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3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2016), after providing Respondent, MAGNA TAX SERVICE CO., INC. ("MAGNA TAX"), with notice and the opportunity for a meeting with the Illinois EPA.

**ANSWER: Respondent denies the allegations of this paragraph.**

4. Respondent MAGNA TAX is an active Illinois corporation in good standing as of the date of this filing. The president, secretary and registered agent of MAGNA TAX is Respondent Dennis D. Ballinger. The address for the registered agent is 119 W. Williams St., Suite 300, Decatur, IL 62523.

**ANSWER: Respondent admits the allegations of this paragraph.**

5. Respondent MAGNA TAX does not receive income.

**ANSWER: Respondent admits the allegations of this paragraph.**

6. Respondent MAGNA TAX does not file tax returns.

**ANSWER: Respondent admits the allegations of this paragraph.**

7. Respondent MAGNA TAX is solely owned by Respondent DENNIS BALLINGER.

**ANSWER: Respondent admits the allegations of this paragraph.**

8. Respondent MAGNA TAX is merely an alter ego and business conduit of Respondent DENNIS BALLINGER.

**ANSWER: Respondent denies the allegations of this paragraph.**

9. Respondent MAGNA TAX owns the former Young Radiator factory property, located at 120 North 14th Street, Mattoon, Coles County, Illinois ("the Site").

**ANSWER: Respondent admits the allegations of this paragraph.**

10. Respondent DENNIS BALLINGER operates the Site.

**ANSWER: Respondent denies the allegations of this paragraph.**

11. Respondent DENNIS BALLINGER has made all decisions regarding environmental compliance at the Site on behalf of Respondent MAGNA TAX since at least 2011.

**ANSWER: Respondent denies the allegations of this paragraph.**

12. On October 5, 2011, the Illinois EPA inspected the Site. Along the west half of the northern edge of the Site, a dark stain was located on the north end of a concrete pad and an area of dark liquid was located on the surface of the soil adjacent to the concrete pad ("Contaminated Area"). The Contaminated Area comprised approximately a few square feet.

**ANSWER: Respondent admits only that an employee of the Illinois EPA visited the property located at 120 North 14<sup>th</sup> Street, Mattoon, Coles County, Illinois on the alleged date; but Respondent states that it has insufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph and therefore denies each and every such allegation of this paragraph.**

13. On November 15, 2011, the Illinois EPA took a soil sample from the Contaminated Area ("Sample SV01"). While taking the soil sample at a depth of approximately one foot, a dark liquid was discharging from the surrounding soil into the bottom of the sampling hole. An unknown object existed at a depth of approximately one foot, which prevented the Illinois EPA inspector from sampling at depths greater than one foot. The soil in the Contaminated Area was saturated with a dark liquid.

**ANSWER: Respondent admits only that an employee of the Illinois EPA visited the property located at 120 North 14<sup>th</sup> Street, Mattoon, Coles County, Illinois on the alleged date; but Respondent states that it has insufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph and therefore denies each and every such allegation of this paragraph.**

14. A laboratory analysis of Sample SV01 identified several semi-volatile compounds,

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metals, and volatile organic compounds in the sample. The following table provides a summary of the contaminants detected in the sample:

<b>Chemical Name</b>	<b>Result</b>
<b>Semivolatiles by</b>	<b>ug/kg</b>
4-Methylphenol	3,200
Naphthalene	180,000
2-Metyhlnaphthalene	1,400,000
Acenaphthylene	38,000
Acenaphthene	85,000
Dibenzofuran	80,000
Fluorene	180,000
Phenanthrene	540,000
Anthracene	49,000
Carbazole	8,000
Fluoranthene	16,000
Pyrene	140,000
Benzo(a)anthracene	36,000
Chrysene	51,000
Benzo(b)fluoranthene	9,500
Benzo(k)fluoranthene	3,300
Benzo(a)pyrene	22,000
Benzo(ghi)perylene	8,900
<b>Metals</b>	<b>mg/kg</b>
Cyanide	0.30
Mercury	0.13

Aluminum	5,640
Arsenic	19.6
Barium	184
Boron	16.4
Cadmium	5.44
Calcium	28,300
Chromium	51.3
Cobalt	5.55
Copper	399
Iron	27,100
Lead	779
Magnesium	11,900
Manganese	200
Nickel	28.4
Potassium	830
Sodium	277

Strontium	36.1
Vanadium	57.3
Zinc	4,080
Selenium	4.70
Laboratory pH	6.7
TCLP Metals	mg/L
Barium	0.64
Beryllium	0.001
Cadmium	0.04
Chromium	0.06
Lead	2.12
Nickel	0.10
Selenium	0.06
Silver	0.004
Vanadium	0.04
Zinc	77.4
Volatile Organics	ug/kg
Trichloroethene	640
Toluene	1,700
Ethylbenzene	3,900
Isopropylbenzene	1,500
Xylenes, total	27,000

**ANSWER: Respondent states that it has insufficient knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies each and every allegation of this paragraph.**

15. On May 2, 2012, the Illinois EPA issued Violation Notice L-2012-01027 to Respondent MAGNA TAX by serving Dennis Ballinger as registered agent, at 119 W. William St., Suite 300, Decatur, IL 62523. The Violation Notice instructed that Respondent MAGNA TAX enroll the site into the Illinois EPA's Site Remediation Program by July 1, 2012 to obtain review and approval to remediate the site and document the remediation.

**ANSWER: Respondent admits that a document purporting to be Violation Notice L-2012-01027 was mailed by the Illinois EPA and addressed to Mr. Ballinger as agent for Respondent, but denies any and all remaining allegations of this paragraph.**

16. On August 23, 2012, the Respondents conducted an investigative dig at the Site along a 6-inch metal pipe in the Contaminated Area. During the dig, soil and media uncovered next to the pipe were saturated with dark liquid material. Neither the extent of the full contamination nor the source of the contamination were defined on this date.

**ANSWER: Respondent admits that a contractor retained by Respondent performed certain investigative activities at the site on August 23, 2012 and denies any and all remaining allegations of this paragraph.**

17. On September 5, 2012, the Respondents conducted another investigative dig of the Site near the 6-inch metal pipe in the Contaminated Area. During the dig, several pipes were identified below the groundwater level adjacent to the Contaminated Area. At least one of the pipes leaked dark liquid into the soil during the dig.

**ANSWER: Respondent admits that a contractor retained by Respondent performed certain investigative activities at the site on September 5, 2012 and denies any and all remaining allegations of this paragraph.**

18. On September 5, 2012, the Illinois EPA took a soil sample from the Site (Sample X101). A laboratory analysis of Sample X101 identified several contaminants, including metals, in the soil sample. The following table provides a summary of the contaminants detected in the sample:

<b>Chemical Name</b>	<b>Result</b>
<i>Metals</i>	<b>mg/kg</b>
Cyanide	.07
Mercury	.23
Aluminum	5560
Arsenic	45.2
Barium	207
Beryllium	1.10
Boron	27.0
Cadmium	16.6
Calcium	11400
Chromium	119
Cobalt	9.53

Copper	962
Iron	39400
Lead	2030
Magnesium	4980
Manganese	242
Nickel	25.2
Potassium	626
Sodium	493
Strontium	33.4
Vanadium	37.6
Zinc	10600
Antimony	10.5
<i>Laboratory pH</i>	7.0
<b><i>TCLP Metals</i></b>	<b>mg/L</b>
Arsenic	0.04
Barium	0.76
Cadmium	0.03
Chromium	0.02
Lead	2.96
Nickel	0.02
Selenium	0.04
Zinc	53.3

**ANSWER:** Respondent admits only that an employee of the Illinois EPA visited the property located at 120 North 14th Street, Mattoon, Coles County, Illinois on the alleged date; but Respondent states that it has insufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph and therefore denies each and every such allegation of this paragraph.

19. The following calendar year, on September 13, 2013, Respondents conducted another exploratory dig of the Site and located an underground storage tank ("UST"). Field observations indicated the UST had a release. The release was reported to Illinois Emergency Management Agency and assigned IEMA Incident #H2013-1007.

**ANSWER:** Respondent admits that a contractor retained by Respondent performed certain investigative activities at the site on September 13, 2013 and that contractor reported a release, which was assigned IEMA Incident #H2013-1007, but denies any and all remaining allegations of this paragraph.

20. On September 17, 2013, the UST was registered with the Office of the State Fire Marshal ("OSFM").

**ANSWER: Respondent admits the allegations of this paragraph.**

21. On October 16 - 17, 2013, Respondents excavated and removed one (1) 1,500 gallon heating oil UST from the Site. Visible contamination was identified in the soil.

**ANSWER: Respondent admits that on October 16-17, 2013 a contractor retained by Respondent removed an underground storage tank at the site, but denies the remaining allegations of this paragraph.**

22. On or about October 31, 2013, Respondents submitted a Leaking Underground Storage Tank Fund Eligibility and Deductible Application ("Application") in relation to the UST. The Application noted that the UST piping had leaked.

**ANSWER: Respondent admits the allegations of this paragraph.**

23. Sections 2l(a) and (e) of the Act, 415 ILCS 5/2l(a) and (e) (2016), provide as follows:

No person shall:

(a) Cause or allow the open dumping of any waste.

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(e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of the Act and of regulations and standards thereunder.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

24. Section 3.305 of the Act, 415 ILCS 5/3.305 (2016), provides as follows:

"Open dumping" means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

25. Section 3.385 of the Act, 415 ILCS 5/3.385 (2016), provides as follows:

"Refuse" means waste.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

26. Section 3.535 of the Act, 415 ILCS 5/3.535 (2016), provides as follows:

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities...

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**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

27. Section 3.445 of the Act, 415 ILCS 5/3.445 (2016), provides, in pertinent part as follows:

"Sanitary landfill" means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder...

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**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

28. Section 3.185 of the Act, 415 ILCS 5/3.185 (2016), provides as follows:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

29. Section 3.315 of the Act, 415 ILCS 5/3.315 (2016), provides as follows:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

30. Respondent MAGNA TAX, a corporation, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2016).

**ANSWER: Respondent admits the allegations of this paragraph.**

31. The dark liquid identified in the Contaminated Area and surrounding the UST is a waste, pursuant to Section 3.535 of the Act, 415 ILCS 5/3.535 (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

32. By causing or allowing the dark liquid to enter the environment, Respondent MAGNA TAX allowed this waste material to be disposed of at the Site.

**ANSWER: Respondent denies the allegations of this paragraph.**

33. The Site is not a sanitary landfill or otherwise permitted for the disposal of waste such as the dark liquid.

**ANSWER: Respondent admits the allegations of this paragraph.**

34. By causing or allowing the dark liquid to be consolidated at the Site, Respondent MAGNA TAX violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

35. By causing or allowing the UST to discharge, deposit, spill or leak waste material into the environment, Respondent MAGNA TAX violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

WHEREFORE, Respondent respectfully requests that the Illinois Pollution Control Board deny the relief sought in Count I of this First Amended Complaint and award Respondent such other and further relief as is deemed appropriate under the circumstances.

**COUNT II**  
**FAILURE TO PERFORM WASTE DETERMINATION**

1-33. The Plaintiff re-alleges and incorporates by reference paragraphs 1 through 33 of Count I as if fully set forth herein as paragraphs 1 through 33 of this Count II.

**ANSWER: Respondent hereby incorporates its answers to paragraphs 1 through 33 of Count I as its answers to paragraphs 1 through 33 of this Count.**

34. At all times during its ownership of the Site, Respondent MAGNA TAX did not have a permit issued by the Illinois EPA to operate a sanitary landfill on the Site.

**ANSWER: Respondent admits the allegations of this paragraph.**

35. At all times prior to the removal of the UST, Respondent MAGNA TAX failed to make a determination as to whether the dark liquid in the Contaminated Area and surrounding the UST was a hazardous waste or a special waste.

**ANSWER: Respondent denies the allegations of this paragraph.**

36. Sections 21(d)(1)-(2) of the Act, 415 ILCS 5/21(d)(1)-(2) (2016), provides, in pertinent part, as follows:

No person shall:

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- (d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:
  - (1) without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder ...  
[or]
  - (2) in violation of any regulations or standards adopted by the Board under this Act ....

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

37. Section 722.111 of the Board's Hazardous Waste Operating Regulations, 35 Ill.

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Adm. Code 722.111, states as follows:

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste from the generator's particular facility or operation is not a hazardous waste.

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
  - (1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or
  - (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 721, 724 through 728, and 733 for possible exclusions or restrictions pertaining to the management of the specific waste.

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**ANSWER: Respondent admits that this paragraph accurately portrays the cited regulatory provisions.**

38. Section 808.110 of the Board's Solid Waste and Special Waste Hauling

Regulations, 35 Ill. Adm. Code 808.110, states as follows:

"Special waste" means any hazardous waste, and any industrial process waste or pollution control waste which has not been declassified pursuant to Section 808.245. (Section 3.45 of the Act.) ·

**ANSWER: Respondent admits that this paragraph accurately portrays the cited regulatory provisions.**

39. By allowing the release of the dark liquid from the UST, Respondent MAGNA TAX generated a solid waste.

**ANSWER: Respondent denies the allegations of this paragraph.**

40. By failing to determine whether the waste released from the UST was a hazardous waste or a special waste, Respondent MAGNA TAX violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016), and 35 Ill. Adm. Code 722.111.

**ANSWER: Respondent denies the allegations of this paragraph.**

WHEREFORE, Respondent respectfully requests that the Illinois Pollution Control Board deny the relief sought in Count II of this First Amended Complaint and award Respondent such other and further relief as is deemed appropriate under the circumstances.

**COUNT III**  
**UNPERMITTED WASTE STORAGE OR DISPOSAL**

1-39. The Plaintiff re-alleges and incorporates by reference paragraphs 1 through 33 of Count I, and paragraphs 34-39 of Count II, as if fully set forth herein as paragraphs 1 through 39 of this Count III.

**ANSWER: Respondent hereby incorporates its answers to paragraphs 1 through 33 of Count I as its answers to paragraphs 1 through 33 of this Count; and Respondent hereby incorporates its answers to paragraphs 34 through 39 of Count II as its answers to paragraphs 34 through 39 of this Count.**

40. At all times relevant to the facts in this Complaint, Respondent MAGNA TAX failed to apply for and maintain a waste disposal permit for the Site.

**ANSWER: Respondent denies the allegations of this paragraph.**

41. Section 812.101(a) of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 812.101(a) states as follows:

- a) All persons, except those specifically exempted by Section 21 (d) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 ½, par. 1021(d)) shall submit to the Agency an application for a permit to develop and operate a landfill. The application must contain the information required by this Subpart and by Section 39(a) of the Act, except as otherwise provided in 35 Ill. Adm. Code 817.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited regulatory provisions.**

42. By failing to apply for a waste disposal permit for the Site, Respondent MAGNA TAX violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016), and 35 Ill. Adm. Code 812.101(a).

**ANSWER: Respondent denies the allegations of this paragraph.**

43. By failing to maintain a waste disposal permit for the Site, Respondent MAGNA TAX violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

WHEREFORE, Respondent respectfully requests that the Illinois Pollution Control Board deny the relief sought in Count III of this First Amended Complaint and award Respondent such other and further relief as is deemed appropriate under the circumstances.

**COUNT IV**  
**WATER POLLUTION**

1-33. The Plaintiff re-alleges and incorporates by reference paragraphs 1 through 33 of Count I as if fully set forth herein as paragraphs I through 33 of this Count IV.

**ANSWER: Respondent hereby incorporates its answers to paragraphs 1 through 33 of Count I as its answers to paragraphs 1 through 33 of this Count.**

34. Groundwater at the subject Site is located at a depth of approximately 4 feet below ground surface (bgs).

**ANSWER: Respondent states that it has insufficient knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies**

**each and every allegation of this paragraph.**

35. Groundwater beneath the Site is a Class I groundwater.

**ANSWER: Respondent admits the allegations of this paragraph.**

36. Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any state so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

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**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

37. Section 3.545 of the Act, 415 ILCS 5/3.545 (2016), provides as follows:

"Water pollution" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

38. Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), provides as follows:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

39. Section 3.550 of the Act, 415 ILCS 5/3.550 (2016), provides as follows:

"Waters" means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

40. The groundwater beneath the Site is a "water" as that term is defined under Section 3.550 of the Act, 415 ILCS 5/3.550 (2016).

**ANSWER: Respondent admits the allegations of this paragraph.**

41. The dark liquid identified at the Site by Illinois EPA sampling conducted in 2011 and 2012 and by Respondents' investigations in 2012 and 2013, including the material which leaked from the UST, is a contaminant as defined in Section 3.165 of the Act.

**ANSWER: Respondent denies the allegations of this paragraph as to any activities alleged to have been done by IEPA, but admits the allegations as to investigations performed by the contractor retained by Respondent.**

42. The dark liquid and its constituent compounds, released on-site and in close proximity to groundwater caused, or tended to cause "water pollution," as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2016), in that its discharge did or was likely to create a nuisance or render groundwater harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

**ANSWER: Respondent denies the allegations of this paragraph.**

43. From at least October 5, 2011 to October 17, 2013, Respondent caused, threatened, or allowed a discharge of contaminants in close proximity to groundwater.

**ANSWER: Respondent denies the allegations of this paragraph.**

44. By so causing, threatening, or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

WHEREFORE, Respondent respectfully requests that the Illinois Pollution Control Board deny the relief sought in Count IV of this First Amended Complaint and award Respondent such other and further relief as is deemed appropriate under the circumstances.

**COUNT V**  
**WATER POLLUTION HAZARD**

1-43. The Plaintiff re-alleges and incorporates by reference paragraphs 1 through 33 of Count I, and paragraphs 34 through 43 of Count IV, as if fully set forth herein as paragraphs 1 through 43 of this Count V.

**ANSWER: Respondent hereby incorporates its answers to paragraphs 1 through 33 of Count I as its answers to paragraphs 1 through 33 of this Count; and Respondent hereby incorporates its answers to paragraphs 34 through 43 of Count IV as its answers to paragraphs 34 through 43 of this Count.**

44. Section 12(d) of the Act, 415 ILCS 5/12(d) (2016), provides as follows:

No person shall:

- (d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

**ANSWER: Respondent admits that this paragraph accurately portrays the cited statutory provisions.**

45. By allowing contaminants to leak from the UST and associated piping and remain in and on the soil, Respondent MAGNA TAX deposited contaminants on the Site.

**ANSWER: Respondent denies the allegations of this paragraph.**

46. By allowing contaminants to be deposited on the Site in close proximity to groundwater, Respondent MAGNA TAX created a water pollution hazard.

**ANSWER: Respondent denies the allegations of this paragraph.**

47. By depositing contaminants on the Site in such place and manner so as to create a

water pollution hazard, Respondent MAGNA TAX violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

WHEREFORE, Respondent respectfully requests that the Illinois Pollution Control Board deny the relief sought in Count V of this First Amended Complaint and award Respondent such other and further relief as is deemed appropriate under the circumstances.

**COUNT VI**  
**OPEN DUMPING VIOLATIONS BY DENNIS BALLINGER**

1. This Count is brought by the Attorney General on his own motion, pursuant to the terms and provision of Section 31 of the Act, 415 ILCS 5/31 (2016).

**ANSWER: Respondent admits that the Attorney General has brought this Count but denies any and all remaining allegations of this paragraph.**

2-31. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 29, 31 and 33 of Count I as paragraphs 2 through 31 of this Count VI.

**ANSWER: Respondent hereby incorporates its answers to paragraphs 2 through 29, 31 and 33 of Count I as its answers to paragraphs 2 through 31 of this Count.**

32. Dennis Ballinger is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2016).

**ANSWER: Respondent admits the allegations of this paragraph.**

33. By causing or allowing the dark liquid to enter the environment, Respondent DENNIS BALLINGER allowed this waste material to be disposed of at the Site.

**ANSWER: Respondent denies the allegations of this paragraph.**

34. By causing or allowing the dark liquid to be consolidated at the Site, Respondent DENNIS BALLINGER violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

35. By causing or allowing the UST to discharge, deposit, spill or leak waste material into the environment, Respondent DENNIS BALLINGER violated Section 21 (e) of the Act, 415 ILCS 5/21(e) (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

WHEREFORE, Respondent respectfully requests that the Illinois Pollution Control Board deny the relief sought in Count VI of this First Amended Complaint and award Respondent such other and further relief as is deemed appropriate under the circumstances.

**COUNT VII**  
**FAILURE TO PERFORM WASTE DETERMINATION**  
**BY DENNIS BALLINGER**

1. This Count is brought by the Attorney General on his own motion, pursuant to the terms and provision of Section 31 of the Act, 415 ILCS 5/31 (2016).

**ANSWER: Respondent admits that the Attorney General has brought this Count but denies any and all remaining allegations of this paragraph.**

2-36. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 29, 31 and 33 of Count 1; paragraphs 36 through 38 of Count II; and paragraphs 32 and 33 of Count VI as paragraphs 2 through 36 of this Count VII.

**ANSWER: Respondent hereby incorporates its answers to paragraphs 2 through 29, 31 and 33 of Count I; paragraphs 36 through 38 of Count II; and paragraphs 32 and 33 of Count VI as its answers to paragraphs 2 through 36 of this Count.**

37. At all times during his management of the Site, Respondent DENNIS BALLINGER did not have a permit issued by the Illinois EPA to operate a sanitary landfill on the Site.

**ANSWER: Respondent admits the allegations of this paragraph.**

38. At all times prior to the removal of the UST, Respondent DENNIS BALLINGER failed to make a determination as to whether the dark liquid in the Contaminated Area and

surrounding the UST was a hazardous waste or a special waste.

**ANSWER: Respondent denies the allegations of this paragraph.**

39. By allowing the release of the dark liquid from the UST, Respondent DENNIS BALLINGER generated a solid waste.

**ANSWER: Respondent denies the allegations of this paragraph.**

40. By failing to determine whether the waste released from the UST was a hazardous waste or a special waste, Respondent DENNIS BALLINGER violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016), and 35 Ill. Adm. Code 722.111.

**ANSWER: Respondent denies the allegations of this paragraph.**

WHEREFORE, Respondent respectfully requests that the Illinois Pollution Control Board deny the relief sought in Count VII of this First Amended Complaint and award Respondent such other and further relief as is deemed appropriate under the circumstances.

**COUNT VIII**  
**UNPERMITTED WASTE STORAGE OR DISPOSAL BY**  
**DENNIS BALLINGER**

1. This Count is brought by the Attorney General on his own motion, pursuant to the terms and provision of Section 31 of the Act, 415 ILCS 5/31 (2016).

**ANSWER: Respondent admits that the Attorney General has brought this Count but denies any and all remaining allegations of this paragraph.**

2-40. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 29, 31 and 33 of Count I; paragraphs 36 through 38 of Count II; paragraph 41 of Count III; paragraphs 32 and 33 of Count VI; and paragraphs 37 through 39 of Count VII as paragraphs 2 through 40 of this Count VIII.

**ANSWER: Respondent hereby incorporates its answers to paragraphs 2 through 29, 31 and 33 of Count I; paragraphs 36 through 38 of Count II; paragraph 41 of Count III; paragraphs 32 and 33 of Count VI; and**

**paragraphs 37 through 39 of Count VII as its answers to paragraphs 2 through 40 of this Count.**

41. By failing to apply for a waste disposal permit for the Site, Respondent DENNIS BALLINGER violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016), and 35 Ill. Adm. Code 812.101(a).

**ANSWER: Respondent denies the allegations of this paragraph.**

42. By failing to maintain a waste disposal permit for the Site, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

WHEREFORE, Respondent respectfully requests that the Illinois Pollution Control Board deny the relief sought in Count VIII of this First Amended Complaint and award Respondent such other and further relief as is deemed appropriate under the circumstances.

**COUNT IX**  
**WATER POLLUTION BY DENNIS BALLINGER**

1. This Count is brought by the Attorney General on his own motion, pursuant to the terms and provision of Section 31 of the Act, 415 ILCS 5/31 (2016).

**ANSWER: Respondent admits that the Attorney General has brought this Count but denies any and all remaining allegations of this paragraph.**

2-42. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 29, 31 and 33 of Count I; paragraphs 34 through 42 of Count IV; and paragraphs 32 and 33 of Count VI as paragraphs 2 through 42 of this Count IX.

**ANSWER: Respondent hereby incorporates its answers to paragraphs 2 through 29, 31 and 33 of Count I; paragraphs 34 through 42 of Count IV; and paragraphs 32 and 33 of Count VI as its answers to paragraphs 2 through 42 of this Count.**

43. From at least October 5, 2011 to October 17, 2013, Respondent DENNIS BALLINGER caused, threatened, or allowed a discharge of contaminants in close proximity to groundwater.

**ANSWER: Respondent denies the allegations of this paragraph.**

44. By so causing, threatening, or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, Respondent DENNIS BALLINGER violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

**ANSWER: Respondent denies the allegations of this paragraph.**

WHEREFORE, Respondent respectfully requests that the Illinois Pollution Control Board deny the relief sought in Count IX of this First Amended Complaint and award Respondent such other and further relief as is deemed appropriate under the circumstances.

**COUNT X**  
**WATER POLLUTION HAZARD BY DENNIS BALLINGER**

1. This Count is brought by the Attorney General on his own motion, pursuant to the terms and provision of Section 31 of the Act, 415 ILCS 5/31 (2016).

**ANSWER: Respondent admits that the Attorney General has brought this Count but denies any and all remaining allegations of this paragraph.**

2-43. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 29, 31 and 33 of Count I; paragraphs 34 through 42 of Count IV; paragraphs 32 and 33 of Count VI; and paragraph 43 of Count IX as paragraphs 2 through 43 of this Count IX.

**ANSWER: Respondent hereby incorporates its answers to paragraphs 2 through 29, 31 and 33 of Count I; paragraphs 34 through 42 of Count IV; paragraphs 32 and 33 of Count VI; and paragraph 43 of Count IX as its answers to paragraphs 2 through 43 of this Count.**

44. Sections 12(d) of the Act, 415 ILCS 5/12(d) (2016) provides as follows:

No person shall:



**CERTIFICATE OF SERVICE**

I hereby certify that on October 21, 2019, Defendants' Answer to People's First Amended Complaint was served via electronic mail upon the following:

Rachel Medina  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, IL 62706  
[rmedina@atg.state.il.us](mailto:rmedina@atg.state.il.us)  
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Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Ave. East  
P.O. Box 19274  
Springfield, IL 62794-9274  
[Carol.Webb@illinois.gov](mailto:Carol.Webb@illinois.gov)

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

\_\_\_\_\_  
/s/Claire A. Manning

**BROWN, HAY + STEPHENS, LLP**

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