

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 12-035
	)	(Enforcement – Water)
SIX M. CORPORATION Inc., an Illinois,	)	
corporation, WILLIAM MAXWELL, and	)	
MARILYN MAXWELL,	)	
	)	
Respondents.	)	
	)	
and	)	
	)	
JAMES MCILVAIN,	)	
	)	
Necessary Party.	)	

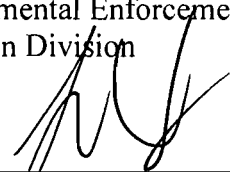
**NOTICE OF ELECTRONIC FILING**

PLEASE TAKE NOTICE that on March 15, 2017, I caused to be filed with the Clerk of the Illinois Pollution Control Board via “COOL” System the attached COMPLAINANT’S MOTION FOR LEAVE TO REOPEN DISCOVERY/AMEND DISCOVERY SCHEDULE.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
LISA MADIGAN  
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY:   
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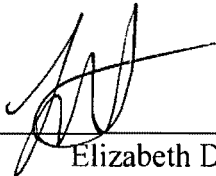
**CERTIFICATE OF SERVICE BY VIA ELECTRONIC MAIL**

I, Elizabeth Dubats, certify that the foregoing document was served on March 15, 2017, upon the counsel of record in the above referenced case by via electronic mail:

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**COMPLAINANT'S MOTION FOR LEAVE TO REOPEN DISCOVERY/AMEND  
DISCOVERY SCHEDULE**

NOW COMES COMPLAINANT, the People of the State of Illinois, through its attorney LISA MADIGAN, Attorney General of the State of Illinois, and moves the Pollution Control Board ("Board"), pursuant to Board Rule 101.502, 35 Ill. Adm. Code 101.502, for leave to reopen discovery and amend the discovery schedule to allow for limited oral discovery, and in support hereby states as follows:

1. On June 2, 2016, the Board issued an order setting out the parties' agreed discovery schedule, with discovery to be completed by October 31, 2016.
2. On August 8, 2016, the Board, on agreed motion of the parties, extended the discovery schedule, with discovery to be concluded by November 15, 2016.
3. To date, no oral discovery has been conducted in this matter.

4. On December 29, 2016, AAG Elizabeth Dubats entered her appearance in this matter.

5. On March 6, 2017, Respondents Six M. Corp. and William Maxwell filed a Motion for Summary Judgment requesting summary judgment in favor of William Maxwell. Among the arguments in support of the Motion for Summary Judgment, Respondents claim a lack of evidence that William Maxwell actively participated in operations of Walker Service Station during the period of time relevant to the Complaint. The exhibits attached to Respondent's Motion, which consist of LUST records, IEPA enforcement records, and the Affidavit of Tom Maxwell, present a limited picture of the operations of Walker Service Station over the course of the past 20 years.

6. Pursuant to Section 101.612 of the Board's Regulations, 35 Ill. Adm. Code 101.612, the Hearing Officer has the authority to set the schedule to complete the record and may revise the schedule as long as it is complete at least thirty days before a statutory decision deadline and prevents material prejudice.

7. Pursuant to Section 101.616 of the Board's Regulations, 35 Ill. Adm. Code 101.616, the Hearing Officer has the authority to order discovery.

8. Depositions of William Maxwell and Tom Maxwell regarding their respective roles and actions in the Six M. Corporation and operation of the Walker Service Station are necessary to fill in crucial gaps in the current record needed for Complainant to respond to, and for the Board to properly adjudicate, Respondent's Motion for Summary Judgment.

9. As a general matter, oral discovery is necessary in order to fully prepare this matter for hearing.

10. Complainant requests leave of the Board to reopen discovery to allow for oral discovery of witnesses James McIlvain, William Maxwell, and Tom Maxwell in advance of hearing.

11. Complainant also requests the Hearing Officer stay adjudication of Respondent's Motion for Summary Judgment until the conclusion of the depositions of William Maxwell and Tom Maxwell.

12. As of the date of this Motion, no hearing date has be set.

13. Reopening discovery to allow for three discovery depositions would not materially prejudice any of the parties.

WHEREFORE, the Plaintiff requests this Court grant the attached Order

PEOPLE OF THE STATE OF ILLINOIS,  
LISA MADIGAN  
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: \_\_\_\_\_

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Necessary Party.	)	

**PROPOSED HEARING OFFICER ORDER**

THIS CAUSE now coming before the Board on the Motion of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, to reopen discovery to allow for oral discovery, and the Hearing Officer being fully advised in the premises, makes the following findings:

1. Reopening discovery to allow for oral discovery would allow parties to respond to Respondent’s Motion for Summary Judgment and would allow parties to fully prepare for hearing.
2. Reopening discovery to allow for three discovery depositions would not materially prejudice any of the parties.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

1. On such dates agreed upon by the parties, oral discovery shall be completed by the following deadlines.

Description of Activity	Due Date
Discovery Deposition of William Maxwell	May 30, 2017
Discovery Deposition of Tom Maxwell	May 30, 2017
Discovery Deposition of James McIlvain	June 30, 2017

2. Respondent's Motion for Summary Judgment is stayed pending the completion of oral discovery.

3. The parties are directed to participate in a telephone status conference with the hearing officer at \_\_\_\_\_ on \_\_\_\_\_. The People will circulate a conference call-in number.

The parties have consented to electronic service for this docket.

IT IS SO ORDERED.

\_\_\_\_\_  
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Hearing Officer  
Illinois Pollution Control Board  
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