

**Memorandum  
Public Works Department**



**To:** City Manager  
**Subject:** Drinker, Biddle & Reath Charges  
**Date:** January 11, 2012  
**Number:** 2011-016

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The City's environmental attorneys at Drinker, Biddle & Reath are entitled to the following payment.

**Preparation of the Mill Creek-South Slough Notice of Intent** \$25,747.49

Mr. Harsch agreed to draft this complaint for \$25,000. Even though the actual charges exceeded that amount, he is only requesting the agreed amount plus expenses of \$747.49.

**Mill Creek-South Slough Negotiations** \$21,928.50

Once the draft Notice of Intent was prepared, the City began the negotiation process. This process is still underway.

**Recommendation**

The Public Works Department recommends that the City Council authorize a payment in the amount of \$47,675.99 to Drinker, Biddle & Reath for legal services.

**Vendor:** Drinker, Biddle & Reath, LLP

**Payment Amount:** \$47,675.99

**Account Chargeable:**

Fund	101	General Fund
Division:	611	Public Works Administration
Cost Center:	041	Administration
Object Code:	53101	Legal Services
Project Code:	2660000	Mill Creek-South Slough

**Requisition Number:** R002978

**Purchase Order Number:**

**Submitted by:** Robert T. Hawes, P.E., Assistant City Manager/Public Works Director

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**Approved by:** Thomas Thomas, City Manager

LAW OFFICES

**Drinker Biddle & Reath**  
LLP

191 N. Wacker Drive  
Suite 3700  
Chicago, IL 60606-1698  
312-569-1000

REMITTANCE PAGE

01/06/2012

City of Rock Island  
Mr. Robert Hawes  
1528 Third Avenue  
Rock Island, IL 61201

Invoice No. 14526495

For services through 30 JUNE 2011 as follows:

<u>Our File</u>	<u>Matter Name</u>	<u>Amount</u>
321135	Mill Creek Flooding-Preparation of ACOE Complaint	
	Current Fees	<del>118,127.00</del> \$ 25,000 BY AGREEMENT
	Expenses and Charges	<u>747.49</u>
	Total Amount Due This Invoice Per Attached Detail	\$ <u>118,874.49</u> \$ 25,747.49

Please return this remittance copy with your payment.  
Payment for legal services is due within 30 days of invoice date.

*RTW*  
*1.9.12*

Wire Payments:

Bank: Citibank – New York, NY  
ABA #: 021000089  
Payee: Brown Brothers Harriman & Co.  
Acct. No.: 09250276  
Further Credit: Drinker Biddle & Reath LLP  
Account No. 3485513  
Reference: 160805/14526495

Checks:

Drinker Biddle & Reath LLP  
One Logan Square, Ste. 2000  
Philadelphia, PA 19103-6996

ACH Payments:

Bank: Brown Brothers Harriman & Co.  
Acct Name: Drinker Biddle & Reath LLP  
ABA #: 026-004-802  
Acct. No. : 3485513

LAW OFFICES

Drinker Biddle & Reath  
L L P

191 N. Wacker Drive  
Suite 3700  
Chicago, IL 60606-1698  
312-569-1000

City of Rock Island  
Mr. Robert Hawes  
1528 Third Avenue  
Rock Island, IL 61201

Invoice Number: 14526495  
Invoice Date: 01/06/2012  
Client Number: 160805  
Matter Number: 321135  
Page: 1

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**RE: Mill Creek Flooding-Preparation of ACOE Complaint**

FOR PROFESSIONAL SERVICES RENDERED THROUGH 30 JUNE 2011

<u>Date</u>			<u>Hours</u>	
08/05/10	RM HARSCH	Work on preparations for meeting.	0.90	445.50
08/06/10	RM HARSCH	Prepare for meeting.	1.00	495.00
08/06/10	Y VILLASENOR-RODRIGUEZ	Review e-mail from Mr. Harsch regarding ACOE liability under state law; draft response to same.	0.20	65.00
08/09/10	RM HARSCH	Conference call with Mr. Hawes and City Manager regarding potential litigation against ACOE; attend executive session of counsel regarding same.	6.00	2,970.00
08/09/10	Y VILLASENOR-RODRIGUEZ	Phone conference with Mr. Harsch regarding the Illinois Environmental Protection Act and certain definitions thereto as relates to potential suit against Army Corps; draft summary to Mr. Harsch with same; research federal regulations and potential theories of liability concerning same.	5.40	1,755.00
08/10/10	RM HARSCH	Work on start of theory for action.	1.00	495.00
08/10/10	Y VILLASENOR-RODRIGUEZ	Review caselaw regarding litigation under Federal Facilities statutory provisions in 7th Circuit.	0.60	195.00
08/15/10	Y VILLASENOR-RODRIGUEZ	E-mail to Mr. Simon regarding status of research; follow-up correspondence with Mr. Simon regarding same.	0.10	32.50
08/18/10	Y VILLASENOR-RODRIGUEZ	Post-Research review of Army Corps of Engineers liability under potential caselaw.	3.30	1,072.50
08/18/10	S YESNICK	For Mr. Harsch, research regarding Rock Island District EPA report	0.60	132.00

<u>Date</u>			<u>Hours</u>	
08/18/10	M BIRD	Research regarding Milan project deauthorization for Ms. Villasenor-Rodriguez. (Lexis)	1.80	396.00
08/22/10	Y VILLASENOR-RODRIGUEZ	Review Clean Water Act research regarding citizen suit provisions; conduct follow-up research; draft outline with preliminary research findings.	6.30	2,047.50
08/23/10	Y VILLASENOR-RODRIGUEZ	Review statutory provisions related to Safewater Drinking Act as potential theory of liability against Army Corps of Engineers; review potential relevant caselaw under same.	2.00	650.00
08/24/10	Y VILLASENOR-RODRIGUEZ	Draft summary and review research.	1.80	585.00
08/24/10	SK SANDERS	Research to obtain one government publication for Ms. Villasenor-Rodriguez.	0.40	62.00
08/25/10	RM HARSCH	Conference with Ms. Villasenor-Rodriguez regarding outline.	0.20	99.00
08/25/10	Y VILLASENOR-RODRIGUEZ	Draft outline regarding potential theories of liability against the Army Corps of Engineers with referenced caselaw.	3.90	1,267.50
08/26/10	Y VILLASENOR-RODRIGUEZ	Review all research results and prepare master binder with same; revise preliminary outline with same.	4.90	1,592.50
08/27/10	RM HARSCH	Conference call with Ms. Villasenor-Rodriguez.	0.30	148.50
08/29/10	Y VILLASENOR-RODRIGUEZ	Review all research and referenced materials regarding theories of liability against Army Corps of Engineers; prepare research summary and related attachments for Mr. Harsch and Mr. Simon; draft electronic correspondence to Mr. Harsch and Mr. Simon regarding same.	3.20	1,040.00
09/07/10	J SIMON	Review legal research performed by Ms. Villasenor-Rodriguez supporting a claim by Rock Island against the Army Corps of Engineers, including review of the ACOE February 2010 Draft Appraisal of Resumption of Operation and Maintenance of the Mill Creek South Slough 1930 Flood Damage Reduction Project.	1.50	787.50

<u>Date</u>			<u>Hours</u>	
09/08/10	J SIMON	Research jurisdiction to sue Army Corps of Engineers pursuant to Administrative Procedure Act and pursuant to Federal Common Law; conference with Ms. Villasenor-Rodriguez regarding her research supporting a claim against the Army Corps of Engineers.	1.50	787.50
09/08/10	Y VILLASENOR-RODRIGUEZ	Review correspondence from Mr. Simon regarding update caselaw in support of claims against ACOE; review same; conference with Mr. Simon regarding strategy for asserting claims against ACOE based on research prepared to date.	2.10	682.50
09/09/10	CP IRANI	Conference with Ms. Villasenor-Rodriguez about research needed; research and prepare memorandum summarizing federal case law in which a party brought suit against the United States government, alleging claims against the U.S. Army Corps of Engineers in connection with: 1) public nuisance; 2) Fifth Amendment takings; 3) inverse condemnation; and/or 4) riparian rights.	5.60	1,120.00
09/10/10	Y VILLASENOR-RODRIGUEZ	Conference with Mr. Simon regarding potential theories of liability and draft outline with same; review army corps of engineers regulations to determine applicable statute of limitations pertaining to draft appraisal report; draft electronic correspondence to Mr. Bird, DBR librarian requesting assistance with research concerning finality of Army Corps; draft appraisal report and congressional appropriations regarding same; conference with Mr. Bird regarding same; conduct research for fiscal appropriations for Mill Creek South Slough; draft correspondence to Mr. Simon regarding same; conference with Ms. Park regarding research in connection with federal nuisance and potential similar theories of liability as discussed with Mr. Simon.	2.60	845.00

<u>Date</u>			<u>Hours</u>	
09/10/10	CP IRANI	Research and prepare memorandum summarizing federal case law in which a party brought suit against the United States government, alleging claims against the U.S. Army Corps of Engineers in connection with: 1) public nuisance; 2) Fifth Amendment takings; 3) inverse condemnation; and/or 4) riparian rights; submit full text of cases to Ms. Villasenor-Rodriguez and conference with her regarding results of research.	2.30	460.00
09/10/10	JA MOORE	Search for Corps of Engineers reports on flooding in Mill Creek south, Rock Island IL, per Ms. Villasenor-Rodriguez.	1.20	294.00
09/13/10	J SIMON	Follow-up with Ms. Yesenia Villasenor-Rodriguez regarding special earmark legislation enacted in 2009 as well as further analysis of a potential claim pursuant to the APA.	0.40	210.00
09/13/10	Y VILLASENOR-RODRIGUEZ	Research statutes regarding Administrative Procedure Act requirements under federal law as potential basis of liability against Army Corps of Engineers per Mr. Simon's request; conference with Ms. Park requesting research assistance in following up with status of FY2010 Congressional Appropriation for Mill Creek-South Slough; correspondence from Ms. Park regarding same; review Army Corps of engineers regulations regarding potential violations of same.	5.30	1,722.50
09/13/10	CP IRANI	Communications with Ms. Villasenor-Rodriguez about follow up research needed in connection with earmark for Mill Creek South Slough project and research whether earmark was allocated; review OMB's Earmark Database; e-mail memorandum to Ms. Villasenor-Rodriguez regarding results of research.	1.80	360.00

<u>Date</u>			<u>Hours</u>	
09/14/10	RM HARSCH	Telephone conference and e-mail from Ms. Villasenor-Rodriguez regarding ACOE status; e-mail and telephone call to Mr. Hawes; response from Ms. Villasenor-Rodriguez after she spoke with Mr. Hawes.	0.60	297.00
09/14/10	J SIMON	Attention to report from Ms. Villasenor-Rodriguez that Army Corps of Engineers is meeting with Congress in effort to de-authorize Mill Creek South Slough project; review and analyze the County of Vernon v. ACOE, 933 F.2d 532 decision identified by Ms. Villasenor-Rodriguez.	1.50	787.50
09/14/10	Y VILLASENOR-RODRIGUEZ	Telephone conference with Mr. Heinold, Army Corps of Engineers project manager for Mill Creek South Slough regarding status of Draft Appraisal February 2010 Report; draft electronic correspondence to Mr. Simon and Mr. Harsch regarding same; follow-up conference with Mr. Simon regarding same; draft correspondence to client regarding same; follow-up phone conference with Mr. Heinold regarding Army Corps of Engineers procedures for finalization of draft appraisal report per Mr. Simon's request; phone conference with Mr. Hawes regarding same; conduct legal research regarding caselaw to determine if case is judicially reviewable; draft correspondence to Mr. Simon regarding same; review electronic correspondence from Mr. Heinold regarding responses to follow-up questions; review memorandum prepared by Ms. Irani regarding caselaw under federal commonlaw theories of nuisance, inverse condemnation, and trespass.	5.80	1,885.00
09/17/10	Y VILLASENOR-RODRIGUEZ	Conference with Mr. Simon regarding strategy for finalizing outline with theories of liability against army corps of engineers in preparation for drafting complaint.	0.70	227.50
09/23/10	Y VILLASENOR-RODRIGUEZ	Conference with Mr. Hawes regarding status of Mill Creek South Slough and recommendation of City's legislative aid.	0.20	65.00

<u>Date</u>			<u>Hours</u>	
10/01/10	Y VILLASENOR-RODRIGUEZ	Phone conference with Mr. Hawes regarding update on City discussions with IEPA and IDNR.	0.10	32.50
10/12/10	RM HARSCH	Review e-mails.	0.30	148.50
10/14/10	RM HARSCH	Telephone conference from Mr. Hawes regarding meeting with Mr. Scott; telepone conference with Mr. Kim and e-mails from him.	0.50	247.50
10/15/10	RM HARSCH	Telephone conference with Mr. Kim; telephone conference with Mr. Davis; telephone call with Mr. Hawes regarding Mill Creek.	1.30	643.50
10/15/10	Y VILLASENOR-RODRIGUEZ	Draft e-mail to Mr. Harsch regarding status of City discussions with representatives of IDNR and IEPA.	0.10	32.50
10/19/10	RM HARSCH	E-mail and phone call from Mr. Davis regarding contact with John Kim.	0.50	247.50
10/26/10	RM HARSCH	Review e-mail of meeting.	0.20	99.00
11/05/10	RM HARSCH	E-mail to Mr. Kim in response to Mr. Hawes - forward reply to Mr. Hawes.	0.40	198.00
11/11/10	RM HARSCH	Telephone call and e-mail to Mr. Davis and Mr. Kim after call from Mr. Hawes.	0.30	148.50
11/12/10	RM HARSCH	Telephone conference and e-mail to Mr. Kim and Mr. Davis regarding Mill Creek; forward reply from Mr. Kim to Mr. Hawes and Mr. Davis.	0.60	297.00
11/16/10	RM HARSCH	Review e-mails from Mr. Hawes and phone call to discuss same; e-mail to Mr. Davis regarding Mill Creek.	0.30	148.50
12/13/10	Y VILLASENOR-RODRIGUEZ	Attention to outline in preparation for draft complaint.	0.20	65.00
12/14/10	RM HARSCH	Telephone call from Mr. Hawes; conference with Ms. Villasenor-Rodriguez and Mr. Simon; telephone call and e-mail to Mr. Kim and Mr. Davis; forward their replies to Mr. Hawes.	0.90	445.50

<u>Date</u>			<u>Hours</u>	
12/16/10	Y VILLASENOR-RODRIGUEZ	Review court docket entries and opinion regarding preliminary injunction in recent case against Army Corps of Engineers in Northern District of Illinois in preparation for client complaint against same.	2.00	650.00
12/20/10	Y VILLASENOR-RODRIGUEZ	Review preliminary research to prepare outline for complaint.	3.90	1,267.50
12/21/10	Y VILLASENOR-RODRIGUEZ	Review preliminary research to prepare outline for complaint.	1.60	520.00
12/27/10	Y VILLASENOR-RODRIGUEZ	Attention to draft outline regarding notice, jurisdiction, and caselaw under legal theories.	3.40	1,105.00
12/28/10	Y VILLASENOR-RODRIGUEZ	Attention to draft outline with preliminary legal theories.	3.10	1,007.50
12/29/10	DL SHUFF	Confer with Ms. Villasenor-Rodriguez regarding complex environmental litigation issues.	0.70	262.50
12/29/10	Y VILLASENOR-RODRIGUEZ	Phone conference with Ms. Shuff, Sr. DBR Environmental/Complex Litigation associate regarding preliminary theories of liability against Army Corps of Engineers; attention to same.	1.20	390.00
01/03/11	Y VILLASENOR-RODRIGUEZ	Review report received by client regarding Mill Creek South Slough Flood Protection Feasibility Study.	1.50	502.50
01/06/11	Y VILLASENOR-RODRIGUEZ	Review memorandum and supporting caselaw prepared by Ms. Park regarding takings cases against U.S. government; research caselaw under Tucker Act for potential liability against Army Corps of Engineers.	4.00	1,340.00
01/10/11	Y VILLASENOR-RODRIGUEZ	Review file documents regarding facts to be argued against ACOE.	1.30	435.50
01/11/11	Y VILLASENOR-RODRIGUEZ	Review caselaw for preparing legal theory outline.	4.10	1,373.50
01/12/11	Y VILLASENOR-RODRIGUEZ	Review caselaw for preparing legal theory outline.	5.10	1,708.50

<u>Date</u>			<u>Hours</u>	
01/13/11	RM HARSCH	E-mail from Mr. Kim; forward to Mr. Hawes; telephone call with Mr. Davis; telephone call with Mr. Hawes regarding call with Mr. Davis; e-mail to Mr. Hawes and return call.	1.00	495.00
01/14/11	Y VILLASENOR-RODRIGUEZ	Review caselaw for preparing legal theory outline.	0.60	201.00
01/17/11	Y VILLASENOR-RODRIGUEZ	Review caselaw for preparing legal theory outline; revise outline with same.	3.10	1,038.50
01/18/11	Y VILLASENOR-RODRIGUEZ	Review caselaw for preparing legal theory outline.	4.30	1,440.50
01/18/11	M BIRD	Research regarding Army Corps of Engineers guidance document for Ms. Villasenor-Rodriguez.	0.80	180.00
01/19/11	RM HARSCH	Prepare for call; e-mails with Mr. Davis; conference call with Illinois Agency, IEPA; IDNR and stakeholder.	2.00	990.00
01/19/11	Y VILLASENOR-RODRIGUEZ	Review caselaw for preparing legal theory outline; revise outline with same.	2.30	770.50
01/20/11	Y VILLASENOR-RODRIGUEZ	Review caselaw for preparing legal theory outline; revise outline with same.	2.10	703.50
01/21/11	Y VILLASENOR-RODRIGUEZ	Review caselaw to be included in outline with legal theories.	1.00	335.00
01/24/11	Y VILLASENOR-RODRIGUEZ	Review caselaw to be included in outline with legal theories; revise outline with same.	5.30	1,775.50
01/26/11	Y VILLASENOR-RODRIGUEZ	Review caselaw to be included in outline with legal theories; revise outline with same.	2.10	703.50
01/28/11	Y VILLASENOR-RODRIGUEZ	Review outline to determine missing information.	0.40	134.00
02/08/11	Y VILLASENOR-RODRIGUEZ	Finalize initial memorandum and documents for Mr. Harsch and Mr. Simon; correspondence to Mr. Simon and Mr. Harsch regarding same.	5.60	1,876.00
02/10/11	J SIMON	Analyze the February 2010 draft Appraisal of Resumption of Operations and Maintenance of the Mill Creek - South Slough project in addition to related materials compiled by Ms. Villasenor-Rodriguez.	2.50	1,312.50

<u>Date</u>			<u>Hours</u>	
02/10/11	Y VILLASENOR-RODRIGUEZ	Conduct research in preparation for Complaint against Army Corps of Engineers.	0.50	167.50
02/11/11	J SIMON	Research United States Court of Federal Claims jurisdiction; research recent case filed against the Army Corps of Engineers in the USDC for the Federal District; meet with Mr. Harsch and Ms. Villasenor-Rodriguez regarding her investigation and her preliminary analysis and options available to Rock Island for litigation against the Army Corps of Engineers; meet separately with Ms. Villasenor-Rodriguez regarding her analysis of the various potential causes of action, including the extent of waiver of sovereign immunity, the possible relief, and the necessary analysis for any recovery.	3.50	1,837.50
02/11/11	Y VILLASENOR-RODRIGUEZ	Prepare for meeting with Mr. Simon and Mr. Harsch; meeting with Mr. Harsch and Mr. Simon regarding litigation strategy.	4.00	1,340.00
02/14/11	J SIMON	Research legal claim of Rock Island against ACOE pursuant to Section 1323(a) of the Clean Water Act, including review of Metropolitan Sanitary District v. Department of Navy and North Dakota v. Army Corps of Engineers.	3.80	1,995.00
02/14/11	Y VILLASENOR-RODRIGUEZ	Review all provisions of CWA to determine all applicable to ACOE actions.	4.20	1,407.00
02/15/11	J SIMON	Begin draft complaint against Army Corps of Engineers based upon the Clean Water Act; conference with Ms. Villasenor-Rodriguez regarding her legal research and analysis; perform legal research for the proposed complaint, including review of the case National Wildlife Federation v. Army Corps of Engineers.	4.00	2,100.00
02/15/11	Y VILLASENOR-RODRIGUEZ	Conference with Mr. Simon regarding Complaint; draft Complaint; draft electronic correspondence to Mr. Simon with same.	8.00	2,680.00

<u>Date</u>			<u>Hours</u>	
02/16/11	J SIMON	Conference with Ms. Villasenor-Rodriguez regarding paragraphs she drafted for inclusion into the Complaint and regarding statutory basis imposing an obligation on ACOE's to maintain MCSS; revise draft Complaint; telephone conference with Mr. Hawes regarding the history and the current situation on account of the flooding caused by the ACOE's failure to maintain MCSS; review additional materials supplied by Mr. Hawes.	3.90	2,047.50
02/16/11	Y VILLASENOR-RODRIGUEZ	Conference with Mr. Simon regarding revisions and questions to draft complaint.	1.00	335.00
02/17/11	Y VILLASENOR-RODRIGUEZ	Conduct follow-up research in connection with Complaint as requested by Mr. Simon; conference with Mr. Bird regarding research assistance.	2.20	737.00
02/18/11	J SIMON	Research State of Missouri v. Department of the Army Corps of Engineers and State of Minnesota v. Hoffman, Secretary of the Army regarding construction of Section 1323 of the CWA and waiver of sovereign immunity.	1.00	525.00
02/18/11	Y VILLASENOR-RODRIGUEZ	Draft correspondence to Mr. Bird requesting library research assistance for congressional committee reports referenced in Rivers & Harbors Act and subsequent legislation referenced in Army Corps of Engineers report; research Army Corps of Engineers regulations for potential violations under same in connection with Complaint.	2.30	770.50
02/18/11	Y VILLASENOR-RODRIGUEZ	Review correspondence from Mr. Sanders, librarian assistant regarding research request in connection with congressional committee reports included in Rivers and Harbors Act(s); review same; draft correspondence to Mr. Simon with same; review correspondence from Mr. Simon regarding request for additional research concerning legislation pertaining to same.	3.50	1,172.50
02/18/11	M BIRD	Research regarding Rivers & Harbors Act of 1930 for Ms. Villasenor.	0.30	67.50

<u>Date</u>			<u>Hours</u>	
02/20/11	J SIMON	Analyze the February 2010 draft Appraisal prepared by the Army Corps of Engineers and revise and supplement draft Complaint to allege factual matters acknowledged by the ACOE in its February 2010 draft Appraisal Report.	3.00	1,575.00
02/22/11	J SIMON	Analyze the Rivers and Harbors Act of 1930 regarding the authorization of the Mill Creek - South Slough project; analyze the Report to the Committee on Rivers and Harbors, Document Numbered 19, Seventy-first Congress, second session; supplement draft Complaint against ACOE to incorporate additional paragraphs from this legislation.	3.80	1,995.00
02/22/11	SK SANDERS	Research to obtain one legislative document for Ms. Villasenor-Rodriguez.	4.00	640.00
02/23/11	J SIMON	Analyze Rivers and Harbors Act of 1954 which authorized ACOE to conduct clearing and snagging from appropriations for flood control cited by ACOE in its draft Appraisal Report; review and analyze the Rivers and Harbors Flood Control Act of 1970 and House Document 348 also cited in the ACOE draft Appraisal Report in connection with the Milan flood control work; analyze the Rock Island Storm Water Control Ordinance and draft section of proposed Complaint alleging violations of the Ordinance; analyze the County of Rock Island Storm Water Control Ordinance and draft section of Complaint alleging violation of County of Rock Island Storm Water Control Ordinance.	4.80	2,520.00
02/23/11	S YESNICK	For Ms. Villasenor-Rodriguez, research regarding legislative history for Rivers and Harbors Flood Control Act	0.30	67.50
02/23/11	M BIRD	Research regarding Rivers & Harbors Act of 1968 for Ms. Villasenor-Rodriguez.	0.30	67.50
02/24/11	RM HARSCH	E-mails to and from Mr. Hawes and Ms. Villasenor-Rodriguez; telephone call with Mr. Hawes regarding permit comment; prepare permit comment.	2.50	1,237.50

<u>Date</u>			<u>Hours</u>	
02/24/11	J SIMON	Conference with Ms. Villasenor-Rodriguez regarding her research whether Army Corps of Engineers has discretion to abandon operation and maintenance of Congressionally authorized works absent approval from Congress as well as her analysis of IPCB Rules that may be violated by the ACOE or which may be violated by Rock Island as a consequence of ACOE's failure to clear MCSS; telephone conference with Mr. Hawes regarding City of Rock Island Storm Water Control Ordinance; make further revisions to draft Complaint.	3.00	1,575.00
02/24/11	Y VILLASENOR-RODRIGUEZ	Conference with Mr. Simon regarding remaining issues for Complaint; attention to same.	2.80	938.00
02/25/11	J SIMON	Supplement draft complaint against Army Corps of Engineers with several paragraphs from ACOE 1992 environmental assessment report; conference with Mr. Patterson regarding identification of the owner of the property identified as GIS-X-1 on the Rock Island County plat.	2.20	1,155.00
02/25/11	SR PATTERSON	Conference with Mr. Simon regarding ownership of certain land in Rock Island County; telephone conferences with Chicago Title regarding a title search for the subject property; conduct internet research to determine ownership and parcel identification information for the subject property.	1.50	577.50
02/25/11	Y VILLASENOR-RODRIGUEZ	Review PCB regulations in connection with Complaint against Army Corps of Engineers.	0.40	134.00
02/28/11	J SIMON	Supplement draft complaint to add paragraphs related to 2009 Public Law and Congressional appropriation; legal research of discretionary exception to court review of ACOE, including review of National Union Fire Insurance and case cited by U.S. Attorney Lewis.	1.70	892.50
02/28/11	SR PATTERSON	Electronic correspondence with Messrs. Simon and Harsch, and Chicago Title regarding title search for the subject property.	0.60	231.00

<u>Date</u>			<u>Hours</u>	
02/28/11	Y VILLASENOR-RODRIGUEZ	Review PCB regulations and prepare summary of same to be included in allegations for Complaint against Army Corps of Engineers.	1.30	435.50
03/01/11	SR PATTERSON	Electronic correspondence and telephone conferences with Ms. Singraber regarding the title search; conduct online research on the Rock Island website various parcels that include the slough.	0.70	269.50
03/01/11	Y VILLASENOR-RODRIGUEZ	Draft summary of potential Army Corps violation of PCB regulations.	1.60	536.00
03/02/11	J SIMON	Research statutes on Rivers and Harbors Improvements and Flood Control regarding powers and responsibilities of ACOE for operation and maintenance for use in draft Complaint (1.2); revise draft Complaint against ACOE (1.2).	2.40	1,260.00
03/03/11	SR PATTERSON	Electronic correspondence and telephone conference with Chicago Title and its agent in Rock Island regarding the title search for the federally owned parcel at the west end of the Mill Creek-South Slough; conference with Mr. Simon regarding the title search.	0.90	346.50
03/04/11	J SIMON	Edit and supplement draft Complaint; attention to the need to engage Chicago Title to perform an in-depth title search of federally-owned property in the South Slough; e-mail Mr. Howes regarding same.	1.20	630.00
03/04/11	SR PATTERSON	Electronic correspondence and conference with Ms. Singraber, and Messrs. Harsch, Hawes and Simon regarding the title search.	0.40	154.00
03/07/11	RM HARSCH	Conference with Ms. Villasenor-Rodriguez regarding complaint issue.	2.50	1,237.50
03/07/11	J SIMON	Follow up regarding Chicago Title's title search on property in the South Slough; legal research regarding the assertion by Rock Island of extraterritorial enforcement of its storm water control ordinance in South Slough.	1.20	630.00

<u>Date</u>			<u>Hours</u>	
03/07/11	SR PATTERSON	Conference with Mr. Simon regarding City of Rock Island's extra-territorial jurisdiction.	0.40	154.00
03/07/11	Y VILLASENOR-RODRIGUEZ	Finalize draft research for Mr. Simon on violations under PCB regulations for Complaint.	2.40	804.00
03/08/11	J SIMON	Revise and forward draft Complaint to Mr. Harsch for review and comment with my own comments regarding the advantage of adding County of Rock Island and the Village of Milan as additional plaintiffs and other ways to strengthen the Complaint.	1.00	525.00
03/08/11	Y VILLASENOR-RODRIGUEZ	Phone conference with Mr. Harsch regarding draft Complaint and PCB regulations regarding same.	2.00	670.00
03/09/11	J SIMON	Review Mr. Harsch's edits to draft complaint (.3); review Ms. Villasenor-Rodriguez' e-mail with certain Illinois Pollution Control Board rules potentially relevant to draft complaint (.3); exchange e-mails regarding same (.2).	0.80	420.00
03/09/11	Y VILLASENOR-RODRIGUEZ	Review and respond to e-mails from Mr. Simon regarding same; review Mr. Harsch's comments to draft Complaint; draft Memorandum to Mr. Simon regarding same.	4.20	1,407.00
03/09/11	M BIRD	Research regarding definitions of "facility" for Ms. Villasenor-Rodriguez.	0.30	67.50
03/10/11	RM HARSCH	Review Complaint.	1.00	495.00
03/10/11	J SIMON	Legal research regarding the power of a municipality to enforce its ordinances within 1.5 miles of its municipal boundaries, including analysis of Petterson v. City of Naperville and Village of Chatham v. County of Sangamon, as well as review of Section 11-13-1 of the Illinois Municipal Code.	2.00	1,050.00
03/10/11	Y VILLASENOR-RODRIGUEZ	Review safe water drinking act provisions for draft complaint's in PCB regulations; revise draft memorandum with legal arguments for Complaint.	2.10	703.50
03/11/11	RM HARSCH	Conference call with Ms. Villasenor-Rodriguez and Mr. Simon regarding draft complaint.	1.20	594.00

<u>Date</u>			<u>Hours</u>	
03/11/11	J SIMON	Conference with Mr. Harsch and Ms. Villasenor-Rodriguez regarding draft complaint against Army Corps of Engineers, including Mr. Harsch's view that claims based upon violation of effluent limitations under the Clean Water Act should be expanded.	1.50	787.50
03/11/11	SR PATTERSON	Electronic correspondence with Ms. Singraber, and Messrs. Harsch and Simon regarding delivery of the title search for the federally owned parcel.	0.50	192.50
03/11/11	Y VILLASENOR-RODRIGUEZ	Meeting with Mr. Simon regarding draft Complaint arguments; conference with Mr. Harsch and Mr. Simon; research and conduct additional per Mr. Simon and Mr. Harsch's request.	3.10	1,038.50
03/14/11	Y VILLASENOR-RODRIGUEZ	Draft provisions from CWA and CFR regulations for Complaint.	2.50	837.50
03/15/11	J SIMON	Draft allegations under CWA citizen suit provision against ACOE, including citations to IPCB Water Rules as violations of effluent limitations (2.3); review Chicago Title & Trust title report and follow up with Mr. Patterson regarding need to obtain court decree vesting USA with title to property in South Slough (.3).	2.60	1,365.00
03/15/11	SR PATTERSON	Electronic correspondence with Messrs. Simon and Harsch, and Ms. Singraber regarding the 1939 transfer of the subject property; review the 1939 Court Order regarding the subject property; conference with Mr. Simon regarding the Court Order.	0.80	308.00
03/21/11	SR PATTERSON	Electronic correspondence with Ms. Singraber regarding status of the 1939 transfer order; review the 1939 transfer order.	0.40	154.00

<u>Date</u>			<u>Hours</u>	
03/30/11	J SIMON	Supplement and edit draft Complaint against the Army Corps of Engineers to add the USA as a defendant based upon Chicago Title & Trust's title search; supplement and edit draft Complaint to add Safe Drinking Water Act - Federal Facilities claim; legal research regarding potential Safe Drinking Water Act citizen's suit claim.	2.20	1,155.00
03/31/11	J SIMON	Supplement and revise draft Complaint against ACOE, including addition of a Safe Drinking Water Act Citizen's Suit claim.	3.00	1,575.00
04/01/11	RM HARSCH	Review and revise draft; conference call with Mr. Simon regarding same.	2.00	990.00
04/01/11	J SIMON	Draft and revise complaint against the Army Corps of Engineers; research National Primary Drinking Water Regulations.	3.90	2,047.50
04/06/11	RM HARSCH	E-mails regarding issue work on schedule letter.	1.00	495.00
04/07/11	RM HARSCH	Work on revisions to draft complaint.	1.10	544.50
04/07/11	RM HARSCH	Draft comment letter with schedule.	1.00	495.00
04/08/11	RM HARSCH	Mill Creek: Conference with Mr. Simon regarding final comments on draft complaint. e-mail and phone calls to Mr. Davis.	1.80	891.00
04/08/11	J SIMON	Meet with Mr. Harsch and review his comments and suggestions to improve the draft Complaint against the Army Corps of Engineers; make changes to the draft Complaint suggested by Mr. Harsch.	2.80	1,470.00
04/11/11	J SIMON	Complete revisions to draft complaint and forward to Mr. Harsch with comments.	1.50	787.50
05/19/11	RM HARSCH	E-mail to Mr. Hawes regarding meeting and reply; conference call with Mr. Simon regarding needed revisions for Mr. Milan.	0.60	297.00
05/19/11	J SIMON	Review e-mail from Mr. Harsch regarding supplementation of Milan specific facts to draft Complaint against ACOE; conference with Mr. Harsch regarding Milan specific allegations; supplement and edit draft Complaint.	4.60	2,415.00

<u>Date</u>			<u>Hours</u>	
05/20/11	J SIMON	Review edits to draft Complaint made by Mr. Harsch and discuss same with Mr. Harsch.	0.50	262.50
05/23/11	RM HARSCH	Meeting with Mr. Hawes and Mr. Phillips; meeting with Mayor, Administration and Attorney Scott for Milan and chairman of City of Rock Island County Board and attorney regarding potential suit; appear before Rock Island city Counsel regarding suit.	8.00	3,960.00
05/24/11	RM HARSCH	Telephone call from Mr. Hawes regarding council meeting and potential US ACOE meeting; telephone conference with Mr. Davis; review e-mails regarding ACOE permit for Levy Breech.	0.60	297.00
05/25/11	RM HARSCH	E-mail draft Complaint to Mr. Davis and Mr. Kim.	0.40	198.00
06/03/11	RM HARSCH	Telephone conference with Mr. Hawes regarding his comments on draft complaint, e-mails and phone calls to Mr. Davis and Mr. Kim with correct draft.	0.90	445.50
06/21/11	RM HARSCH	Telephone call from Mr. Davis following my e-mail to discuss draft Complaint; e-mail and voice-mail with Mr. Hawes regarding call and review of draft complaint by City of Rock Island County.	0.70	346.50
06/27/11	RM HARSCH	Telephone conference with Mr. Davis and Mr. Kim; review e-mail from Mr. Hawes.	0.50	247.50
		CURRENT HOURS / FEES	298.90	\$118,127.00

**TIME AND FEE SUMMARY**

TIMEKEEPER	RATE	HOURS	FEEES
J SIMON	\$525.00	73.30	\$38,482.50
RM HARSCH	\$495.00	44.10	\$21,829.50
SR PATTERSON	\$385.00	6.20	\$2,387.00
DL SHUFF	\$375.00	0.70	\$262.50
Y VILLASENOR-RODRIGUEZ	\$335.00	90.90	\$30,451.50
Y VILLASENOR-RODRIGUEZ	\$325.00	64.00	\$20,800.00
JA MOORE	\$245.00	1.20	\$294.00
M BIRD	\$225.00	1.70	\$382.50
S YESNICK	\$225.00	0.30	\$67.50
M BIRD	\$220.00	1.80	\$396.00
S YESNICK	\$220.00	0.60	\$132.00
CP IRANI	\$200.00	9.70	\$1,940.00
SK SANDERS	\$160.00	4.00	\$640.00
SK SANDERS	\$155.00	0.40	\$62.00
<b>TOTALS</b>		<b>298.90</b>	<b>\$118,127.00</b>

**EXPENSES AND CHARGES**

10/06/11	Telephone Conferencing ATT: Emp: Roy M. Harsch; 09:58 AM	35.73
	TOTAL:	35.73
08/18/10	Computer Assisted Research (Lexis) SERVICE: - , QTY: 0, USER : BIRD, MATTHEW	46.58
	TOTAL:	46.58
08/09/10	Computer Assisted Research (Westlaw) Westlaw search by: VILLASENOR-RODRIGUEZ, YESENIA; Time: 0:00:00; Database: 0:00:00\$0.00; Printing: \$; Transactions: 265.50; Tax: \$25.84	170.42
09/09/10	Computer Assisted Research (Westlaw) Westlaw search by: PARK, CYNTHIA; Time: 0:12:18; Database: 0:12:18\$181.71; Printing: \$; Transactions: 333.00; Tax: \$72.44	480.71

City of Rock Island, IL  
Mill Creek Flooding-Preparation of ACOE Complaint  
Matter No. 321135

6 JANUARY 2012  
Invoice No. 14526495  
Page 19

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09/10/10	Computer Assisted Research (Westlaw) Westlaw search by: PARK,CYNTHIA; Time: 0:01:00; Database: 0:01:00\$8.60; Printing: \$; Transactions: 0.00; Tax: \$2.08	14.05
	TOTAL:	<u>665.18</u>

CURRENT EXPENSES AND CHARGES \$ 747.49

TOTAL THIS INVOICE \$ 118,874.49

Payment for legal services is due within 30 days of invoice date.

LAW OFFICES

# Drinker Biddle & Reath LLP

191 N. Wacker Drive  
Suite 3700  
Chicago, IL 60606-1698  
312-569-1000

## REMITTANCE PAGE

01/06/2012

City of Rock Island  
Mr. Robert Hawes  
1528 Third Avenue  
Rock Island, IL 61201

Invoice No. 14528633

For services through 31 DECEMBER 2011 as follows:

<u>Our File</u>	<u>Matter Name</u>	<u>Amount</u>
321135	Mill Creek Flooding-ACOE Negotiations	
	Current Fees	21,928.50
	Total Amount Due This Invoice Per Attached Detail	\$ <u>21,928.50</u>

*RTH*  
*1.9.12*

Please return this remittance copy with your payment.  
Payment for legal services is due within 30 days of invoice date.

Wire Payments:

Bank: Citibank – New York, NY  
ABA #: 021000089  
Payee: Brown Brothers Harriman & Co.  
Acct. No.: 09250276  
Further Credit: Drinker Biddle & Reath LLP  
Account No. 3485513  
Reference: 160805/14528633

Checks:

Drinker Biddle & Reath LLP  
One Logan Square, Ste. 2000  
Philadelphia, PA 19103-6996

ACH Payments:

Bank: Brown Brothers Harriman & Co.  
Acct Name: Drinker Biddle & Reath LLP  
ABA #: 026-004-802  
Acct. No. : 3485513

LAW OFFICES

# Drinker Biddle & Reath L L P

191 N. Wacker Drive  
Suite 3700  
Chicago, IL 60606-1698  
312-569-1000

City of Rock Island  
Mr. Robert Hawes  
1528 Third Avenue  
Rock Island, IL 61201

Invoice Number: 14528633  
Invoice Date: 01/06/2012  
Client Number: 160805  
Matter Number: 321135  
Page: 1

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**RE: Mill Creek Flooding-ACOE Negotiations**

FOR PROFESSIONAL SERVICES RENDERED THROUGH 31 DECEMBER 2011

<u>Date</u>			<u>Hours</u>	
07/08/11	RM HARSCH	Telephone call from Mr. Hawes; e-mail and phone call to Mr. Davis.	0.50	247.50
07/11/11	RM HARSCH	Reply back to Mr. Davis; forward to Mr. Hawes; telephone call from Mr. Davis.	0.50	247.50
07/19/11	RM HARSCH	Telephone conference with Mr. Hawes; e-mail to Mr. Davis and Mr. Kim; reply from Mr. Davis; e-mail to and from Mr. Davis; reply from Mr. Kim and respond.	0.50	247.50
07/20/11	RM HARSCH	Send draft comment to Mr. Davis and Mr. Kim respond to Mr. Hawes.	0.20	99.00
07/21/11	RM HARSCH	E-mails regarding setting up meeting with Mr. Brost and ACOE.	0.30	148.50
07/29/11	RM HARSCH	Phone call to Mr. Davis regarding DOJ contact.	0.20	99.00
08/01/11	RM HARSCH	Review e-mail from Mr. Hawes and formal recommendations regarding Mill Creek; review e-mail from Mr. Davis regarding contact with Mr. Brost; telephone call with Mr. Brost regarding Mill Creek issues; forward draft Complaint; e-mail Mr. Brost regarding meeting.	3.60	1,782.00
08/04/11	RM HARSCH	E-mail from Mr. Brost regarding meeting in September; reply e-mail; forward to Mr. Hawes and Mr. Davis; telephone conference with Mr. Chow regarding issues.	0.70	346.50
08/04/11	RM HARSCH	E-mails from Mr. Davis regarding meeting and IDNR; e-mails from Mr. Brost cancelling meeting of Sept. 12th; forward same; telephone call from Mr. Hawes regarding same; e-mail to Mr. Brost.	1.40	693.00

<u>Date</u>			<u>Hours</u>	
08/05/11	RM HARSCH	E-mail from Mr. Brost about changing dates; forward to Mr. Hawes and Mr. Davis; send to Mr. Chow; reply to all with date of September 12 and outline of people attending.	0.50	247.50
08/15/11	RM HARSCH	Respond to e-mail from Mr. Brost regarding meeting date change; e-mails regarding date.	1.20	594.00
08/16/11	RM HARSCH	Finalize meeting for October 6th; e-mail regarding same.	0.50	247.50
08/24/11	RM HARSCH	Send e-mails to Mr. Brost regarding attendees at meeting; forward to Mr. Davis's e-mail.	0.50	247.50
09/22/11	RM HARSCH	Call Mr. Hawes regarding meeting on ACOE on October 2011 to plan on how to proceed; e-mails regarding attendees; e-mail to Mr. Hawes regarding his proposal; e-mail to Mr. Brost regarding who ACOE individuals are; various replies to e-mails.	1.90	940.50
09/26/11	RM HARSCH	E-mails regarding meeting.	0.20	99.00
09/30/11	RM HARSCH	Telephone call with Mr. Davis; review and forward Mr. Davis to Mr. Hawes for response.	0.40	198.00
10/03/11	RM HARSCH	E-mail from Mr. Davis regarding information for meeting; forward same to Mr. Hawes; phone call to Mr. Davis and Mr. Hawes regarding ACOE meeting and preparation.	1.40	693.00
10/04/11	RM HARSCH	Details regarding meeting with ACOE; phone call regarding list of attendees; prepare for meeting; further calls with Mr. Hawes and Mr. Davis; contact Mr. Brost regarding meeting.	1.70	841.50
10/06/11	RM HARSCH	Meeting with City of Rock Island and AG to prepare for settlement meeting with ACOE; settlement meeting; follow-up meeting.	10.00	4,950.00
10/13/11	RM HARSCH	Call from Mr. Cohen and Mr. Juhl; e-mail to Mr. Davis.	0.30	148.50
10/14/11	RM HARSCH	E-mails to set up call with Mr. Cohen; call; follow-up discussion with Mr. Davis; e-mail to Mr. Hawes regarding call.	1.80	891.00

<u>Date</u>			<u>Hours</u>	
10/17/11	RM HARSCH	E-mail from Mr. Davis regarding suggestions from IDNR; follow up call with Mr. Hawes and e-mail Mr. Brost regarding need for progress; reply from Mr. Brost regarding letter.	0.40	198.00
10/18/11	RM HARSCH	Reply to Mr. Brost and telephone call with Mr. Hawes.	0.20	99.00
10/20/11	RM HARSCH	Reply to voicemail from Mr. Brost; telephone call with Mr. Brost.	0.50	247.50
10/21/11	RM HARSCH	E-mail to Mr. Hawes and telephone call with Mr. Hawes regarding call from Mr. Brost and ACOE work and letter to Mr. Brost; telephone call with Mr. Davis.	1.10	544.50
12/06/11	RM HARSCH	E-mail to Mr. Brost regarding meeting with ACOE; telephone call with Mr. Hawes regarding how to proceed; send e-mail to Mr. Hawes; phone call from Mr. Hawes; e-mail to Mr. Brost.	1.80	891.00
12/07/11	RM HARSCH	E-mails to Mr. Brost and Mr. Davis regarding meeting.	0.50	247.50
12/08/11	RM HARSCH	Reply from Mr. Davis and Mr. Brost.	0.30	148.50
12/12/11	RM HARSCH	Telephone call from Mr. Davis; telephone call to Mr. Brost and e-mail to Mr. Brost.	0.60	297.00
12/13/11	RM HARSCH	E-mail to Mr. Hawes regarding responses.	0.10	49.50
12/14/11	RM HARSCH	E-mail reply fro Mr. Davis and Mr. Brost; forward to Mr. Hawes; telephone call with Mr. Hawes regarding meeting attendance; e-mail to Mr. Brost and Mr. Davis.	0.50	247.50
12/20/11	RM HARSCH	Prepare for meeting.	0.80	396.00
12/21/11	RM HARSCH	Attend meeting in Rock Island with Mr. Brost and ACOE regional people; City of Rock Island personnel and Big Island Representatives regarding ACOE options; follow up with Mr. Hawes; telephone call with Mr. Davis regarding representation and next step.	9.00	4,455.00
12/22/11	RM HARSCH	Telephone call to Mr. Brost.	0.20	99.00
		CURRENT HOURS / FEES	44.30	\$21,928.50

City of Rock Island, IL  
Mill Creek Flooding-ACOE Negotiations  
Matter No. 321135

6 JANUARY 2012  
Invoice No. 14528633  
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**TIME AND FEE SUMMARY**

<b>TIMEKEEPER</b>	<b>RATE</b>	<b>HOURS</b>	<b>FEES</b>
RM HARSCH	\$495.00	44.30	\$21,928.50
TOTALS		44.30	\$21,928.50

TOTAL THIS INVOICE

\$ 21,928.50

Payment for legal services is due within 30 days of invoice date.