

ILLINOIS POLLUTION CONTROL BOARD
May 17, 2012

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 12-35
) (Enforcement - Water)
SIX M. CORPORATION, INC., an Illinois)
Corporation, and WILLIAM MAXWELL,)
)
Respondents,)
)
and)
)
JAMES MCILVAIN,)
)
Necessary Party-Respondent.)

ORDER OF THE BOARD (by C.K. Zalewski):

By order of February 12, 2012, the Board entered an order construing two of complainant's "objections" to respondents' asserted "impossibility" affirmative defense as motions to strike, which the Board granted. On March 23, 2012, respondents moved for reconsideration and reversal of that order. On March 27, 2012, complainant responded that it had not requested the striking of the affirmative defense, and requests "correction" of the order. Finally, on April 6, 2012, the necessary-party respondent concurred that the parties had not requested that the affirmative defense be stricken, but noted that the Board had ample authority to enter such order *sua sponte*.

The Board will give effect to the parties' desire to litigate the issues presented by the affirmative defense. The Board accordingly vacates its order of February 12, 2012.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 17, 2012, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board