th of 1999.

14 Q. Okay.

15 A. To IEMA from Sharon Lamma, and she was issued the IEMA

16 number.

17 Q. Okay. Based on all of this information that we have

18 just gone through, did you ultimately make an eligibility

19 determination in this case?

20 A. Yes.

21 Q. What was the eligibility determination that you made?

22 A. A \$100,000.00 deductible.

23 Q. Okay. If I could simply direct your attention to pages

24 four and five of People's Exhibit Number 1.

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1 A. Okay.

2 Q. Can you identify this for me?

2 A. The one thing I do remember, and I was not with the
3 program at this time, but in my learning the engineers told me
4 that in the tank -- the tankers that delivered the fuel to the
5 facilities handed out letters that stated that they had to have
6 the tanks registered.

7 HEARING OFFICER LANGHOFF: Do you have direct knowledge of
8 that, Ms. Cox-Fraase?

9 THE WITNESS: Direct knowledge? That was part of my
10 learning.

11 HEARING OFFICER LANGHOFF: It was not in your record?

12 THE WITNESS: No.

13 HEARING OFFICER LANGHOFF: Okay. I am going to rule that
14 that is hearsay.

15 Do you have --

16 MS. LAMMA: I don't have anything else.

17 HEARING OFFICER LANGHOFF: Nothing else, Ms. Lamma?

18 MS. LAMMA: No.

19 HEARING OFFICER LANGHOFF: Okay.

20 MS. CARTER: I have nothing further. Thank you.

21 HEARING OFFICER LANGHOFF: Thank you.

22 (The witness left the stand.)

23 HEARING OFFICER LANGHOFF: No more witnesses, Ms. Carter?

24 MS. CARTER: No, Mr. Langhoff.

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1 HEARING OFFICER LANGHOFF: All right. Thank you.

2 Again, I would ask if there are any members of the public
3 or interested persons who would wish to make a statement on the
4 record? I see none.

5 Ms. Carter?

6 MS. CARTER: Yes.

7 HEARING OFFICER LANGHOFF: Do you have a brief closing
8 argument?

9 MS. CARTER: I would prefer to reserve it for brief.

10 HEARING OFFICER LANGHOFF: Thank you. Ms. Lamma, do you
11 have any closing arguments that you would like to make at this
12 time?

13 MS. LAMMA: No. I am just asking for help, because I do
14 not have that kind of money to -- I mean, \$100,000.00 is just
15 scary. I mean, I have no idea how much it is going to cost to
16 have it finished. I need to know where I stand before I do go to
17 have it finished. I am just asking for help. That's all I would
18 like.

19 HEARING OFFICER LANGHOFF: Okay. Thank you. At this point
20 I would like to go off the record briefly to discuss availability
21 of the record, of the transcript, and also to discuss a schedule
22 for the submission of briefs. We are off the record.

23 (Discussion off the record.)

24 HEARING OFFICER LANGHOFF: We are back on the record.

1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E
4

5 I, DARLENE M. NIEMEYER, a Notary Public in and for the
6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY that
7 the foregoing 52 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 5th of December A.D.,
9 2000, at 600 South Second Street, Suite 403, Springfield,
10 Illinois, in the case of Bob and Sharon Lamma v. Office of the
11 State Fire Marshal, in proceedings held before Steven C.
12 Langhoff, Hearing Officer, and recorded in machine shorthand by
13 me.

14 IN WITNESS WHEREOF I have hereunto set my hand and affixed
15 my Notarial Seal this 11th day of December A.D., 2000.
16
17
18
19

20 Notary Public and
21 Certified Shorthand Reporter and
22 Registered Professional Reporter

23 CSR License No. 084-003677
24 My Commission Expires: 03-02-2003