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DEC 27 2001

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF:

SITE REMEDIATION PROGRAM  
AMENDMENTS TO  
35 IL. ADMIN. CODE 740

)  
)  
) R01-27  
) (Rulemaking - Land)  
)

*P.e. #7*

NOTICE OF FILING

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

Mr. Amy Jackson  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
(VIA FEDEX - OVERNIGHT)

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Pollution Control Board the attached Public 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: December 21, 2001

Illinois Chapter, AIPG  
Clayton Group Services  
3140 Finley Road  
Downers Grove, Illinois 60515  
(630) 795-3200

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STATE OF ILLINOIS  
Pollution Control Board

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

IN THE MATTER OF )  
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SITE REMEDIATION PROGRAM ) RO1-27  
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**PUBLIC COMMENTS OF THE ILLINOIS CHAPTER OF THE ILLINOIS  
INDIANA SECTION OF THE AMERICAN INSTITUTE OF PROFESSIONAL  
GEOLOGISTS  
IN OPPOSITION TO CERTAIN PROPOSED AMENDMENTS TO  
THE POLLUTION CONTROL BOARD'S FIRST NOTICE  
PROPOSAL TO AMEND 35 IL. ADMIN. CODE 740**

My name is Ronald St. John, and I serve as President of the Illinois Chapter of the Illinois Indiana Section of the American Institute of Professional Geologists (Illinois Chapter). The Illinois Chapter respectfully submits its comments on the above-titled matter.

We oppose the Pollution Control Board's proposed amendment to 35 Illinois Administrative Code (IAC) Section 740.405 (b) because it is in conflict with the Professional Geologist Licensing Act (225 ILCS 745). We request that the Pollution Control Board delete the proposed amendment to (35 IAC 740.405 (b)) in its entirety and allow the matter to be addressed by the General Assembly.

The Pollution Control Board's proposed amendment allows Licensed Professional Geologists (LPGs) to conduct Site Remediation Program (SRP) activities under the supervision of a Licensed Professional Engineer (LPE). The General Assembly authorized the regulation and licensing of Professional Geologists, and in doing so, did not require LPGs to practice under the supervision of an LPE. We hope that the Pollution Control Board will agree, as it stated in the First Notice for the 35 IAC Part 732 regulations that it, "*will not allow LPGs to practice in those areas specifically reserved for LPEs, nor will it allow LPGs to practice in violation of the Engineer Act or the Geologist Act.*"

The proposed amendment is also unnecessary because it does not make any material difference in the current situation as anyone may conduct SRP activities under the supervision of an LPE, and there is no benefit to the public to specifically identify LPGs in the regulation.

Also, the proposed amendment does not clarify what it means to be supervised by an LPE as defined in the Environmental Protection Act, where an LPE is "a person, corporation, or partnership licensed to under the laws of this State to practice professional engineering". The potential exists for the proposed amendment to create confusion that LPGs may be supervised by professional engineering corporations and partnerships in

addition to Professional Engineers. Furthermore, the Professional Engineering Licensing Act defines "Direct Supervision/Responsible Charge" as work prepared under the control of a licensed professional engineer or that work as which the professional engineer has detailed professional knowledge. This suggests that an LPE does not need to personally supervise the work performed, but does need to have detailed professional knowledge of the work.

It appears that the amendment was proposed in an attempt to include LPGs in the SRP regulations. However, the Pollution Control Board has determined that the Environmental Protection Act limits the role of the LPG in the SRP. The Pollution Control Board has made it clear that it believes that the Environmental Protection Act would have to be amended to allow LPGs to conduct certain activities specifically reserved for the LPEs in the Environmental Protection Act. We request the Pollution Control Board to allow us to petition the General Assembly to make changes to the Environmental Protection Act to include LPGs in the Site Remediation Program.

There were comments speculating on the intent of the General Assembly with regards to the role of the LPG, but the commenter did not include some of the background that is important to understanding why the General Assembly did not include LPGs in Title XVII to the Environmental Protection Act. A brief discussion of the timing of the Professional Geologist Licensing Act in relation to amendments to the Environmental Protection Act is provided below.

The Site Remediation Program was added as Title XVII to the Environmental Protection Act in 1996. The General Assembly made the SRP law immediately effective and could not have included LPGs because there were no licenses issued at that time.

The Professional Geologist Licensing Act was approved August 18, 1995, and was to become effective on July 1, 1996. However, the implementing regulations were not finally adopted until October 1, 1997. These regulations established the requirements for application for licensure. Applications for initial licensure were due by April 1, 1998. Subsequently, the Department of Professional Regulation began issuing licenses.

At the time of the passage of Title XVII, the regulations implementing the LPG licensing program had not been issued, and the Department of Professional Regulation could not issue licenses to Professional Geologists. It is likely that the General Assembly did not include Professional Geologists in the Title XVII because there were no licenses issued to Professional Geologists prior to 1998.