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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO) R01-26
REGULATION OF PETROLEUM) (Rulemaking - Land)
LEAKING UNDERGROUND STORAGE) *P.C. #3*
TANKS (35 ILL. ADM. CODE 732))

NOTICE OF FILING

TO: Ms. Dorothy M. Gunn	Mr. Joel J. Sternstein
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
James R. Thompson Center	James R. Thompson Center
100 West Randolph Street	100 West Randolph Street
Suite 11-500	Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA FEDEX - OVERNIGHT)	(VIA FEDEX - OVERNIGHT)

All Other Persons on the Attached Service List (U.S. Postal Service)

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Pollution Control Board the attached Final Comments of the Illinois Chapter of the American Institute of Professional Geologists in the above-titled matter, a copy of which are hereby served upon you.

Respectfully submitted,

ILLINOIS CHAPTER
AMERICAN INSTITUTE OF
PROFESSIONAL GEOLOGISTS

By: *Ronald B. St. John*
Ronald B. St. John, President

Dated: April 27, 2001

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FINAL COMMENTS

NOW COMES the Illinois Chapter of the American Institute of Professional Geologists ("Illinois Chapter"), by and through its President, Ronald B. St. John, respectfully submits these FINAL COMMENTS in the above-captioned matter to the Illinois Pollution Control Board ("Board").

It is the Illinois Chapter's position that portions of the testimony previously provided by James E. Huff, on behalf of the Consulting Engineers Council of Illinois ("CECI") and the Illinois Society of Professional Engineers ("ISPE") is misleading and not protective of the public welfare. The IL Chapter believes that the Board should adopt the proposed amendments in their entirety as submitted by the Illinois Environmental Protection Agency ("Illinois EPA"), including the changes proposed by the Illinois Chapter in its testimony given before the Board on February 27, 2001 by Mr. Ron Dye of the Illinois Chapter.

A. Background

On April 3, 2001 Mr. James E. Huff, P.E., provided testimony before the Board that questioned the capabilities of professional geologists to perform work related to the Illinois Chapter's proposed changes to Section 732.409(a)(2) regarding certification of

Corrective Action Completion Reports. Amongst the assertions by Mr. Huff, the CECI, and the ISPE are the following:

1. That professional geologists are not trained as design professionals and that the Illinois EPA will be forced to pick and choose where certification by professional geologists is appropriate.
2. That if the Illinois EPA inappropriately accepts the professional geologists certification that entails engineering, potential consequences could include invalidation of the No Further Remediation letter for a site.

B. Illinois Chapter Position

Regarding item number 1 above:

While it is true that most professional geologists are not trained as design professionals, it is equally true that most engineers are not trained in matters involving subsurface geologic interpretation. The reality of most underground storage tank site corrective actions is that the assessment and interpretation of the fate and migration of the contaminants in the subsurface is not only the most crucial portion of the project in terms of protecting the public welfare, but is also an absolute necessity for the corrective action to be performed successfully. This carries over into the conceptual design stage of the corrective action process, an area in which many trained design professionals are ill-equipped to handle. The bottom line is that a well designed remediation system at the surface can be rendered thoroughly ineffective by poor subsurface interpretation of the contaminant fate and transport. The proper analysis and geologic interpretations that go into a conceptual design of a subsurface remediation system are imperative for it to effectively remediate contamination.

The Illinois Chapter believes that there are many professional engineers with the training and experience to perform many of these subsurface geologic interpretations. However, the training and experience of Licensed Professional Geologists (“LPGs”) makes them amongst the most qualified group of professionals available to perform these duties, and the exclusion of the LPGs from certification of Corrective Action Completion Reports under 732.409(a)(2) would not benefit public welfare.

Regarding item number 2 above:

The premise that the Illinois EPA would need to pick and choose which corrective action documents would need to be certified by which profession does not seem to be consistent with either the intent of the Department of Professional Regulations drafting of the Professional Geologist Licensing Act of 1997 and the Professional Engineering Practice Act of 1989, or Mr. Huff’s testimony. The stated objection to LPGs certifying Corrective Action Completion Reports is that most LPGs are not trained design professionals. This would appear to be a Department of Professional Regulation issue. It would appear that this concern could be complied with as easily as having an appropriately trained Licensed Professional Engineer (LPE) certify any design related drawings submitted in the Corrective Action Completion Report. This precedent already exists in practice with respect to the Illinois Professional Land Surveyor’s Act of 1989. Any surveying work submitted in a Corrective Action Completion Report needs to be certified by a Professional Land Surveyor (PLS). It is not up to the Illinois EPA to pick and choose if the surveying work was done correctly. In fact, during the April 3, 2001 testimony by Mr. Doug Clay of the Illinois EPA, Mr. Clay was asked if the Illinois EPA

would accept surveying work submitted to them that was not performed by an Illinois Professional Land Surveyor. Mr. Clay responded that it was not the Illinois EPA's position to determine compliance with the Department of Professional Regulations on submittals. As a result, it can be concluded that certification of Corrective Action Completion Reports by LPGs could readily comply with the Department of Professional Regulation requirements by providing for certification by an appropriately trained LPE on any design documents contained in the Corrective Action Completion Report. This, then, would not put the Illinois EPA in the position to regulate the professional community, and the public welfare would be better served.

An interesting case example regarding the discussion immediately above was supplied by Mr. Huff's testimony at the April 3, 2001 hearing. When questioned by the Board if Mr. Huff's firm ever had occasion to use the services of professional geologists, Mr. Huff responded that they did. When questioned what type of services these geologists provided his firm, Mr. Huff responded (paraphrasing, as the hearing transcript was not yet available at the time of writing) "our firm uses their (geologists) services when dealing with interpretation at complex sites to do things like determine where monitoring wells should be screened." Many LPEs and engineering firms are faced with a similar dilemma. The obvious question that this testimony presents is "if the LPE needs expertise in choosing well screen placements, how do they make determinations of fate and transport of contamination, and decisions regarding the conceptual design of corrective actions based on the interpretations of geologic conditions?" Clearly, this instance would require the certification by a LPG to maintain compliance with the Department of Professional Regulation. Would this not put the Illinois EPA in the same