BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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| IN THE MATTER OF: | ) | |
| | ) | |
| PROPOSED AMENDMENTS TO: | ) | R04-022 |
| REGULATION OF PETROLEUM | ) | (UST Rulemaking) |
| LEAKING UNDERGROUND STORAGE | ) | |
| TANKS (35 ILL.ADM.CODE 732) | ) | |
| | ) | |
| IN THE MATTER OF: | ) | |
| | ) | |
| PROPOSED AMENDMENTS TO: | ) | R04-023 |
| REGULATION OF PETROLEUM | ) | (UST Rulemaking) |
| LEAKING UNDERGROUND STORAGE | ) | Consolidated |
| TANKS (35 ILL.ADM.CODE 734) | ) | |

RESPONAE OF UNITED SCIENCE INDUSTRIES, INC. TO THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY COMMENTS OF 09/23/05

USI respectfully submits the attached comments in regard to the Agencies submission of 09/23/05. While many issues arise as a result of the Agencies comments, time does not permit USI to provide detailed comments on all sections of this submission, but USI does feel compelled to offer the following:

*Page 28 Paragraph 1*
A list of expedited unit rates for standard products and services is not overly "elaborate" or in any way "difficult to decipher" as the Agency implies. The initial expedited unit rates are published in Appendix E and subsequent unit rates are easily established by the use of simple arithmetic. USI does not believe that the Agency has provided sufficient justification to warrant the dismissal of this concept and that the Agency should be open minded to consider valid and forward thinking proposals.

*Page 28(a)*
The creation and use of a database would not greatly complicate and lengthen the reimbursement process for all parties involved. USI does not believe that sufficient justification to warrant the dismissal of this concept has been provided by the Agency. Until such a time, USI continues to believe that the development and use of a database will greatly simplify and shorten the reimbursement process for all parties involved. The use of database technology similar to this is commonplace throughout industry today. One would be hard pressed to find any reputable insurance administrator that does not use a database in today's business world. So long as the Agency claims to have a desire to streamline processes and become more efficient and at the same time ignores the

technology that will facilitate such efficiencies, continued suspicion of their motives will persist.

*Page 29 (b)*
USI's proposal is not to use "secret rates" plucked from thin air as the Agency has suggested. USI supports the use of determining a statically significant rate based on real-time data. This will provide accuracy and reliability within the system and will assure that a range of reasonable costs will be available for the Agency to make decisions. The range of reasonable figures will change over time as market conditions change. The means and method of determining rates are what would be published in regulation thereby complying with the Administrative Procedures Act.

*Page 30(e)*
USI has continued to maintain throughout this proceeding that owners and operators should continue to be reimbursed all eligible and reasonably incurred costs for the remediation of their LUST site in accordance the Environmental Protection Act and relative regulations. The range of amounts that may be reimbursed are between $0 and $1.5 million dollars depending on the governing rules, the size of the plume of contamination at the given site and the reasonableness of charges levied. USI has provided, as part of this record, the average charges incurred and paid from the LUST fund historically. This information is not an estimation or gut feeling on our part, it is based on fact.

*Page 30 Last Paragraph*
The Agency has used dramatic language such as "At the last hour" to imply that USI is attempting to conspire in some wrongful manner. USI believes simply "that it is never too late to get it right". USI does not believe that this is "the last hour" by any means as the facts in this proceeding are just now becoming complete, this is only the beginning. As more and more owners and operators become aware of what IEPA is proposing and are more abreast of the record in this proceeding, they are also becoming more resolved to make certain that the IEPA's proposed rule is not adopted. As USI stated at hearing, we intend to lead this effort.

The Agency has expressed a belief that USI has not provided sufficient additional testimony to show that the board must abandon the proposed maximum payment amounts and structure of section 734.845. This is perplexing to USI. It has provided over 600 pages of testimony to the contrary. USI has performed a reliable and extensive analysis of the historical reimbursement practices of the Agency and has demonstrated in plain detail that what the Agency has proposed is dramatically different. It seems that there will be no amount of testimony, evidence, or fact that will convince the Agency of anything contrary to their own ideas.

*Page 34 (3)*
The Agency has admitted that Harry Chappel's testimony was in error when Mr. Chappel stated that he had secured drum disposal rates from Greg Courson of Advanced Environmental. USI has shown, by virtue of its filing yesterday, that Mr. Chappel's

testimony was otherwise flawed with the regard to the seventeen incidents that he used to support his 734.845 Maximum Payment Amounts. The Board should be concerned about what other portions of his testimony are incomplete, inaccurate or misleading.

*Page 35 (6)*
The Agency's statement that the Board is sure to receive additional form letters or petitions complaining about the proposed rule is correct in that USI is dedicated to protecting the interest of the small owner/operator and is actively engaged in raising public awareness and gaining public opposition to the Agency's severely flawed rules. As long as the Agency supports its flawed proposal, USI will continue to lead this effort which is growing everyday. The Agency's statement is incorrect in that it implies that USI's interpretation of the impact of this rule on the small owner/operator is off-target. The more owners/operators and government officials that USI speaks to the more we are certain that the Illinois Pollution Control Board should not adopt the Agency's proposal. Thankfully, we live in a democracy where all citizens have a right to voice their opinions and help to set public policy and public opinion. Public opinion tends to support was it right. USI asks the Board to review the record in this proceeding and consider all of the parties in this proceeding that have written letters or signed petitions in favor or support of the IEPA's proposal. Other than the IEPA employees that testified on behalf of the Agency's proposal there is no other party that has voiced complete support for the Agency's proposal. The Board should consider the voice of the people.

Respectfully Submitted

Jay P. Koch- President