

MAR 08 2010

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
March 8, 2010

S&D REALITY, INC.,)
)
Petitioner,)
)
v.) PCB 09-33
) (UST - Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Respondent.)

HEARING OFFICER ORDER

On November 2, 2009, the respondent, Illinois Environmental Protection Agency (Agency), filed a motion *in limine*. (Mot.). The motion requests an order preventing Eric D. Hasman from testifying, or the petitioner presenting any other evidence concerning or related to, the August 27, 2009 report prepared by Hasman about the Underground Storage Tank (UST) site that is the subject of this appeal. Mot. at 1. *See* Attached Report. On November 16, 2009, the petitioner, S&D Realty, Inc. (S&D), filed its response. S&D requests that the Agency's motion must be denied and that Hasman be allowed to testify regarding the UST site because some of the physical receipts and invoices for the work completed during the remediation project were unavailable at the time of the Agency's decision. The Agency did not file a reply.

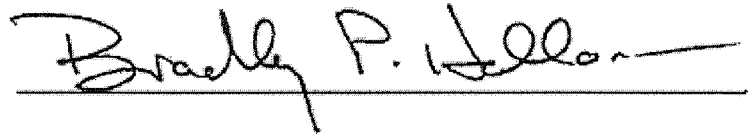
In the Agency's motion, it states that the reimbursement decision letter of the Agency indicates that \$98,760.00 and the \$46,960.00 deductible numbers are incorrect and are typographical errors in the decision letter. The correct numbers, the Agency continues, are \$92,221.50 and \$40,421.50 respectively, and that the amount authorized for payment by the Agency was based upon the correct amounts. Mot. at 2.

S&D's response does not address this alleged typographical error and, in fact, cites to the amounts of \$98,760.00 and \$46,960.00 that were found ineligible due to the lack of supporting documentation. Resp. at 2.

Although apparently not the thrust of the issue presented in the motion *in limine*, the hearing officer directs the petitioner to address these discrepancies. Further, the petitioner is directed to clarify and confirm the Agency's total authorized amount. Written clarification by the petitioner is due to be filed on or before March 11, 2010.

The parties or their legal representatives are directed to participate in a telephonic status conference on March 11, 2010, at 2:30 p.m. The status conference must be initiated by the petitioner, but each party is nonetheless responsible for its own appearance. At the status conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

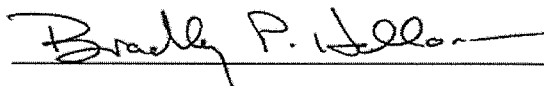
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on March 8, 2010, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on March 8, 2010:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
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