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STATE OF ILLINOIS
Pollution Control Board

Amy C. Antonioli
Hearing Officer
Illinois Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

PCB-4

Bernadette Dinschel
4713 Elm Street
Lisle, Illinois 60532-1981
(630) 969-1631

Subject

R06-23

Standards and Requirements for Potable Water Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination.

Dear Ms. Antonioli:

Having given testimony as a citizen and heard testimony on this matter, I am providing to the Board and those individuals on the service list the following comments for consideration.

1. Notification.

Under this ruling occupants will be notified only if property owners take responsible action to inform them, or if the Agency or responsible party decides that identifying occupants is reasonably practicable. First, this ruling does not require that property owners provide notice to occupants. It does not provide direction to property owners for giving notice to occupants, nor does it control the accuracy of the content of the notice to be given to occupants by the property owner. Left to one's own discretion, if a property owner provides notice, the content of the notice may be written in the best interest of the property owner and not in the best interest of the occupant who could otherwise receive direct, accurate information from the Agency or responsible party.

Second, what is reasonably practicable? For example, the Agency identifies me as the responsible party to give notice. I accept the responsibility. A reasonably impracticable scenario follows: A new production schedule driven by over seas demands is put in place; new hires are not in the budget; management staff has already been outsourced

to control costs; I want to comply with R06-23 Notification. I decide to notify property owners. I simply do not have the resources (staff or time) to identify occupants and meet the time frame required for Notification. An attorney can make the case for this or any logical group of circumstances very persuasively. And so the occupants are not notified. As an occupant I would not like to find out that company profits or organizational shortcomings was the reason for not receiving direct notification. The term "reasonably practicable" needs to be clearly defined.

2. Enforcement.

There has been no discussion of enforcement, binding consequences, or fines resulting from non-compliance with R06-23. So I am asking the following question. "By what means can the Agency or the responsible party be held accountable?" If the answer lies outside this ruling, perhaps the ruling can at least refer to the public right to hold the Agency or responsible party accountable and also refer to the means by which they can be held accountable.

3. Repository.

It is necessary that a physical document repository be available to those people who do not have access to the World Wide Web. I did not have personal access to the World Wide Web, so I relied heavily on the physical repository that was established at the library in Lisle, Illinois to keep informed about the details and consequences of the Trichloroethylene (TCE) spill that occurred in our area. I was also able to support my testimony before this Board using repository documents.

4. The IEPA Voluntary Remediation Program (VRP).

In January, 2003, two years since it was uncovered that The Lockformer Company, a participant in the VRP, was not required to notify anyone of the TCE spill or required to clean up the contaminant, the United States Environmental Protection Agency (USEPA) and the Illinois Environmental Protection Agency (IEPA) made a joint presentation to a Citizens Advisory Group (CAG) at the village hall in Lisle, Illinois. They defined the court ordered emergency cleanup procedures that would take place over the next 2 ½ plus years to rid the sand/gravel and clay layers of TCE on the Lockformer site. I asked an IEPA representative who was present that evening whether a spill of this type could ever go without notice again. The answer to my question was stunning. " We (IEPA) just follow the law. If you don't like the law, change it." Just to be clear, I pose these two questions. Does participation in the VRP shield in any way its participants from compliance with this ruling? Are the directives of the VRP a contradiction in any way to this ruling?

Thank you for receiving these comments.

Sincerely,

Bernadette Dinschel
Resident, Lisle, Illinois