

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, and WILLIAM MAXWELL,)	
)	
)	
Respondents.)	
)	
and)	
)	
JAMES MCILVAIN,)	
)	
Necessary Party.)	

To: See attached Service List

NOTICE OF FILING

PLEASE TAKE NOTICE that on this 2nd day of July, 2018, I caused to be filed with the Illinois Pollution Control Board, via the “COOL” System the attached Notice of Filing and Complainant’s Motion for Leave to File First Amended Complaint, a true and correct copy of which is attached hereto and is hereby served upon you.

Respectfully submitted,
PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

By: /s/ Elizabeth Dubats
Elizabeth Dubats
Assistant Attorney General
Environmental Bureau
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CERTIFICATE OF SERVICE

I, Elizabeth Dubats, an Assistant Attorney General, do certify that I caused to be served this 2nd day of July, 2018, the attached Notice of Electronic Filing and Complainant's Motion for Leave to File First Amended Complaint on the parties named on the attached service list by electronic mail.

By: /s/ Elizabeth Dubats

Elizabeth Dubats
Assistant Attorney General
Environmental Bureau
69 W. Washington, 18th Floor
Chicago, Illinois 60602
(312) 814-2069

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois)	
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Complainant,)	
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v.)	PCB No. 12-035
)	(Enforcement – LUST/Water)
SIX M. CORPORATION INC., an Illinois,)	
corporation, and THOMAS MAXWELL,)	
an individual,)	
)	
Respondents,)	
)	
and)	
)	
JAMES MCILVAIN,)	
)	
Necessary Party.)	

COMPLAINANT’S MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT

NOW COMES COMPLAINANT, People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Section 103.206(d) of the Illinois Pollution Control Board’s (“Board”) procedural rules, 35 Ill. Adm. Code 103.206(d), and respectfully moves the Board for leave to file its First Amended Complaint, a true and correct copy of which is attached hereto as Exhibit A. In support of this motion, the Complainant states as follows:

1. Section 103.206(d) of the Board’s procedural rules, 35 Ill. Adm. Code 103.206(d), provides as follows:

(d) If a party wishes to file a counter-complaint, cross-complaint, or third-party complaint, the party must move the Board for leave to file the pleading. If a party wishes to file an amendment to a complaint, counter-complaint, cross-complaint, or third-party complaint that sets forth a new or modified claim against another person, the party who wishes to file the pleading must move the Board for leave to file the pleading.

2. On August 25, 2011, Complainant filed its Complaint (“Original Complaint”)

against Six M. Corporation, Inc., an Illinois corporation, William Maxwell, and Marilyn Maxwell.

3. On October 6, 2011, the Board granted Complainant's Motion for Joinder of James McIlvain as a necessary party.

4. On November 17, 2011, subsequent to the filing of the Original Complaint, Respondent Marilyn Maxwell was dismissed out of the matter with Complainant's consent on suggestion of her death.

5. On March 4, 2018, Respondent William Maxwell passed away.

6. On June 9, 2017, Thomas Maxwell was deposed as a corporate representative of Respondent Six M. Corporation, Inc.

7. In affidavits before the Board, Thomas Maxwell has represented that he is a corporate officer of Respondent Six M. Corporation, Inc. and the operator of the Walker Service Station facility during the period of time relevant to the Original Complaint. Respondents' Motion for Summary Judgment (Mar. 6, 2017) Ex. B Affidavit of Thomas Maxwell.

8. Furthermore, Respondents have previously provided the Board evidence demonstrating Thomas Maxwell's active participation and oversight of the remediation of the Walker Service Station Site. Respondents' Motion for Summary Judgment (Mar. 6, 2017) Ex. A (Leaking Underground Storage Tank fund and Tiered Approach to Corrective Action Objectives documents addressed to Thomas Maxwell and/or bearing Thomas Maxwell's signature).

9. The Board should allow Complainant to file its First Amended Complaint for the following reasons. First, Thomas Maxwell will be neither be surprised nor prejudiced by the claims in the First Amended Complaint, as Thomas Maxwell has been acting as a corporate representative of Six M. Corporation, Inc. in this litigation and therefore is on notice regarding

the State's allegations. Second, while discovery has already been conducted in this matter, Thomas Maxwell has been deposed and has already offered affidavits in this matter. Finally, allowing Complainant to file its First Amended Complaint will expedite the handling of this case by the Board.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board enter an order granting this motion, allowing the filing of the First Amended Complaint, and granting such other relief as the Board deems proper.

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

By: /s/ Elizabeth Dubats
Elizabeth Dubats
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois)	
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Complainant,)	
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v.)	PCB No. 12-035
)	(Enforcement – LUST/Water)
SIX M. CORPORATION INC., an Illinois,)	
corporation, and THOMAS MAXWELL,)	
an individual,)	
)	
Respondents,)	
)	
and)	
)	
JAMES MCILVAIN,)	
)	
Necessary Party.)	

Exhibit A

First Amended Complaint

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois)	
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Complainant,)	
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SIX M. CORPORATION INC., an Illinois,)	
corporation, and THOMAS MAXWELL,)	
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Respondents.)	
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and)	
)	
JAMES MCILVAIN,)	
)	
Necessary Party.)	

FIRST AMENDED COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, SIX M. CORPORATION INC. and THOMAS MAXWELL, as follows:

COUNT I
WATER POLLUTION
(As to Respondent SIX M. CORPORATION INC.)

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2016).

2. The Illinois EPA is an agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2016), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this First Amended Complaint, Respondent, SIX M. CORPORATION INC., was an Illinois corporation in good standing and authorized to do business in the State of Illinois. Its registered agent is listed in the Illinois Secretary of State's records as William Maxwell, 430 West Clinton Avenue, Farmer City, Illinois 61842.

4. At all times relevant to this First Amended Complaint, Respondent, SIX M. CORPORATION INC., operated a gasoline service station ("Facility") doing business as "Walker's Service Station" and located at 430 West Clinton Avenue, Farmer City, De Witt County, Illinois.

5. Groundwater is present at and in the vicinity of the Facility.

6. 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.

7. Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), contains the following definition:

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

8. Section 3.545 of the Act, 415 ILCS 5/3.545 (2016), contains the following definition:

"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 water 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.

9. Section 3.550 of the Act, 415 ILCS 5/3.550 (2016), contains the following definition:

"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.

10. The groundwater at, and in the vicinity of, the Facility is a "water" of the State of Illinois as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2016).

11. Section 620.115 of the Illinois Pollution Control Board ("Board") Groundwater Quality Regulations, 35 Ill. Adm. Code 620.115, provides as follows:

No person shall cause, threaten, or allow a violation of the Act, the IGPA or regulations adopted by the Board thereunder, including but not limited to this Part.

12. Section 620.301(a) of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code 620.301(a), provides as follows:

(a) No person shall cause, threaten, or allow the release of any contaminant to a resource groundwater such that: 1. Treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or 2. An existing or potential use of such groundwater is precluded.

13. Section 620.302(c) of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code 620.302(c), provides as follows:

(c) If a contaminant exceeds a standard set forth in Section 620.410 or Section 620.430, the appropriate remedy is corrective action and Sections 620.305 and 620.310 do not apply.

14. Section 620.405 of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code 620.405, provides as follows:

No person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard set forth in this Subpart to be exceeded.

15. Section 620.410(d) of the Board Groundwater Quality Regulations, 35 Ill. Adm.

Code 620.410(d), provides as follows:

- (d) Concentrations of the following organic chemical constituents of gasoline, diesel fuel, or heating fuel must not be exceeded in Class I groundwater:

CONSTITUENT	STANDARD (mg/L)
Benzene*	0.005
BETX	11.705

* Denotes a carcinogen.

16. Section 620.210 of the Board Groundwater Quality Regulations, 35 Ill. Adm.

Code 620.210, defines Class I: Potable Resource Groundwater, in pertinent part, as follows:

Except as provided in Sections 620.230, 620.240, or 620.250, Potable Resource Groundwater is:

- (a) Groundwater located 10 feet or more below the land surface and within:

1) The minimum setback zone of a well which serves as a potable water supply and to the bottom of such well;

2) Unconsolidated sand, gravel or sand and gravel which is 5 feet or more in thickness and that contains 12 percent or less of fines (i.e., fines which pass through a No. 200 sieve tested according to ASTM Standard Practice D2487-06, incorporated by reference at Section 620.125);

3) Sandstone which is 10 feet or more in thickness, or fractured carbonate which is 15 feet or more in thickness; or

4) Any geologic material which is capable of a:

A) Sustained groundwater yield, from up to a 12 inch borehole, of 150 gallons per day or more from a thickness of 15 feet or less; or

B) Hydraulic conductivity of 1×10^{-4} cm/sec or greater using one of the following test methods or its equivalent:

- i) Permeameter;
- ii) Slug test; or
- iii) Pump test.

17. On or about April 18, 1986, William Maxwell submitted to the Office of State Fire Marshal ("OSFM") a registration of ownership regarding four underground storage tanks in operation at Walker's Service Station. Tank No.1 was described as a 10,000 gallon tank used for gasoline fuel storage. Tank No.2 was described as a 4,000 gallon tank used for gasoline fuel storage. Tank No.3 was described as a 2,000 gallon tank used for diesel fuel storage. Tank No.4 was described as a 250 gallon tank for the storage of used motor oil.

18. On May 13, 1996, a report was made to the Illinois Emergency Management Agency ("IEMA") that gasoline had been released from an underground storage tank at Walker's Service Station into soil and groundwater at the Facility. IEMA assigned Incident Number 960810 to the reported release.

19. On May 15, 1996, OSFM investigated a complaint by James McIlvain of 407 West Clinton Avenue, Farmer City, regarding gasoline fumes in his basement. OSFM detected volatile petroleum fumes with a lower explosive limit of 100 per cent at the basement drains.

20. On May 15, 1996, Respondent, SIX M. CORPORATION INC., excavated an interceptor trench at the Facility. The trench was dug approximately 20 feet west of and parallel to the McIlvain property. OSFM determined the excavated soil and groundwater to be heavily contaminated with petroleum products and detected volatile petroleum fumes with a lower explosive limit of 100 per cent. The trench contained free product at that time.

21. Respondent, SIX M. CORPORATION INC., retained a consultant, Armor Shield of Illinois, to remediate the release. On May 22, 1996, the consultant submitted to OSFM an amended registration regarding the underground storage tanks in operation at Walker's Service

Station. Tank No.4 was then described as a 1,000 gallon tank for the storage of used motor oil. Tank No.5 was described as a 560 gallon tank for the storage of gasoline fuel. Tank No.6 was described as a 560 gallon tank for the storage of diesel fuel. The consultant also submitted to OSFM an application for a permit to remove Tank Nos. 4, 5 and 6.

22. On June 5, 1996, the consultant for Respondent, SIX M. CORPORATION INC., removed Tank Nos. 4, 5 and 6 from the Facility. Another tank, identified as Tank No.7 and described as a 300 gallon tank previously used for storage of unspecified products, was also removed.

23. On September 27, 1996, the consultant submitted to the Illinois EPA proposals for a site classification work plan and budget. On October 3, 1996, the Illinois EPA approved the proposals. On April 7, 1997, a site classification completion report was submitted, and on April 15, 1997, the Illinois EPA approved it.

24. Slug test results in the April 7, 1997, site classification completion report showed the hydraulic conductivity of the native material below the invert elevation of the underground storage tank systems was 6.49×10^{-4} centimeters per second (cm/sec).

25. On May 22, 1998, a high priority corrective action plan ("CAP") was submitted to the Illinois EPA on behalf of Respondent, SIX M. CORPORATION INC. On June 3, 1998, the Illinois EPA requested modifications to the high priority CAP. On February 16, 1999, a high priority CAP was resubmitted. On March 17, 1999, the Illinois EPA requested modifications. On April 20, 1999, a high priority CAP was again resubmitted. On May 20, 1999, the Illinois EPA requested modifications. The high priority CAP was not resubmitted until four years later, on May 20, 2003. On June 12, 2003, the Illinois EPA denied the high priority CAP. On July 18, 2003, the high priority CAP was resubmitted. On September 25, 2003, the Illinois EPA again

denied the high priority CAP. On February 17, 2004, the high priority CAP was resubmitted. On March 31, 2004, the Illinois EPA conditionally approved the high priority CAP with requested modifications. On October 8, 2007 the high priority CAP was resubmitted, and conditionally approved by the Illinois EPA on December 4, 2007.

26. During August and September 2004, a total of approximately 13,676 tons of contaminated soils were removed from the Facility and the McIlvain property. The removal of contaminated soils continued until the excavation reached a depth of 14 feet. The analytical results of samples collected from within the excavation demonstrated the need for additional remediation. At this time, more than eight years after the release was reported, the concentrations of benzene and BETX in the groundwater exceeded the standards set forth in Section 620.410(d) and thereby triggered the mandatory requirement of corrective action pursuant to Section 620.302(c). The soil sample results demonstrated that the soil contamination within the perimeter walls of the excavation exceeded the Tier I cleanup objectives provided by 35 Ill. Adm. Code Part 742 ("TACO").

27. On March 8, 2006 Respondent, SIX M. CORPORATION INC., reported to IEMA a subsequent release of gasoline and diesel fuels from underground storage tanks at Walker's Service Station. IEMA assigned Incident Number 20060291 to the second reported release.

28. On April 24 and October 17, 2006 the Illinois EPA approved site investigation plans submitted on behalf of Respondent, SIX M. CORPORATION INC. On December 11, 2014, June 5, 2015, and January 7, 2016, the Illinois EPA approved additional site investigation plans addressing the March 8, 2006 release.

29. As of the date of the filing of this First Amended Complaint, no site investigation completion report has been received by the Illinois EPA for the March 8, 2006 release, and neither the May 13, 1996 release nor the March 8, 2006 release has been fully remediated.

30. The groundwater at and in the vicinity of the Facility is classified as Class I potable resource groundwater because the Facility contains geologic material with a hydraulic conductivity of 6.49×10^{-4} cm/sec which is greater than 1×10^{-4} cm/sec.

31. By causing or allowing the release of benzene and BETX to the groundwater, the Respondent, SIX M. CORPORATION INC., contaminated the groundwater, precluded possible use of that water, and necessitated treatment of the groundwater to allow its use in the future, and has thereby violated Section 620.301(a) of the Board Groundwater Quality Standards, 35 Ill. Adm. Code 620.301(a).

32. By causing or allowing the release of benzene and BETX to the groundwater in concentrations exceeding the water quality standards, Respondent, SIX M. CORPORATION INC., has violated Sections 620.405 and 620.410(d) of the Board Groundwater Quality Standards, 35 Ill. Adm. Code 620.405 and 620.410(d).

33. By causing or allowing the discharge of benzene and BETX to the groundwater so as to exceed the water quality standards, and by failing to remediate the May 13, 1996 and March 8, 2006 underground storage tank releases at Walker's Service Station, Respondent, SIX M. CORPORATION INC. has caused or allowed water pollution and has thereby violated Section 12(a) of the Act, 415 ILCS 12(a) (2016).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, SIX M. CORPORATION INC., for the following relief:

A. Authorizing a hearing in this matter at which time Respondent, SIX M. CORPORATION INC., will be required to answer the allegations herein;

B. Finding that Respondent, SIX M. CORPORATION INC., has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), and Sections 620.301(a), 620.405, and 620.410(d) of the Board Groundwater Quality Standards, 35 Ill. Adm. Code 620.301(a), 620.405, and 620.410(d);

C. Ordering Respondent, SIX M. CORPORATION INC., to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), and Sections 620.301(a), 620.405, and 620.410(d) of the Board Groundwater Quality Standards, 35 Ill. Adm. Code 620.301(a), 620.405, and 620.410(d);

D. Assessing against Respondent, SIX M. CORPORATION INC., a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

E. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent, SIX M. CORPORATION INC.; and

F. Granting such other relief as the Board deems appropriate and just.

COUNT II
WATER POLLUTION
(As to Respondent THOMAS MAXWELL)

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to the terms and provisions of Section 31(d) of the Act, 415 ILCS 5/31(d) (2016).

2-30. Complainant realleges and incorporates herein by reference paragraphs 2 through 30 of Count I as paragraphs 2 through 30 of this Count II.

31. Respondent, THOMAS MAXWELL, is a resident of De Witt County, Illinois.

32. From at least May 13, 1996, until the date of the filing of this First Amended Complaint, Respondent, THOMAS MAXWELL, was the Secretary of Respondent, SIX M. CORPORATION INC.

33. From at least May 13, 1996, until the date of the filing of this First Amended Complaint, Respondent, THOMAS MAXWELL, managed the daily operations of Respondent, SIX M. CORPORATION INC., including oversight of the removal of underground storage tanks at the Facility, site investigation, and oversight of remediation activities under the high priority CAPs.

34. By causing or allowing the release of benzene and BETX to the groundwater, Respondent, THOMAS MAXWELL, contaminated the groundwater, precluded possible use of that water, and necessitated treatment of the groundwater to allow its use in the future, and has thereby violated Section 620.301(a) of the Board Groundwater Quality Standards, 35 Ill. Adm. Code 620.301(a).

35. By causing or allowing the release of benzene and BETX to the groundwater in concentrations exceeding the water quality standards, Respondent, THOMAS MAXWELL, has violated Sections 620.405 and 620.410(d) of the Board Groundwater Quality Standards, 35 Ill. Adm. Code 620.405 and 620.410(d).

36. By causing or allowing the discharge of benzene and BETX to the groundwater so as to exceed the water quality standards, and by failing to remediate the May 13, 1996 and March 8, 2006 underground storage tank releases at Walker's Service Station, Respondent, THOMAS MAXWELL, has caused or allowed water pollution and has thereby violated Section 12(a) of the Act, 415 ILCS 12(a) (2016).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, THOMAS MAXWELL, for the following relief:

A. Authorizing a hearing in this matter at which time Respondent, THOMAS MAXWELL, will be required to answer the allegations herein;

B. Finding that Respondent, THOMAS MAXWELL, has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), and Sections 620.301(a), 620.405, and 620.410(d) of the Board Groundwater Quality Standards, 35 Ill. Adm. Code 620.301(a), 620.405, and 620.410(d);

C. Ordering Respondent, THOMAS MAXWELL, to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), and Sections 620.301(a), 620.405, and 620.410(d) of the Board Groundwater Quality Standards, 35 Ill. Adm. Code 620.301(a), 620.405, and 620.410(d);

D. Assessing against Respondent, THOMAS MAXWELL, a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

E. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent, THOMAS MAXWELL; and

F. Granting such other relief as the Board deems appropriate and just.

COUNT III
FAILURE TO COMPLETE SITE INVESTIGATION
(As to Respondent SIX M. CORPORATION INC.)

1-18. Complainant realleges and incorporates herein by reference paragraphs 1 through 5, and 17 through 29 of Count I as paragraphs 1 through 18 of this Count III.

19. Section 57.6(a) of the Act, 415 ILCS 5/57.6(a) (2016), provides as follows:

- (a) Owners and operators of underground storage tanks shall, in response to all confirmed releases, comply with all applicable statutory and regulatory reporting and response requirements.

20. Section 57.7(a) of the Act, 415 ILCS 5/57.7(a) (2016), provides in pertinent part as follows:

- (a) Site investigation.

* * *

- 4) Upon the Agency's approval of a site investigation plan, or as otherwise directed by the Agency, the owner or operator shall conduct a site investigation in accordance with the plan.
- 5) Within 30 days after completing the site investigation, the owner or operator shall submit to the Agency for approval a site investigation completion report.

* * *

21. As of the date of the filing of this First Amended Complaint, Respondent, SIX M. CORPORATION INC., has not submitted a site investigation completion report to the Illinois EPA for the March 8, 2006 release.

22. Respondent, SIX M. CORPORATION INC., has failed to complete a site investigation regarding the March 8, 2006 release at Walker's Service Station. Respondent, SIX M. CORPORATION INC., has thereby violated Section 57.7(a)(4) of the Act, 415 ILCS 5/57.7(a)(4) (2016).

23. Respondent, SIX M. CORPORATION INC., has failed to submit to the Illinois EPA a site investigation completion report for the March 8, 2006 release. Respondent, SIX M. CORPORATION INC., has thereby violated Section 57.7(a)(5) of the Act, 415 ILCS 5/57.7(a)(5) (2016).

24. By failing to complete a site investigation of the March 8, 2006 release in accordance with the approved plans and failing to submit a site investigation completion report, Respondent, SIX M. CORPORATION INC., has failed to comply with all applicable statutory and regulatory reporting and response requirements, and has thereby violated Section 57.6(a) of the Act, 415 ILCS 5/57.6(a) (2016).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, SIX M. CORPORATION INC., for the following relief:

A. Authorizing a hearing in this matter at which time Respondent, SIX M. CORPORATION INC., will be required to answer the allegations herein;

B. Finding that Respondent, SIX M. CORPORATION INC., has violated Sections 57.6(a) and 57.7(a) of the Act, 415 ILCS 5/57.6(a) and 57.7(a) (2016);

C. Ordering Respondent, SIX M. CORPORATION INC., to cease and desist from any further violations of Sections 57.6(a) and 57.7(a) of the Act, 415 ILCS 5/57.6(a) and 57.7(a) (2016);

D. Assessing against Respondent, SIX M. CORPORATION INC., a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

E. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent, SIX M. CORPORATION INC.; and

F. Granting such other relief as the Board deems appropriate and just.

COUNT IV
FAILURE TO TAKE CORRECTIVE ACTION
(As to Respondents SIX M. CORPORATION INC. and THOMAS MAXWELL)

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to the terms and provisions of Section 31(d) of the Act, 415 ILCS 5/31(d) (2016).

2-23. Complainant realleges and incorporates herein by reference paragraphs 2 through 5, and 17 through 29 of Count I, paragraphs 31 through 33 of Count II, and paragraphs 19 and 20 of Count III as paragraphs 1 through 23 of this Count IV.

24. As of the date of the filing of this First Amended Complaint, Respondent, THOMAS MAXWELL, has not submitted a site investigation completion report to the Illinois EPA for the March 8, 2006 release.

25. Respondent, THOMAS MAXWELL, has failed to complete a site investigation regarding the March 8, 2006 release at Walker's Service Station. Respondent, THOMAS MAXWELL, has thereby violated Section 57.7(a)(4) of the Act, 415 ILCS 5/57.7(a)(4) (2016).

26. Respondent, THOMAS MAXWELL, has failed to submit to the Illinois EPA a site investigation completion report for the March 8, 2006 release. Respondent, THOMAS MAXWELL, has thereby violated Section 57.7(a)(5) of the Act, 415 ILCS 5/57.7(a)(5) (2016).

27. By failing to complete a site investigation of the March 8, 2006 release in accordance with the approved plans and failing to submit a site investigation completion report, Respondent, THOMAS MAXWELL, has failed to comply with all applicable statutory and regulatory reporting and response requirements, and has thereby violated Section 57.6(a) of the Act, 415 ILCS 5/57.6(a) (2016).

28. Section 57.7(b) of the Act, 415 ILCS 5/57.7(b) (2016), provides in pertinent part as follows:

(b) Corrective action.

(1) If the site investigation confirms none of the applicable indicator contaminants exceed the proposed remediation objectives, within 30 days after completing the site investigation the owner or operator shall submit to the Agency for approval a corrective action completion report in accordance with this Section.

(2) If any of the applicable indicator contaminants exceed the remediation objectives approved for the site, within 30 days after the Agency approves the site investigation completion report the owner or operator shall submit to the Agency for approval a corrective action plan designed to mitigate any threat to human health, human safety, or the environment resulting from the underground storage tank release. The plan shall describe the selected remedy and evaluate its ability and effectiveness to achieve the remediation objectives approved for the site. At a minimum, the report shall include all of the following:

- (A) Executive summary.
- (B) Statement of remediation objectives.
- (C) Remedial technologies selected.
- (D) Confirmation sampling plan.
- (E) Current and projected future use of the property.
- (F) Applicable preventive, engineering, and institutional controls including long-term reliability, operating, and maintenance plans, and monitoring procedures.
- (G) A schedule for implementation and completion of the plan.

* * *

(4) Upon the Agency's approval of a corrective action plan, or as otherwise directed by the Agency, the owner or operator shall proceed with corrective action in accordance with the plan.

(5) Within 30 days after the completion of a corrective action plan that achieves applicable remediation objectives the owner or operator shall submit to the Agency for approval a corrective action completion report. The report shall demonstrate whether corrective action was completed in accordance with the approved corrective action plan and whether the remediation objectives approved for the site, as well as any other requirements of the plan, have been achieved.

(6) If within 4 years after the approval of any corrective action plan the applicable remediation objectives have not been achieved and the owner or operator has not submitted a corrective action completion report, the owner or operator must submit a status report for Agency review. The status report must include, but is not limited to, a description of the remediation activities taken to date, the effectiveness of the method of remediation being used, the likelihood of meeting the applicable remediation objectives using the current method of remediation, and the date the applicable remediation objectives are expected to be achieved.

(7) If the Agency determines any approved corrective action plan will not achieve applicable remediation objectives within a reasonable time, based upon the method of remediation and site specific circumstances, the Agency may require the owner or operator to submit to the Agency for approval a revised corrective action plan. If the owner or operator intends to seek payment from the Fund, the owner or operator must also submit a revised budget.

29. Section 732.100(c) of the Board Underground Storage Tank Regulations, 35 Ill.

Adm. Code 732.100(c) (repealed March 19, 2012), provided in pertinent part as follows:

c) Owners or operators subject to this Part by law or by election shall proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter signifying final disposition of the site for purposes of this Part. The Illinois EPA may use its authority pursuant to the Act and 35 Ill. Adm. Code 732.105 to expedite investigative, preventative or corrective action by an owner or operator or to initiate action.

30. Section 734.100(d) of the Board Underground Storage Tank Regulations, 35 Ill.

Adm. Code 734.100(d) (effective March 19, 2012), provides in pertinent part as follows:

d) Owners or operators subject to this Part by law or by election must proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter signifying final disposition of the site for purposes of this Part. The Agency may use its authority pursuant to the Act and Section 734.125 of this Part to expedite investigative, preventive, or corrective action by an owner or operator or to initiate such action.

31. On December 4, 2007, the Illinois EPA approved a corrective action plan for the May 13, 1996 release.

32. As of the date of the filing of this First Amended Complaint, corrective action has not been completed and no corrective action completion report has been submitted to the Illinois EPA.

33. By failing to proceed with corrective action in accordance with the Illinois EPA-approved corrective action plan, Respondents, SIX M. CORPORATION INC. and THOMAS MAXWELL, have violated and continue to violate Section 57.7(b) of the Act, 415 ILCS 5/57.7(b) (2016).

34. By failing to complete corrective action from at least March 12, 2012 through the date of the filing of this First Amended Complaint, Respondents, SIX M. CORPORATION INC. and THOMAS MAXWELL, have failed to proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter signifying final disposition of the site, in violation of Section 734.100(d) of the Board Underground Storage Tank Regulations, 35 Ill. Adm. Code 734.100(d), and thereby also violated Section 57.6(a) of the Act, 415 ILCS 5/57.6(a) (2016).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondents, SIX M. CORPORATION INC. and THOMAS MAXWELL, for the following relief:

A. Authorizing a hearing in this matter at which time Respondents, SIX M. CORPORATION INC. and THOMAS MAXWELL, will be required to answer the allegations herein;

B. Finding that Respondent, SIX M. CORPORATION INC., has violated Sections

57.6(a) and 57.7 (b) of the Act, 415 ILCS 5/57.6(a) and 57.7(b) (2016), and Section 734.100(d) of the Board Underground Storage Tank Regulations, 35 Ill. Adm. Code 734.100(d);

C. Finding that Respondent, THOMAS MAXWELL, has violated Sections 57.6(a) and 57.7(a) and (b) of the Act, 415 ILCS 5/57.6(a) and 57.7(a) and (b) (2016), and Section 734.100(d) of the Board Underground Storage Tank Regulations, 35 Ill. Adm. Code 734.100(d);

D. Ordering Respondent, SIX M. CORPORATION INC., to cease and desist from any further violations of Sections 57.6(a) and 57.7(b) of the Act, 415 ILCS 5/57.6(a) and 57.7(b) (2016), and Section 734.100(d) of the Board Underground Storage Tank Regulations, 35 Ill. Adm. Code 734.100(d);

E. Ordering Respondent, THOMAS MAXWELL, to cease and desist from any further violations of Sections 57.6(a) and 57.7(a) and (b) of the Act, 415 ILCS 5/57.6(a) and 57.7(a) and (b) (2016), and Section 734.100(d) of the Board Underground Storage Tank Regulations, 35 Ill. Adm. Code 734.100(d);

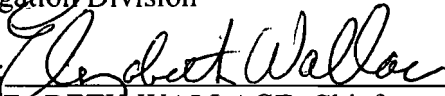
F. Assessing against Respondents, SIX M. CORPORATION INC. and THOMAS MAXWELL, a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

G. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondents, SIX M. CORPORATION INC. and THOMAS MAXWELL; and

H. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS
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