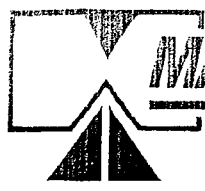


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MAURER STUTZ, INC.
ENGINEERS SURVEYORS
7615 North Harker Drive TEL 309-693-7615
Peoria, Illinois 61615 FAX 309-693-7616

PC#5

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

September 23, 2004

Re: Comments on Consolidated dockets, R04-22 Proposed Amendments
To: Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill.
Adm. Code 732) and R04-23 Proposed Amendments To Regulation of
Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 734),

Dear Ms. Gunn:

This letter is being written in order to demonstrate the opinions of Maurer-Stutz, Inc., regarding the proposed LUST regulations. Maurer-Stutz, Inc., has been working on LUST projects for over five years and has received quite a few No Further Remediation letters to date. After attending a *Professionals of Illinois for the Protection of the Environment (PIPE)* seminar recently Maurer-Stutz, Inc., decided to support PIPE and discuss a few concerns that Maurer-Stutz, Inc., has with the current IEPA LUST policies and procedures. It is Maurer-Stutz, Inc.'s intention for the IEPA to view this as constructive.

The first procedure Maurer-Stutz, Inc., is concerned with is the manner in which IEPA denial letters are being sent. Although the IEPA has 120 days to review a Plan/Budget, or other reports, it would be beneficial that if the reports are reviewed earlier than the permitted 120 days, and if a denial is anticipated that the Owner/Operator or their consultant be warned sooner. The formal letter could still be sent to the client on or after the 120th day. This would greatly increase the efficiency of the projects, and would expedite the clean-up process. Furthermore, the scheduling (i.e. the time of year/the weather) could become

more manageable for all who are involved. Maurer-Stutz, Inc., would ask that a more efficient turn-around time be demonstrated. At this point many professionals in the LUST field believe that some LUST Project Managers wait till the 119th day to review a report.

The second concern Maurer-Stutz, Inc., has is the 'Scope of Work' vs. fixed fee. Maurer-Stutz, Inc., does not believe that any two projects can be done in the same manner. Therefore, pre-defining the 'Scope of Work' prior to any on-site investigation is a more realistic approach than fixing fixed fees for certain tasks or phases, and expecting consultants to work within those fixed budgets. Furthermore, problems do arise because the on-site Project Manager has to get all of the required work completed within the set budget since every project is unique. Maurer-Stutz, Inc., does believe that pre-defining the 'Scope of Work' vs. fixed allowance costs is beneficial.

The third comment Maurer-Stutz, Inc., has pertains to the LUST projects when the contamination plume extends beyond two or more property boundaries. In these cases Maurer-Stutz, Inc., has found that delineating the plume in Stage-1 or Stage-2 is sometimes not even possible. Furthermore, as the area of the investigation increases discoveries are often made that changes the original 'Scope of Work', thus affecting the Plan, the Budget, and the extent of TIER-2 calculations. It is Maurer-Stutz, Inc.'s opinion that there are often more calculations that need to be performed than the IEPA allows in the budget (ie. \$800.00 for TIER-2 calculations). Maurer-Stutz, Inc., would ask that additional funding for on and off site TIER-2 work (ie. beyond the scope of the initial 'Scope of Work') be approved on a case-by-case basis.

The fourth comment has to do with the 'off-site' clean-up procedures and objectives. Maurer-Stutz, Inc., has found that the required Engineering Controls, Institutional Controls, and Environmental Land Use Controls (ELUCs) usually take much more time and effort than anticipated. Writing up and implementing ELUCs has become an extremely tedious part of the TIER-2 process. Many of the property owners within the calculated plume do not want anything to do with the paperwork/signatures involved. Many times attorneys get involved with the process, and in the LUST cases that cover a wide area many attorneys become involved. Furthermore, the time that goes into telephone conversations, meetings, travel to the owner's residences, and time spent in court houses can not be reasonably estimated. To complicate this, there is no way (other than man hours) to report the costs of such activities to the IEPA for reimbursement purposes. However, a budget for every ELUC is set for this portion of the TIER-2 process. Furthermore, there needs to be a better system of approach. The proposed regulations are unreasonable for this part of the TIER-2 process. Maurer-Stutz, Inc., asks that the IEPA establish a better system for setting the budget for implementing ELUCs and/or that additional funding for off-site TIER-2 work (ie. beyond the scope of the 'Scope of Work') be approved on a case-by-case basis.

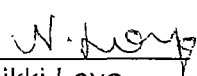
The final comment deals with subcontractor costs. Many times Maurer-Stutz, Inc., contacts several subcontractors to get an estimate of the current costs of the transportation, manifesting, and disposal of liquid and solid wastes. Furthermore, many times the lowest cost of all of the subcontractors is still above the IEPA's maximum allowance for such action. Since the waste must be disposed of in a timely manner, Maurer-Stutz, Inc., often pays more than the reimbursement's maximum allowance for the completion of the required work. Maurer-Stutz, Inc., asks that the IEPA establish a more realistic reimbursement amount for this process.

It is Maurer-Stutz, Inc.'s intention to continue doing LUST work. However, any of the above items that are addressed would greatly aid in the efficiency of getting the LUST work completed in a timely manner without losing money in the process. Maurer-Stutz, Inc., is concerned that if some of these issues are not addressed the entire LUST network will be affected. Many consulting companies have stopped doing LUST work, and many subcontractors have contacted Maurer-Stutz, Inc., because their annual budgets have been affected by the decline of LUST work. Inner-company research has proven that the 'typical' and 'easy' LUST projects are nearly gone, and most of the current LUST projects have more contamination issues than those of five or more years ago. Applying the old LUST projects 'Scope of Work' on the current LUST projects results in multiple complications. In order to complete the current LUST remediation objectives, Maurer-Stutz, Inc., believes that more work is necessary than in the past.

Please feel free to call this office with any questions or concerns regarding this matter.

Thanks.

Sincerely,


Nikki Loya
Maurer-Stutz, Inc.

Cc: Service List for R04-22 and 23
Cindy S. Davis, CSD Environmental Services, Inc.
Jarrett Thomas, Suburban Laboratories, Inc.

