

**RECEIVED**  
CLERK'S OFFICE  
AUG 08 2011  
STATE OF ILLINOIS  
Pollution Control Board

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

WHEELING/GWA AUTO SHOP, )  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )


PCB No. 10-070  
(LUST Appeal)

**ORIGINAL**

**NOTICE OF FILING**

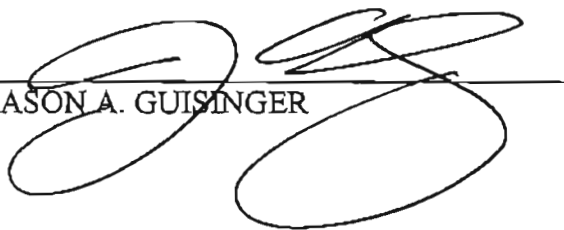
**TO: See Attached Service List**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, the **MOTION FOR AUTHORIZATION OF PAYMENT OF ATTORNEYS' FEES AS COSTS OF CORRECTIVE ACTION**, a copy of which is herewith served upon you.

  
\_\_\_\_\_  
JASON A. GUISINGER

**CERTIFICATE OF SERVICE**

I, JASON A. GUISINGER, certify that I served the foregoing Notice of Filing and **MOTION FOR AUTHORIZATION OF PAYMENT OF ATTORNEYS' FEES AS COSTS OF CORRECTIVE ACTION** upon the parties listed on the attached Service List, by the means listed on the attached Service List, before 4:30 p.m. on August 8, 2011.

  
\_\_\_\_\_  
JASON A. GUISINGER

Dennis G. Walsh  
Jason A. Guisinger  
KLEIN, THORPE AND JENKINS, LTD.  
20 North Wacker Drive, Suite 1660  
Chicago, IL 60606  
(312) 984-6400

**SERVICE LIST**

**VIA HAND DELIVERY**

Pollution Control Board  
Attn: John Therriault, Clerk  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, Illinois 60601-3218

**VIA FIRST CLASS MAIL**

Division of Legal Counsel  
Illinois Environmental Protection Agency  
Attn: Melanie A. Jarvis, Ass't Counsel  
1021 North Grand Avenue East  
P. O. Box 19276  
Springfield, IL 62794-9276

**VIA FIRST CLASS MAIL**

Illinois Environmental Protection  
Agency, Bureau of Land  
Attn: Michael Piggush  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

**VIA FIRST CLASS MAIL**

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

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**MOTION FOR AUTHORIZATION OF PAYMENT OF  
ATTORNEYS' FEES AS COSTS OF CORRECTIVE ACTION**

NOW COMES Petitioner, Village of Wheeling ("Village"), by counsel, KLEIN, THORPE & JENKINS, LTD., and pursuant to Section 57.8(l) of the Illinois Environmental Protection Act, 415 ILCS 5/57.8(l), and the Illinois Pollution Control Board's (the "Board") July 7, 2011 Interim Opinion and Order ("Order"), hereby moves the Board for authorization to payment of legal fees costs from the Underground Storage Tank fund. In support, Petitioner states as follows:

1. On June 10, 2010, the Village timely filed a Petition for Review of the Illinois Environmental Protection Agency's ("IEPA") February 2010 denial of the Village's request for reimbursement of corrective action costs in the amount of \$78,915.82 from the Illinois Underground Storage Tank Fund ("UST Fund").
2. On June 17, 2010, the Board accepted the Village's Petition for Review and ordered the Agency to file the entire Administrative Record ("AR") in this matter.
3. After the IEPA failed to timely file the AR, the Village moved for default or, in the alternative, sanctions on August 13, 2010.
4. On September 3, 2010, the Agency filed the 1,270 page AR, together with a motion for summary judgment. The Village subsequently withdrew its motion for default and/or sanctions.

5. The AR contained thousands of pages spanning nearly fifteen (15) years of activity at the site.

6. On October 29, 2010, the Village filed its motion for summary judgment.

7. The Village and IEPA filed responses to each other's motions for summary judgment and the IEPA filed a reply brief in support of its motion for summary judgment.

8. On July 7, 2011, the Board granted the Village's motion for summary judgment and denied the IEPA's motion, remanding the matter back to the IEPA to consider the merits of that portion of the Village's budget (\$78,915.82) at issue here. As part of the July 7<sup>th</sup> order, the Board directed the Village to file a statement of its legal costs eligible for reimbursement.

9. A request for reimbursement of attorneys' fees from the UST Fund is properly brought as a motion for modification of a final Board order. *Ted Harrison Oil Co. v. IEPA*, PCB 99-127 (October 16, 2003). *See also Touchdown Sportswear, Inc. v. Hickory Point Mall Co.*, 165 Ill.App.3d 72, 73 (4<sup>th</sup> Dist.1987) (holding that since the court must first identify the prevailing party, attorney fee petition is properly brought as a post-judgment motion).

10. Section 57.8(1) of the Act states that:

Corrective action does not include legal defense costs. Legal defense costs include legal costs for seeking payment under this Title unless the owner or operator prevails before the Board in which case the Board may authorize payment of legal fees.

415 ILCS 5/57.8(1).

11. "A prevailing party, for purposes of awarding attorney fees, is one that is successful on a significant issue and achieves some benefit in bringing suit." *J.B. Esker & Sons, Inc. v. Cle-Pa's P'ship*, 325 Ill.App.3d 276, 280 (5<sup>th</sup> Dist.2001).

12. Here, the Village is the prevailing party for purposes of awarding attorneys' fees within the scope of Section 57.8(1) of the Act. On February 2, 2010, the IEPA denied the Village's

application for reimbursement of corrective action costs from the UST Fund. On July 7, 2011, the Board granted the Village's motion for summary judgment, thereby holding the IEPA improperly denied the Village's request.

13. Because the Act provides for reimbursement of legal costs incurred in prevailing before the Board, it constitutes a "fee-shifting" statute. *See Brundidge, et al. v. Glendale Fed. Bank, F.S.B.*, 168 Ill.2d 235, 245 (1995). Fee-shifting statutes are intended to encourage litigation by providing, as part of relief awarded, payment of the costs of maintaining the action, including attorneys' fees. *Chicago v. Illinois Commerce Comm'n*, 187 Ill.App.3d 468, 470 (1<sup>st</sup> Dist.1989). The award of legal fees is within the discretionary powers of the Board. *Illinois Ayers Oil Co. v. IEPA*, PCB No. 03-214, slip op. at 8 (Aug. 5, 2004).

14. In determining whether to exercise its discretion to authorize payment, the Board considers the reasonableness of the requested legal fees and costs. *Prime Location Properties, LLC v. IEPA*, PCB No. 09-67, slip op. at 4 (Nov. 5, 2009). The party seeking reimbursement has the burden of presenting sufficient evidence with which the Board can determine the reasonableness of the fees. *Prime Location*, slip op. at 4, citing *Esker & Sons*, 325 Ill.App.3d at 283. A party "must set forth with specificity the legal services, an itemization of the time expended for the individual service, and the hourly rate charged." *Dickerson Petroleum, Inc. v. IEPA*, PCB No. 09-87/PCB No. 10-5 (Consolidated), slip op. at 7 (Dec. 2, 2010). A fee includes the costs incurred seeking an award. *See Citizens Organizing Project v. IDNR*, 189 Ill.2d 593, 599 (2000).

15. In determining whether the requested fees and costs are reasonable, the Board may also consider the entire record and its experience and knowledge of the case in assessing what charges are reasonable. *Dickerson Petroleum*, slip op. at 7.

16. The Board has addressed the ability of a petitioner to be reimbursed for its legal costs when appealing Agency decisions under the UST Fund. In *Illinois Ayers Oil Co. v. IEPA*, the petitioner appealed the IEPA's rejection of its corrective action plan and budget. The Board reversed the IEPA and found that the petitioner was entitled to all of its legal expenses. *Id.*, slip op. at 9-10. Similarly, in *Swift-T-Food Mart v. IEPA*, PCB No. 03-185 (Aug. 19, 2004), the Board awarded the petitioner all of its attorneys' fees after the Board reversed the Agency's order denying reimbursement of requested costs of corrective action. Slip op. at 2-4. *See also Ted Harrison Oil*, (finding that the petitioner was entitled to all of its attorneys' fees after petitioner prevailed on its appeal of Agency's decision denying reimbursement).

17. In support of its request, the Village attaches the affidavit of Jason A. Guisinger, documenting legal fees and costs incurred in this matter of \$17,115.06. A true and accurate copy of the affidavit is attached hereto as **Exhibit A** and made a part hereof.

18. The affidavit of Jason A. Guisinger, submitted on behalf of the Village, provides sufficient support pursuant to which the Board can determine the reasonableness of the Village's attorneys' fees and costs expended in this matter. In regard to the affidavit of Mr. Guisinger, the affidavit and supporting exhibits specify the legal services provided, the identity of the attorney providing the legal services, an itemization of the time expended for the individual service, and the hourly rate charged. *See **Exhibit A***.

19. Further, the Village's summary of fees and costs are similar in detail to those provided by the petitioners in *Illinois Ayers*, *Swif-T*, and *Dickerson Petroleum*. In *Illinois Ayers*, the petitioner requested reimbursement of \$42,744.50 in legal fees and \$1,711.99 in costs, which the Board approved. Slip op. at 10. In *Swif-T*, the Board directed the IEPA to pay \$10,862.50 in

fees and \$428.87. Slip op. at 3. Lastly, in *Dickerson Petroleum*, the petitioner requested \$52,343 in fees and \$676.29 in costs and the Board approved the same. Slip op. at 9.

20. Notably, in *Zervos Three Inc., v. IEPA*, a case decided by the Board that is identical to this case, the Board granted the petitioner's request for attorneys' fees in the amount of \$73,347.88 and found hourly rates of up to \$410.00 per hour to be reasonable for a senior attorney and approved an hourly rate of \$200.00 per hour for paralegals. PCB No. 10-54 slip op. at 8. Certainly, in light of *Zervos Three*, the Village's request herein is reasonable.

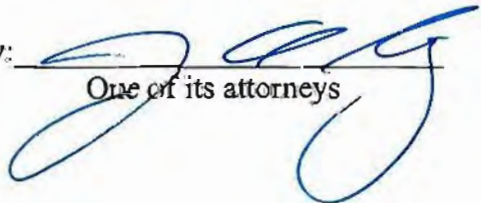
21. In conclusion, the Village is entitled to its attorneys' fees and costs incurred in this matter. The Village has prevailed before the Board in this case for purposes of Section 57.8(l) in having its motion for summary judgment granted and has provided sufficient support for the reasonableness of its fee petition. Thus, the Board should exercise its discretion and direct the Agency to pay the Village's fees and costs.

WHEREFORE, Petitioner, VILLAGE OF WHEELING, requests that the Board grant its Motion for Authorization of Payment of Legal Fees, authorize payment of such fees from the UST Fund in the amount of \$17,115.06, and for such other relief as the Board deems just and appropriate.

DATED: August 8, 2011

Respectfully submitted,

VILLAGE OF WHEELING

By:   
One of its attorneys

Dennis G. Walsh  
Jason A. Guisinger  
KLEIN, THORPE AND JENKINS, LTD.  
20 North Wacker Drive, Suite 1660  
Chicago, IL 60606  
(312) 984-6400

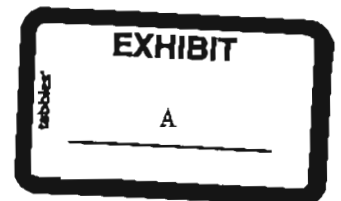
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<b>WHEELING/GWA AUTO SHOP,</b>	)	
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	)	<b>PCB No. 10-070</b>
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	)	
<b>ILLINOIS ENVIRONMENTAL</b>	)	
<b>PROTECTION AGENCY,</b>	)	
	)	
<b>Respondent.</b>	)	

**AFFIDAVIT OF JASON A. GUISINGER**

I, JASON A. GUISINGER, being first duly sworn upon oath, state that I have personal knowledge of the following facts and that if called to testify herein, I will truthfully attest to the truth of the following statements:

1. I am an attorney licensed to practice law, in good standing, the State of Illinois.
2. I received my *Juris Doctor* from Michigan State University College of Law in 2005. I have been licensed to practice law in the State of Illinois for over five (5) years.
3. I have handled environmental litigation for various governmental agencies and private entities for the past five (5) years.
4. My boss, Dennis Walsh G. Walsh, received his law degree from John Marshall College of Law in 1986 and was licensed to practice law in the State of Illinois that same year. Mr. Walsh is in good standing as a licensed attorney in the State of Illinois.
5. Mr. Walsh has been handling environmental law cases for the past twenty-five (25) years.
6. Mr. Walsh and I are attorneys of record in the case captioned, *Wheeling/GWA Auto Shop v. IEPA*, PCB No. 10-70.
7. Mr. Walsh supervised my legal work on this matter.





8. Mr. Walsh and I are attorneys with the firm of Klein, Thorpe & Jenkins LTD (“KTJ”).  
Mr. Walsh is a senior partner with KTJ and I am a senior associate attorney.
9. KTJ has been representing local governmental entities since 1935.
10. KTJ is, and was at all relevant times, the Village Attorneys for the Village of Wheeling (“Village”), the Village in this case.
11. Because KTJ is capable of handling all types of local government litigation, including environmental litigation, the Village was not required to retain special counsel to handle this matter. The Village requested that KTJ handle this matter at its standard litigation rates.
12. My hourly rate for handling litigation for the Village, as of July 1, 2011, is \$185.00 per hour. Prior to that time, and at all other times relevant to this matter, my hourly rate for said work was \$180.00 per hour.
13. Mr. Walsh, as a senior partner, currently charges \$195.00 per hour for Village litigation. Prior to July 1, 2011, and at all other times relevant to this matter, Mr. Walsh charged \$190.00 per hour for said work.
14. Evidence in appeals from final adverse IEPA action seeking relief from the UST Fund is limited to matters disclosed within the IEPA’s Administrative Record. The Board ordered the IEPA to file its Administrative Record in this cause so that the parties and the Board could review the propriety of the IEPA’s denial of the Village’s claim for reimbursement from the UST Fund. To the extent that the Village had sought reimbursement from the UST Fund as the current owner of an otherwise eligible site based on activities performed by a predecessor in title to the site in response to an historic release based on a recent amendment to the

statute, a detailed review of the Administrative Record was necessary in order to determine the propriety of Village's claim for reimbursement

15. All of the historic information necessary to respond to the IEPA's denial of Village's claim for reimbursement from the UST Fund was in the Administrative Record.
16. The IEPA was late in filing the Administrative Record, and the Village sought to compel the IEPA to file the Administrative Record by motion to the Board. On September 3, 2010, the IEPA filed the Administrative Record containing thousands of pages of text, reports, correspondence, data and exhibits, spanning a period from 1995 to 2008. The Village withdrew its petition upon receipt of the Administrative Record.
17. Thereafter, the Village and the IEPA concluded that the dispute between the IEPA and the Village was a question of law concerning the application of the statute following a recent amendment, and that the facts were generally not in dispute. Specifically, the issue was whether the Village was eligible to seek reimbursement from the UST Fund as a subsequent owner, even though the Village submitted the written election to be bound by Title XVI of the Illinois Environmental Protection Act following the completion of the otherwise reimbursable expenses.
18. The Village's appeal presented an issue of first impression to the Board, and involved a detailed review of the Administrative Record in order to establish the statutory elements necessary for a new owner to access the UST Fund. Specifically, a new owner, who was not subject to the requirements described at Title XVI of the Illinois Environmental Protection Act, was not entitled to access the UST Fund unless the

new owner could prove that the site is one that had contained one or more registered underground storage tanks that had been removed, and for which previous corrective action had not resulted in the issuance of a "No Further Remediation" letter from the Illinois Environmental Protection. If those elements are proved and if the new owner elects to be regulated pursuant to Title XVI of the Illinois Environmental Protection Act by providing notice to the Illinois EPA, then the new owner is eligible for reimbursement from the UST Fund for otherwise reimbursable expenses.

19. The IEPA argued that the new owner was required to provide the IEPA with notice of the election to proceed under Title XVI of the Illinois Environmental Protection Act before a new owner could incur the reimbursable corrective action costs. The Village disagreed, and argued that the new owner needed only to accept the burden of Title XVII and perform reimbursable activities.
21. Thereafter, the parties briefed cross motions for summary judgment, and each prepared responses to the other's motion.
22. The Board acknowledged that the facts disclosed in the Administrative Record and briefs were sufficient and satisfactory to decide the question of law presented. On July 7, 2011, the Board determined that Village was entitled to the relief requested and recited in the Order.
23. Between March 2, 2010 to August 8, 2011, Dennis Walsh and I were the attorneys for this litigation. During that time, we assigned three (3) paralegals, Susan Glatstein, Linda Stream, and Leslie Schmidt to work on this case. Two (2) law clerks also performed work on this file at a rate of at the rate of \$75.00 per

hour. The standard hourly rate for Ms. Glatstein and Ms. Stream was \$105. The hourly rate for Ms. Schmidt was \$110 per hour. These rates are consistent with, and not more than the prevailing billing rates for legal services in the Chicago legal community for attorneys, paralegals and law clerks with similar background and experience.

24. I have personal knowledge as to the office procedures of KTJ concerning recording of daily time, its entry on the computer system together with the record retention procedures of the firm. The law firm of KTJ has, throughout its representations pertinent to this matter, employed a time keeping system under which each attorney makes daily notations as to his and her activities on behalf of the client. The information set forth in these daily notations is entered in a computer system.

26. I have attached true and correct copies of the billing statements my law firm issued to Village. Said copies are attached and incorporated herein as Group Exhibit 1.

27. Group Exhibit 1 describes work performed and the costs incurred between March 2, 2010 and August 8, 2011. The attorneys fees and costs incurred for this time total \$17,115.06. Group Exhibit 1 indicates that during this time, Jason Guisinger and I represented the Village in its Petition for Review of the IEPA's February 2, 2010 determination to deny Village request for reimbursement of corrective action costs. That work included, but was not limited to: reviewing the IEPA's February 2, 2010 determination;

reviewing the administrative record in detail; researching and analyzing both the factual and legal matters related to Village's Petition for Review; drafting and revising the Petition for Review; correspondence with the Village as well as counsel for the IEPA regarding the Petition for Review; drafting and revising a motion for default that was necessitated by the IEPA's inability to timely file the Administrative Record; participating by teleconference in Board mandated conferences; reviewing hearing officer and Board orders; conferring with counsel for the IEPA; researching and analyzing legal matters related to the motions for summary judgment filed by Village and the IEPA; drafting and revising both the motion for summary judgment and the response to the IEPA's motion for summary judgment; drafting numerous motions to extend the decision deadline; and preparing a motion for authorization of payment of attorneys fees.

28. In preparing this affidavit in support of Village' Motion for Authorization of Payment of Attorneys' Fees, I have reviewed each of the billing statements attached as part of Group Exhibit 1, and I have concluded that each entry is fair and reasonable and necessary for the proper prosecution of the Village's claim in this matter,

29. All of the time entries that are included in the billing statements attached as Group Exhibit 1 are solely related to this matter and were reasonably necessary in representing the Village in its Petition for Review of the Illinois Environmental Agency's February 2, 2010 determination to deny

Village's request for reimbursement of corrective action costs from the UST Fund.

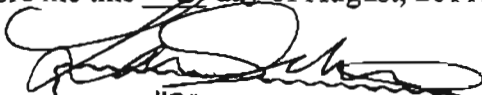
30. Based on my knowledge of the general legal community in the Chicago area regarding billing practices and rates, and having contracted for legal services with attorneys in such communities, it is my belief that the hourly rates and costs represented herein are fair and reasonable.

FURTHER AFFIANT SAITH NAUGHT.

JASON A. GUISENGER



SUBSCRIBED AND SWORN TO  
before me this 8 day of August, 2011.

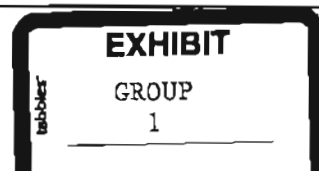


"OFFICIAL SEAL"  
Notary Public, State of Illinois  
My Commission Expires 02/16/2013

## Billing Detail Report

Search for: 1946-029 Search by: Matter ID Stage: (all) Type: (all)

Date	Prof	Narrative	Units	Extended Amount
		MatterID/Client Sort		
		Matter Description		
		1946-029 / Village of Wheeling		
		Purchase of 434 S. Milwaukee		
		Component Type: Soft Costs		
6/3/2010		West Law Research	3.00	5.48
6/3/2010		West Law Research	14.00	26.79
6/7/2010		West Law Research	3.00	5.48
6/7/2010		West Law Research	15.00	23.25
6/3/2010		West Law Research KEYCITE	1.00	1.38
6/7/2010		West Law Research KEYCITE	1.00	1.38
8/13/2010		Photocopies	182.00	36.40
9/7/2010		Photocopies	39.00	7.80
9/22/2010		Photocopies	84.00	16.80
9/30/2010		Photocopies	96.00	19.20
9/30/2010		Photocopies	169.00	33.80
9/25/2010		West Law Research	19.00	32.00
10/14/2010		Photocopies	39.00	7.80
10/29/2010		Photocopies	13.00	2.60
12/14/2010		Photocopies	39.00	7.80
4/15/2011		Photocopies	42.00	8.40
5/11/2011		Photocopies	36.00	7.20
5/11/2011		Photocopies	9.00	1.80
5/11/2011		Photocopies	36.00	7.20
5/11/2011		Photocopies	9.00	1.80
5/11/2011		Photocopies	36.00	7.20
5/11/2011		Photocopies	9.00	1.80







## Billing Detail Report

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Search for: 1946-029 Search by: Matter ID Stage: (all) Type: (all)

Date	Prof	MatterID/Client Sort Matter Description Narrative	Units	Extended Amount
		1946-029 / Village of Wheeling Purchase of 434 S. Milwaukee		
		related documents; communications re same		
3/25/2010	DGW	Receipt and review of PCB order	0.20	36.00
3/26/2010	DGW	Preparation of communications re extension request	0.30	54.00
3/26/2010	DGW	Receipt and review of communications re PCB order	0.40	72.00
6/1/2010	JAG	Research in preparation for filing petition to appeal IEPA's denial of Village's request for reimbursement of remediation costs	1.80	306.00
6/3/2010	JAG	Research in preparation for filing petition appealing denial of reimbursement from EPA	1.50	255.00
5/28/2010	DGW	Review of file re appeal issues	0.60	108.00
6/7/2010	JAG	Review documents in preparation for drafting petition to appeal IEPA decision and communications with K-Plus regarding the same; draft petition to appeal IEPA decision	5.50	935.00
6/8/2010	JAG	Revise and edit petition for appeal of IEPA LUST decision and prepare exhibits therefor; prepare appearance for Pollution Control Board	1.20	204.00
6/9/2010	JAG	Prepare exhibits for appeal petition; revise and edit appeal petition; research in preparation for filing motion for summary judgment	2.60	442.00
6/10/2010	JAG	Finalize appeal petition	0.50	85.00
7/2/2010	JAG	Receipt and review of order approving petition to appeal LUST decision	0.20	34.00
6/1/2010	DGW	Partial preparation of petition to appeal; related research; communications with J. Guisinger re same; communications with K-Plus	1.80	324.00
6/2/2010	DGW	Communications with K-Plus and J. Guisinger re appeal issues	0.60	108.00
6/4/2010	DGW	Communications with K-Plus and J. Guisinger re appeal issues	0.60	108.00
6/7/2010	DGW	Receipt and review of draft petition for review of IEPA LUST decision	0.60	108.00
6/8/2010	DGW	Further preparation of petition to appeal matters	1.00	180.00
6/10/2010	DGW	Communications with J. Ferolo re status of appeal issues	0.10	18.00
6/10/2010	DGW	Final preparation of petition to appeal matter; communications with J. Ferolo and Village re same	0.80	144.00
6/29/2010	DGW	Receipt and review of Illinois Pollution Control Board Order; meeting re same	0.40	72.00
7/28/2010	JAG	Research in preparation for filing motion for summary judgment	1.20	204.00
7/1/2010	DGW	Preparation of communications re PCB appeal	0.30	54.00
7/2/2010	DGW	Communications with J. Guisinger re appeal issues; communications from K-Plus	0.20	36.00
7/28/2010	DGW	Preparation of appeal issues re GWA Auto; communications with J. Guisinger re same	0.40	72.00
8/11/2010	JAG	Revise and edit motion for default and prepare exhibits	0.60	108.00
8/4/2010	MG	Draft motion for default and sanctions and prepare exhibits	2.50	187.50

## Billing Detail Report

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Search for: 1946-029 Search by: Matter ID Stage: (all) Type: (all)

Date	Prof	Matter ID/Client Sort Matter Description Narrative	Units	Extended Amount
8/13/2010	DJ	1946-029 / Village of Wheeling Purchase of 434 S. Milwaukee Filed Notice of Filing for "Motion for Default Judgment";	0.30	25.50
8/18/2010	JAG	Communications with general counsel for EPA regarding motion for default	0.30	54.00
8/20/2010	JAG	Receipt and review of hearing officer's order	0.20	36.00
8/25/2010	JAG	Participation in telephonic status conference	0.80	144.00
8/13/2010	SG	Preparation of Notice of Filing and Motion for Default Judgment on in the Alternative Sanctions for filing with the Illinois Pollution Control Board	0.20	17.00
8/17/2010	DGW	Communications with IEPA attorney re GWA Auto Shop site; communications with J. Guisinger	0.40	76.00
8/18/2010	DGW	Receipt and review of communications and documents from attorney for IEPA re GWA Auto Shop site; communications with J. Guisinger; additional communications with attorney for IEPA	0.60	114.00
8/20/2010	DGW	Receipt and review of Hearing Officer's Order re GWA Auto Shop site; communication from J. Guisinger re conference call with hearing officer	0.40	76.00
8/25/2010	DGW	Communication from J. Guisinger re re hearing officer decision re GWA Auto	0.20	38.00
9/7/2010	JAG	Prepare motion to extend decision deadline	0.40	72.00
9/7/2010	DJ	Filed Notice of Filing for Waiver of Deadline for Decision;	0.40	34.00
9/22/2010	JAG	Receipt and review of IEPA's motion for summary judgment; prepare motion for extension of time to file response brief, research in preparation for drafting response to IEPA's motion for summary judgment	2.00	360.00
9/22/2010	DJ	Filed Notice of Filing for the "Motion for extension of Time to File Response to IEPA's Motion for Summary Judgment and to Withdraw Motion for Default," with the Pollution Control Board; Mailed service list;	0.60	51.00
9/23/2010	JAG	Review and analysis of administrative record	0.50	90.00
9/24/2010	JAG	Research in preparation for drafting response to motion for summary judgment	0.50	90.00
9/25/2010	JAG	Research in preparation for drafting motion for summary judgment	2.00	360.00
9/7/2010	SG	Preparation of Notice of Filing and Waiver of Deadline for filing with the Illinois Pollution Control Board	0.20	17.00
9/30/2010	JAG	Draft, revise and edit response brief in opposition to IEPA's motion for summary judgment	4.20	756.00
9/30/2010	DJ	Filed Notice of Filing for Petitioner's Response to Respondent's Motion for Summary Judgment;	0.40	34.00
9/22/2010	SG	Preparation of Notice of Filing and Motion for Extension of Time to File Response to IEPA's Motion for Summary Judgment and Withdraw Motion for Default for filing with Illinois Pollution Control Board	0.20	17.00
9/8/2010	DGW	Receipt and review of Notice, Appearance and Motion for Summary Judgment; review of records from IEPA	1.20	228.00
10/1/2010	JAG	Draft motion for summary judgment re reimbursement from state for environmental issues.	1.20	216.00

## Billing Detail Report

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Search for: 1946-029 Search by: Matter ID Stage: (all) Type: (all)

		MatterID/Client Sort	1946-029 / Village of Wheeling		
		Matter Description	Purchase of 434 S. Milwaukee		
Date	Prof	Narrative	Units	Extended Amount	
9/30/2010	DGW	Review of draft response to Summary Judgment motion; communication with J. Gusinger re same	0.60	114.00	
10/12/2010	JAG	Receipt and review of EPA's reply brief in support of its motion for summary judgment; research in preparation for drafting motion for summary judgment	2.80	504.00	
10/14/2010	JAG	Attendance at telephonic conference before Pollution Control Board; prepare additional extension of decision deadline, notice of filing and proof of service	1.00	180.00	
10/19/2010	JVF	Attendance at meeting regarding environmental cleanup	0.50	95.00	
10/19/2010	JAG	Communications with environmental consultant regarding site history and representations made by EPA	0.60	108.00	
10/27/2010	JAG	Research and draft motion for summary judgment	3.00	540.00	
10/28/2010	JAG	Draft motion for summary judgment	6.50	1,170.00	
10/29/2010	JAG	Draft, revise and edit motion for summary judgment and prepare exhibits; draft affidavit in support of motion for summary judgment	3.60	648.00	
10/29/2010	LS	Paralegal run to Illinois Pollution Control Board to file a Notice of Filing and Motion for Summary Judgment for Case PCB No. 10-070.	0.80	84.00	
10/21/2010	SG	Research last deed of record for 434 S. Milwaukee; Obtain certified copy from the Cook County Recorder of Deeds	0.30	25.50	
10/18/2010	DGW	Receipt and review of hearing officer order and partial preparation of Summary Judgment issue	0.40	76.00	
10/19/2010	DGW	Further preparation for appeal; attendance at meetings re same; communication with K-Plus Environmental; meeting re appeal strategy	2.00	380.00	
10/27/2010	DGW	Review of file re status	0.10	19.00	
10/29/2010	DGW	Review of motion for summary judgment; attendance at meeting re same	0.90	171.00	
11/12/2010	JAG	Research Pollution Control Board decisions to determine whether decision had been rendered regarding this case	0.20	36.00	
11/16/2010	JAG	Receipt and review of EPA's response to Village's motion for summary judgment	0.30	54.00	
11/30/2010	JAG	Communications with opposing counsel and hearing officer regarding PCB's request for additional time to render a decision	0.60	108.00	
11/19/2010	DGW	Review of file re summary judgment status issues	0.10	19.00	
12/8/2010	JAG	Communication with ALJ regarding filing of waiver extending hearing deadline to May of 2011	0.30	54.00	
12/14/2010	JAG	Receipt and review of ALJ's order from November telephonic conference; prepare additional waiver of decision deadline per ALJ's order	0.60	108.00	
12/14/2010	LS	Went to Illinois Environmental Protection Agency to file a Notice of Filing and Waiver of Deadline for Decision for PCB No. 10-070.	0.40	42.00	
12/8/2010	DGW	Receipt and review of response to Petitioner's Motion for Summary Judgment	0.40	76.00	
12/14/2010	DGW	Receipt and review of Hearing Officer's Order	0.20	38.00	

## Billing Detail Report

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Search for: 1946-029 Search by: Matter ID Stage: (all) Type: (all)

Date	Prof	MatterID/Client Sort Matter Description Narrative	Units	Extended Amount
1/28/2011	JAG	1946-029 / Village of Wheeling Purchase of 434 S. Milwaukee Receipt, review and analysis of Pollution Control Board decision that will be controlling on the Village's case	1.50	270.00
2/3/2011	JAG	Review agenda of pollution control board meeting to determine which motions will be ruled on	0.50	90.00
2/25/2011	JAG	Receipt and review of ALJ order setting status hearing	0.20	36.00
2/23/2011	DGW	Communications with Pollution Control Board re pending case; communications with J. Guisinger re same	0.30	57.00
3/18/2011	JAG	Research pollution control board filings to determine status of decision	0.30	54.00
3/23/2011	JAG	Communications with ALJ regarding status conference	0.50	90.00
3/24/2011	JAG	Participation in telephonic status conference with ALJ	0.50	90.00
3/1/2011	DGW	Receipt and review of hearing officer order	0.10	19.00
3/15/2011	DGW	Receipt and review of communication re NFR letter issues; review of file re same	0.30	57.00
3/23/2011	DGW	Receipt and review of NFR letter; related communications; review of file re status of appeal issues	0.60	114.00
4/13/2011	JAG	Receipt of hearing officer's order	0.20	36.00
4/14/2011	JAG	Communication with hearing officer regarding 60 day waiver of decision deadline; prepare 60 day waiver of decision deadline and notice of filing	0.50	90.00
4/20/2011	JAG	Research IPCB's online docket to determine status of decision	0.20	36.00
5/3/2011	JAG	Review Pollution Control Board's current meeting agenda to check status of decision and communication	0.30	54.00
4/12/2011	DGW	Receipt and review of GW Auto hearing officer order	0.10	19.00
4/15/2011	DG	Preparation for filing of notice of filing and waiver; delivery of notice and waiver of Deadline for Decision	0.90	76.50
5/11/2011	JAG	Participation in telephonic status conference; prepare additional sixty (60) day waiver	0.60	108.00
5/11/2011	LS	Filed a Notice of Filing and Waiver of Deadline for Decision with the Pollution Control Board of the State of IL.	0.30	31.50
5/17/2011	DGW	Receipt and review of hearing officer order	0.10	19.00
6/28/2011	DGW	Con: . . . on re status of P.C.B. decision	0.20	38.00
7/12/2011	JAG	Receipt and review of IPCB's decision on motion for summary judgment; review and analysis of applicable statutory and case law in preparation for drafting petition for attorneys' fees	1.80	333.00
7/13/2011	JAG	Communication with client regarding PCB decision granting Village's motion for summary judgment	0.30	55.50
7/14/2011	JAG	Communication with opposing counsel regarding cancellation of telephonic status hearing	0.30	55.50

## Billing Detail Report

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Search for: 1946-029 Search by: Matter ID Stage: (all) Type: (all)

Date	Prof	Narrative	Extended Amount
		MatterID/Client Sort 1946-029 / Village of Wheeling Matter Description Purchase of 434 S. Milwaukee	
		Component Type: Fees	\$ 15,015.50
		Grand Total	\$ 15,335.06

## Billing Detail Report

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Date	Prof	Narrative	Units	Extended Amount
<b>MatterID/Client Sort</b> 1946-029 / Village of Wheeling				
<b>Matter Description</b> Purchase of 434 S. Milwaukee				
<b>Component Type: Fees</b>				
<b>Component: T</b>				
7/14/2011	JAG	Communications with opposing counsel regarding cancellation of telephonic status hearing; communications with hearing officer regarding need to file an additional waiver of decision deadline; prepare additional waiver of decision deadline and notice of filing and proof of service; prepare affidavit in support of fee petition	2.30	425.50
7/26/2011	DGW	Communications with J. Guisinger re UST appeal issues; review of file re same	0.40	78.00
7/27/2011	DGW	Communications with District re amendments to District policy and issues relating to Pebble Flex	0.30	58.50
8/2/2011	JAG	Draft petition for attorneys' fees and costs	1.00	185.00
8/3/2011	JAG	Communication with client regarding IPCB decision	0.30	55.50
8/8/2011	JAG	Research in preparation for, and preparation of, fee petition; review time entries for fee petition	3.50	647.50
8/8/2011	LAS	Preparation of statements for Affidavit of Fee Peition, calcaultion of attorneys fees, preparation Fee Petition for filing with the Illinois Pollution Control Board; service of same.	3.00	330.00
				Component: T \$ 1,780.00
				Component Type: Fees \$ 1,780.00
				Grand Total \$ 1,780.00