

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
) PCB No. 13-72  
v. ) (Enforcement - Water)  
)  
PETCO PETROLEUM CORPORATION, )  
)  
Respondent. )

**NOTICE OF FILING**

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PLEASE TAKE NOTICE that on this 18th day of January, 2023, the following were filed with the Illinois Pollution Control Board, which are attached and herewith served upon you on behalf of Respondent Petco Petroleum Corporation:

- Motion to Dismiss Counts 62 Through 73 of the First Amended Complaint; and,
- Answer, Affirmative, and Additional Defenses to the First Amended Complaint.

Respectfully submitted,

*/s/ Paul T. Sonderegger* \_\_\_\_\_

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	)	
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**MOTION TO DISMISS COUNTS 62 THROUGH 73 OF THE FIRST AMENDED COMPLAINT**

COMES NOW Respondent Petco Petroleum Corporation (“Petco”), by and through its undersigned counsel, and moves the Board to dismiss Counts 62 through 73 of the First Amended Complaint. The alleged violations of the Illinois Environmental Protection Act, 415 ILCS § 5/1, *et seq.* (“Act”), in the twelve new counts asserted all occurred in 2013-2014—eight to nine years prior to filing the First Amended Complaint. Complainant does not allege that these violations were unknown, are newly discovered, or failures to timely report them. Thus, the five-year statute of limitations set forth in 735 ILCS 5/13-205 applies. Counts 62 through 73 should be dismissed.

**OVERVIEW**

This case to enforce the Act and collect civil penalties has been pending for a decade. All of the alleged violations in new Counts 62 through 73 occurred multiple *years* prior to October 20, 2017, which is five years prior to the filing of the First Amended Complaint. As set forth therein, the violations in those new counts occurred and were known to Complainant for over eight to nine years before it filed the First Amended Complaint, in 2013 and 2014. All of them have been designated with Illinois Emergency Management Agency (“IEMA”) incident numbers. All of them were corrected more than five years before the First Amended Complaint

was filed. Only now, after so many years have passed, does Complainant seek to introduce this new slate of alleged violations to increase the amount of its requested civil penalties. The five-year statute of limitations applies and prevents Complainant from doing so. *See* 735 ILCS 5/13-205.

Petco recognizes that the Board previously has held that the statute of limitations does not preclude a civil enforcement action brought by the State when it does so to protect a public interest. However, the Board in those instances was not presented with and did not consider dispositive points. Causes of action under the Act are statutorily created and do not spring from common law. As such, the General Assembly has the sole authority to expand or limit statutory claims. Here, the General Assembly has clearly spoken as to the limits of numerous statutory claims when providing that, “all *civil actions* not otherwise provided for, shall be commenced within 5 years next after the cause of action accrued.” *Id.* (emphasis added). An enforcement action under the Act is a civil action, regardless of the venue in which it is filed or appealed. Judicially-created limits at common law do not apply to statutory claims unless the General Assembly has legislatively incorporated those express common law limits. In passing the Act and the statute of limitations, the General Assembly did not provide that enforcement actions fail to have a statute of limitations. To the contrary, the General Assembly *did* provide that the five-year statute of limitations applies to *all civil actions*, including this civil enforcement action.

Moreover, even if the common law public interest exception may apply to enforcement actions brought under the Act (which it does not because it has not been recognized by the General Assembly), the State here is not seeking to protect the public interest. The State’s claims are not brought in the public interest merely due to its status as the government. In this case, there is no harm that needs correction. The alleged environmental issues were corrected

eight to nine years ago without public expenditures for remediation. After so much time, Complainant filed the additional claims to simply increase the amount of its requested civil penalties. In so doing, the State is operating akin to a private party in a common law breach of contract or personal injury action, not as a protector of the public interest. Therefore, even when considering a public interest factor, the five year statute of limitations applies.

In sum, the State does have limits to bringing civil enforcement actions. Complainant cannot wait nearly a decade to seek civil penalties for alleged violations of the Act that were known and were reported more than five years ago. Taken to its logical extreme, Complainant could wait a century to bring a claim for civil penalties in the absence of limits. Thankfully, the General Assembly provided reasonable limits. Pursuant to 735 ILCS 5/13-205, Complainant must have filed the new civil penalty claims within five years after they occurred. It did not. Accordingly, Counts 62 through 73 should be dismissed.

### **FACTUAL BACKGROUND**

The above-captioned case has been pending since June 21, 2013. In the original Complaint's 61 counts, the State alleged that Petco was responsible for mostly low volume releases of crude oil and/or salt water in Fayette and Jefferson Counties between February 22, 2010 and May 17, 2013 that violated the Act. (Comp. at Count I, ¶18—Count LXI, ¶18). The First Amended Complaint does not substantively alter Counts 1 through 61. However, the First Amended Complaint adds 11 counts for alleged violations at the same and similar facilities in Fayette County with more low volume releases of crude oil and/or salt water between May 28, 2013 and September 2, 2014. (1<sup>st</sup> Am. Comp. at Count LXII, ¶18—Count LXXIII, ¶18).

Nowhere in the First Amended Complaint does the State contend that any of the now 73 claimed violations were unknown or unreported. Consistent with these facts, all the alleged

violations were reported and assigned 2010 through 2014 IEMA numbers. (*Id.* at ¶16). Similarly, nowhere does the State allege that the releases of the crude oil and/or salt water did not cease, lasted for any express length of time, or that any environmental impacts are unresolved and/or are ongoing. There is no dispute that the alleged releases in Counts 62 through 73 occurred and were known more than eight to nine years prior to filing the First Amended Complaint.

**A. Counts 1 through 61 (Occurrences from Feb. 22, 2010 to May 17, 2013)**

Of the 61 counts in the original Complaint counts that remain in the First Amended Complaint, 60 of them (Counts I – XLIII, XLV – LXI) involve releases alleged from Petco facilities and leases near St. Elmo in Fayette County. One claimed release (Count XLIV) occurred near Dix in Jefferson County. All of these alleged releases occurred from February 22, 2010 through May 17, 2013. (*Id.* at Counts I – LXI).

Most of the allegations involve low volume and unmeasured amounts of crude oil and/or salt water that were released. For example, in Count X at the George Durbin Pit, Complainant claims that “Petco discharged less than one barrel of crude oil and approximately two to three barrels of salt water” when a PVC drain line leaked. (1<sup>st</sup> Am. Comp. at Count X, ¶18). In Count XIX at the Richard Larimore Sump, Complainant alleges that “Petco discharged a small quantity of crude oil and approximately 200 to 250 barrels of salt water” when a buried steel flowline corroded. (*Id.* at Count XIX, ¶18). In Count XX at the Martha Terry #9 well, Complainant contends that “Petco discharged two barrels of crude oil and thirty barrels of salt water” from a flowline that became exposed. (*Id.* at Count XX, ¶18). In Count XXIV at the Edith Durbin Pit, Complainant alleges that “Petco discharged [unquantified] crude oil and salt water.” (*Id.* at Count XXIV, ¶18). And, in Count LV at the Mary Williams #1 Well, Complainant claims that

“Petco discharged approximately one barrel of crude oil and five barrels of salt water to a private pond.” (*Id.* at Count LV, ¶18).

While the State claims that the releases are “attributable to human error, corrosion, old equipment or other circumstances that could have been prevented,” many of its allegations belie this contention. (*Id.* ¶17). For instance, in Count XXIV at the Edith Durbin Pit, Complainant acknowledges that the release was “potentially due to pressure caused by tree roots.” (*Id.* at Count XXIV, ¶18). In Count XLII at the M.E. Hogan #11 Production Well, Complainant concedes that the release may have been “due to vandalism, and the pump jack continued to operate.” (*Id.* at Count LII, ¶18). And, in Count LVII at the Birdie Kimbrell #3 Flowline, Complainant agrees that the release was caused “when high surface waters tore a tree free of the creek bank [and it later] dropped onto and broke the flow line at the creek crossing.” (*Id.* at Count LVII, ¶18). In many circumstances, the State’s attempt to fault Petco is misplaced.

**B. New Counts 62 through 73 (Occurrences from May 28, 2013 to Sept. 2, 2014)**

The First Amended Complaint was filed on October 20, 2022. The allegations contained in new Counts 62 through 73 also pertain to releases from Petco facilities and leases near St. Elmo in Fayette County. All of those claimed releases occurred from May 28, 2013 through September 2, 2014—over eight to nine years before the First Amended Complaint. (*Id.* at Counts LXII – LXXIII).

Like the first 61 counts, the new twelve counts mostly involve low volume releases of crude oil and/or salt water. For example, in Count LXII at the J.G. Main #4 Well, the State claims that “Petco discharged approximately 5 barrels of crude oil” due to an improperly affixed ring. (*Id.* at Count LXII, ¶18). In Count LXV at the First State Bank Sump Line, Complainant alleges that “Petco discharged sixty (60) barrels of salt water” from a flowline. (*Id.* at Count

LXV, ¶18). And, in Count LXVI at the Ed Harper Sump Tank Battery, Complainant contends that “Petco discharged ten (10) barrels of crude oil and ten (10) barrels of salt water” when a sump line malfunctioned. (*Id.* at Count LXVI, ¶18).

Again, contrary to the position that these releases all are “attributable to human error, corrosion, old equipment or other circumstances that could have been prevented,” the State’s allegations in Count LXV provide otherwise. (*Compare* Count LXV, ¶18 *with* Count LXVI, ¶18). Complainant acknowledges that, at the First State Bank Sump Line, the release was “due to accidental causes after a tree fell on the line.” (*Id.* at Count LXV, ¶18).

### **LEGAL STANDARD**

In ruling on a motion to dismiss, the Board takes all well-pled allegations as true and draws all reasonable inferences in favor of the non-movant. The Board will dismiss a cause of action if it is clear that there are no facts that could be proved which would entitle the complainant to relief. *See People v. Professional Swine Management, LLC*, PCB 10-84 (February 2, 2012), *citing Beers v. Calhoun*, PCB 04-204 (July 22, 2004).

### **ARGUMENT**

The alleged releases in new Counts 62 through 73 all occurred between May 28, 2013 and September 2, 2014, which is over eight to nine years before the First Amended Complaint was filed. Neither the Act nor any Board regulation provide a limitation period for enforcement actions brought under the Act. *See* 415 ILCS § 5/1, *et seq.* However, the General Assembly was not silent on the issue. The five-year statute of limitations set forth in 735 ILCS 5/13-205 applies because: 1) the General Assembly clearly and expressly has provided that all civil actions, which includes this statutory enforcement action, must be brought within five years without exception; and 2) even if a common law public interest exception were applied to these statutory claims



(which it should not, as the General Assembly has not provided for such an exception), the State is not pursuing a public interest in the new counts. The Complainant has not pled that the new eleven violations were unknown and recently discovered and instead has conceded that all of the alleged violations were reported and known. (1<sup>st</sup> Am. Comp. at ¶16). All of these new claimed releases occurred from May 28, 2013 through September 2, 2014—over eight to nine years before the filing of the State’s amended pleading. (*Id.* at Counts LXII – LXXIII). As a result, the Board should dismiss Counts 62 through 73 in the First Amended Complaint.

**A. The General Assembly Has Provided that Civil Enforcement Actions Must Be Brought Within Five Years of a Release Pursuant to Section 5/13-205**

The language of Section 5/13-205 is clear and unambiguous. Without exception, the General Assembly has provided that “all *civil actions* not otherwise provided for, shall be commenced within 5 years next after the cause of action accrued.” 735 ILCS 5/13-205 (emphasis added). Only one point must be considered—whether an enforcement action under the Act is a “civil action.” It is. The five-year statute of limitations thus bars Counts 62 through 73.

**1. Civil Enforcement Under the Act Is a “Civil Action” in Illinois**

Pursuant to Illinois law, civil enforcement actions under the Act are “civil actions.” The term “civil action” is undefined in both Section 5/13-205 and the Act. The Board looks to Illinois civil practice law for guidance when considering motions to dismiss. 35 Ill. Adm. Code 101.100(b). The fundamental rule of statutory construction is to ascertain and give effect to the legislature’s intent. *See People v. Ramirez*, 214 Ill.2d 176, 179, 824 N.E.2d 232, 234 (Ill. 2005). The best indication of legislative intent is the statutory language, given its plain and ordinary meaning. *See id.* As here, when the statute contains undefined terms, it is entirely appropriate to employ a dictionary to ascertain the plain and ordinary meaning of those terms. *See People ex rel. Daley v. Datacom Sys. Corp.*, 146 Ill.2d 1, 15-16, 585 N.E.2d 51, 57 (Ill. 1991). Where the

language is clear and unambiguous, courts apply the statute without resort to further aids of statutory construction. *See People v. Davison*, 233 Ill. 2d 30, 40, 906 N.E.2d 545, 551 (Ill. 2009).

Courts and administrative tribunals routinely refer to Black's Law Dictionary when reviewing the meaning of an undefined statutory term. *See Ahmad v. Bd. of Educ. of City of Chicago*, 365 Ill. App. 3d 155, 165, 847 N.E.2d 810, 819, n.3 (1st Dist. 2006). To that end, "civil action" is defined as "[a]n action brought to *enforce*, redress, or protect a private or civil right; a noncriminal litigation. — Also termed (if brought by a private person) *private action*; (if brought by a government) *public action*." Black's Law Dictionary (11th ed. 2019) (emphasis in original and added). A civil enforcement action under the Act meets the definitional criteria of a "civil action" in Black's Law Dictionary. This civil enforcement case is both an action to *enforce* the Act and is brought by the *government* as a public action. The Illinois Supreme Court similarly recognizes that actions brought by the State to enforce provisions of the Act are "civil enforcement actions." *People v. Stateline Recycling, LLC*, 2020 IL 124417, ¶ 1, 181 N.E.3d 887, 888–89 (Ill. 2020). In addition, it is not surprising that this civil enforcement case is a "civil action" under Illinois law because Complainant is seeking "a *civil penalty* of \$50,000.00 for each violation of the Act and the Board's regulations, and an additional *civil penalty* of \$10,000.00 for each day each violation continued." (1<sup>st</sup> Am. Comp. at 111, Prayer for Relief). As such, pursuant to the Act, "civil penalties" are expressly recoverable in a "civil action." *See People v. NL Indus.*, 152 Ill. 2d 82, 102–03, 604 N.E.2d 349, 358 (Ill. 1992).

Likewise, it does not matter if the State chooses to file a civil enforcement action in court or before the Board as it has done here. Circuit courts and the Board have concurrent jurisdiction to hear enforcement actions brought under the Act. *See id.*, 152 Ill. 2d at 99, 604 N.E.2d at 356; *People v. Donald Pointer*, PCB 96-64, 1998 WL 83188, at \*1 (Feb. 19, 1998) ("It is well settled

that the Board and the circuit courts have concurrent jurisdiction over most violations of the Act.”); *M.I.G. Invest., Inc., & United Bank of Ill. v. Ill. Env’l Prot. Agency*, PCB 85-60, 1985 WL 21468, at \*1 (Aug. 15, 1985) (“The Act has vested in the Board and the circuit court concurrent jurisdiction to hear enforcement actions.”). Whether the State chooses to file in court or before the Board, therefore, is merely a question of venue selection. It does not impact the substantive nature of the claim and whether a civil enforcement action under the Act is a “civil action.” And, regardless of the venue selected, civil appeals of these actions must be taken to the Illinois appellate court in either instance. *See* 415 ILCS 5/41(a); *FedEx Ground Package Sys., Inc. v. Pollution Control Bd.*, 382 Ill. App. 3d 1013, 1014–15, 889 N.E.2d 697, 699 (1st Dist. 2008). As a result, civil enforcement actions under the Act are “civil actions” to which Section 5/13-205 applies.

**2. The Board Previously Was Not Presented with the Point that a Civil Enforcement Action Is a “Civil Action” Under Section 5/13-205 and Has Found that the Five-Year Statute of Limitations Does Not Apply Based on the Individual Circumstances of the Cases Only**

Petco has surveyed past Board decisions on the issue of whether the five-year statute of limitations in Section 5/13-205 is applicable to civil enforcement actions brought under the Act and acknowledges that the Board has declined to dismiss the cases. *See, e.g., People v. Amsted Rail Co., Inc.*, PCB No. 16-61, 2016 WL 758157, at \*3 (Feb. 11, 2016); *Caseyville Sport Choice v. Seiber*, PCB 08-30, slip op. at 3-4 (Oct. 16, 2008); *Union Oil Co. of Cal. v. Barge-Way Oil Co.*, PCB 98-169, slip op at 4 (Feb. 14, 2001); PCB 98-169 slip op. at 5 (Jan. 7, 1999). But, the parties in those cases did not present to the Board, and the Board did not consider, that the express language of Section 5/13-205 applies to civil enforcement actions under the Act when applying the canons of statutory construction.

In addition, the Board in prior decisions has declined to rule that Section 5/13-205 never applies to civil enforcement actions. To the contrary, the Board has recognized only that “the Board to date has declined to bar a claim under the five-year statute of limitation *based on the circumstances of the individual cases.*” *People v. Amsted Rail Co., Inc.*, PCB No. 16-61, 2016 WL 4400840, at \*3 (March 3, 2016) (emphasis added). In fact, in each of the cited cases, the Board has found a specific set of facts that are not present in the instant case from which to base its decision that Section 5/13-205 should not be applied in the specific case. *See, e.g., Seiber*, PCB 08-30, slip op. at 3-4 (Oct. 16, 2008) (the Board was unconvinced of the date that complainant became aware of the alleged violations and did not apply Section 5/13-205); *Barge-Way Oil Co.*, PCB 98-169, slip op at 4 (Feb. 14, 2001); PCB 98-169 slip op. at 5 (Jan. 7, 1999) (the Board found insufficient information on when complainant should have been aware of the alleged violations and did not apply Section 5/13-205). By contrast, the State here concedes that the new eleven alleged violations were reported and known eight to nine years before the First Amended Complaint was filed. (1<sup>st</sup> Am. Comp. at ¶16). The unique circumstances in the other Board decisions are not present in this case and do not preclude dismissal of Counts 62 through 73 based on Section 5/13-205.

Moreover, the parties in the prior Board cases have assumed incorrectly that they must demonstrate that applying the five-year statute of limitations does not harm the public interest. They then have leaped straight to a three-factor analysis of the public interest exception to applying the statute of limitations. *See, e.g., People v. Amsted Rail Co., Inc.*, PCB No. 16-61, 2016 WL 4400840, at \*2 (respondent “notes barring this enforcement action based on the statute of limitation will not harm the public interest [and] identifies three factors used to determine whether a governmental entity is protecting a public interest.”). With due respect to those parties

and the Board's prior considerations of the arguments presented, the public interest exception should not have been argued as a primary issue and was misapplied. The Board itself, based on parties' briefs, has cited *Clare v. Bell*, 378 Ill. 128, 130-131 (Ill. 1941) as one of the original cases holding that "a statute of limitation is not applicable to the State when it is asserting a public right, as distinguished from a private right, unless the terms of a statute of limitation expressly include the State." *Id.*, PCB No. 16-61, 2016 WL 4400840, at \*4. But, that is not the context and substance of what the Illinois Supreme Court analyzed and held in *Bell*.

The plaintiff property owner in *Bell* sought an injunction in equity to restrain the Will County Collector of Revenue from forcing her to pay additional taxes, interest, and penalties on real estate. *Bell*, 378 Ill. at 129-30. The Court considered two issues: 1) whether the statute of limitations for "statutory penalties" was applicable to penalties on delinquent property taxes; and 2) whether equitable estoppel was operative to prevent the county from collecting the penalties based on neglect or omission of county tax personnel. *See id.* at 130, 132. The *Bell* Court held that: a) based on the statutory text, "it does not follow that an action for the collection of penalties on real estate taxes is an action for a 'statutory penalty' within the contemplation of section 14 of the Statute of Limitations"; and b) "[p]ublic policy forbids the application of the doctrine of estoppel to a sovereign State where the public revenues are involved." *Id.* at 131-32. Therefore, as Petco is requesting the Board to do here, the *Bell* Court analyzed and applied language of the statute of limitations at issue and determined that real estate tax penalties do not fit within the broader category of statutory penalties.

Another key difference is that the *Bell* Court was sitting in equity at common law, and it was not analyzing a statutory cause of action that the General Assembly created with limitations, as is the case here. In equity, a court also has authority to judicially determine the parameters

and limits of a claim, which is precisely what the *Bell* Court did in holding that equitable estoppel was unavailable to the plaintiff property owner. In comparison, the Board does not have the ability to remove a statute of limitations that the General Assembly has prescribed to all civil claims under the Act. The *Bell* opinion and associated decisions<sup>1</sup> are inapposite to this case. As a result, common law exceptions do not apply and are irrelevant unless the General Assembly expressly has codified a specific common law exception into the language of the substantive statute at issue or the statute of limitations. Here, the General Assembly *did not* provide for the common law public interest exception in the language of the Act or Section 5/13-205. Without exception, “all *civil actions* not otherwise provided for, shall be commenced within 5 years next after the cause of action accrued.” 735 ILCS 5/13-205 (emphasis added). Civil enforcement actions seeking civil penalties under the Act *are* civil actions. The General Assembly *has* provided that the five-year statute of limitations applies to *all civil actions*, including this case.

If the Board finds that Section 5/13-205 does not apply here, such a ruling would mean that civil enforcement claims do not have *any* statute of limitations and could be brought 50, 100, 150, or 500 years from the date of the alleged release and violation. That defies sensibility and the reasonable limitations that the General Assembly has provided in Section 5/13-205. The idea

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<sup>1</sup> The *Amsted Rail Co., Inc.*, PCB No. 16-61, decision is not the only one that has leaped to analysis of the common law public interest exception. The Fifth District Appellate Court in *Pielet Bros. Trading v. Pollution Control Bd.*, referencing *Bell*, recited that the statute of limitations must expressly include the State “so far as public rights are concerned,” although it held that the claim at issue under the Act did not “pertain to personal actions” contemplated within the text of the two-year statute of limitations. 110 Ill. App. 3d 752, 758, 446 N.E.2d 1379, 1379 (5th Dist. 1982). Similarly, the Illinois Supreme Court in *City of Shelbyville v. Shelbyville Restorium, Inc.*, again referencing *Bell*, held that the Illinois Constitution’s and the Court’s abrogation of sovereign immunity did not likewise abrogate the common law common interest exception to certain statutes of limitation. 96 Ill.2d 457, 459, 463, 451 N.E.2d 874, 875, 878 (Ill. 1983). On the other hand, consistent with the straightforward statutory interpretation that Petco urges here, the Illinois Supreme Court in *Du Page County v. Graham, Anderson, Probst & White, Inc.*, again citing *Bell*, did find that the broad category of “person” set forth in the two-year statute of limitations for construction claims expressly did apply to the county government and barred the claim. 109 Ill. 2d 143, 151-52, 485 N.E.2d 1076, 1079-80 (1985).

that no statute of limitations can apply against the State in the absence of expressly referring to the government also is erroneous. The criminal statutes of limitation likewise do not expressly refer to the government—they reference the term “prosecution” only. *See, e.g., 720 ILCS 5/3-5, et seq.* Even in that context, the General Assembly has not remained silent and has expressly provided that certain serious crimes, like first degree murder, “may be commenced at any time.” 720 ILCS 5/3-5(a). And, both the government and citizen parties may pursue criminal and citizen enforcement claims in certain environmental claim contexts, meaning they both “prosecute.” *See, e.g., 62 Ill. Adm. Code 1700.13* (state mining act citizen’s suit). In short, when passing Section 5/13-205, the General assembly meant “all civil actions” without exception in stating that the five-year limitations period applies to “all civil actions” to which no other limitations period expressly applies. The Board should apply Section 5/13-205 in accordance with its clear and unambiguous language and dismiss new Counts 62 through 73 of the First Amended Complaint.

**B. If the Common Law Public Interest Exception Is Applied to these Statutory Civil Enforcement Claims, the State Is Not Pursuing a Public Interest**

Assuming *arguendo* that the common law public interest exception exists with respect to enforcement actions brought under the Act so as to prevent application of the five year statute of limitations (which again it does not because it has not been recognized by the General Assembly), the State is not seeking to protect the public interest in this case. In determining whether a governmental entity is protecting a “public interest,” courts consider three factors: 1) the effect of the interest on the public; 2) the obligation of the governmental unit to act on behalf of the public; and 3) the extent to which public revenues are expended. *See Champaign County Forest Preserve District v. King*, 291 Ill.App.3d 197, 200, 683 N.E.2d 980, 982 (4th Dist. 1997), citing *Board of Education v. A, C, & S, Inc.*, 131 Ill.2d 428, 476, 546 N.E.2d, 580, 602 (Ill.

1989). Here, all three factors show that Complainant's claims in Counts 62 through 73 reflect non-public interests.

**1. The Effect on the Interests of the Public, if Any, Are Minimal**

Complainants' efforts to bring the new claims now is the very definition of stale and do not demonstrate any more than a *de minimus*, if that, effect on the interests of the public. The First Amended Complaint's allegations recognize that the claimed new releases occurred from May 28, 2013 through September 2, 2014—over eight to nine years before the filing of the First Amended Complaint. (1<sup>st</sup> Am. Comp. at Counts LXII – LXXIII). These possible violations were reported and assigned 2013 through 2014 IEMA numbers. (*Id.* at ¶16). Nowhere does the State allege that the releases of the crude oil and/or salt water did not cease, lasted for any express length of time, or that any environmental impacts are unresolved and/or are ongoing, because Petco corrected them.

Based on the pleadings, the Board should and can conclude that the alleged new violations are wholly past and were indeed corrected long ago. The lack of a public interest is manifest by Complainant's failure to file suit since 2013 and 2014, as applicable, for the new claimed violations. The First Amended Complaint is devoid of any assertion that an excuse exists for waiting over eight to nine years to file Counts 62 through 73—especially when the above-captioned case has been pending more than that entire length of time—because there has been no pursuit of or effect on the public interest.

**2. There Is No Discernable Obligation for the Government to Act on the Behalf of the Public in this Case**

Regarding an obligation for Complainant to pursue enforcement of the alleged violations on the behalf of the public, there is no discernable reason for the government to pursue the claims now. The new twelve counts highlight low volume releases of crude oil and/or salt water.



For instance, in Count LXII, the State claims that “Petco discharged approximately 5 barrels of crude oil” due to an improperly affixed ring at the J.G. Main #4 Well. (*Id.* at Count LXII, ¶18). In Count LXVI, Complainant contends that “Petco discharged ten (10) barrels of crude oil and ten (10) barrels of salt water” when a sump line malfunctioned at the Ed Harper Sump Tank Battery. (*Id.* at Count LXVI, ¶18). Perhaps most tellingly, while Complainant feigns that these alleged releases all are “attributable to human error, corrosion, old equipment or other circumstances that could have been prevented,” its allegations many times contradict this claim. (*Compare Id.* ¶17 with Count LXV, ¶18). Complainant acknowledges that, at the First State Bank Sump Line, the release was “due to accidental causes after a tree fell on the line.” (*Id.* at Count LXV, ¶18). This situation, therefore, is not analogous to cases where courts have found government enforcement to be “public” based on the defendant’s purposeful or neglectful acts harming the environment. *See, e.g., City of Chicago v. Latronica Asphalt & Grading, Inc.*, 346 Ill. App. 3d 264, 272, 805 N.E.2d 281, 288 (1st Dist. 2004) (city acted in public capacity when it pursued costs arising from illegal dumping because such conduct can create a danger to the public health). In this case, there again is no harm in need of correction.

**3. Public Revenues Expended, if Any, Are Minimal**

The First Amended Compliant is devoid of allegations that this case involves the recovery or preventing of the expenditure of public funds. Given the nature of the alleged releases (e.g., low volume over eight to nine years ago, many of which were not caused by Petco’s actions or inactions as shown above), it is not reasonable to believe that Complainant has expended material amounts of public funds. As such, this case stands in contrast with cases such as *Shelbyville v. Shelbyville Restorium, Inc.*, 96 Ill.2d 457, 451 N.E.2d 874 (Ill. 1983). There, the City sought an order compelling a home builder to construct streets in a subdivision. The

court declined to apply a statute of limitations because the City would be forced to expend public money to build those streets if the City could not force the builder to construct the streets according to the existing plan. 96 Ill.2d at 466; 451 N.E.2d at 878. That is not the situation here. The alleged violations in Counts 62 through 73 neither prevented the State from collecting public funds, nor caused it to expend material funds. Moreover, Complainant will not have to expend public funds if it cannot pursue the new alleged violations because it does not allege that the releases are ongoing or have been left uncorrected.

In addition, none of the applicable cases holds that a “public interest” is created merely because the complainant is a government entity. The legal status of complainant is not determinative. The specific interest being pursued is what determines whether an interest is “public” versus “private.” There again is no harm in need of correction when the issues were corrected eight to nine years ago without public expenditures for remediation. Instead, it is apparent that Complainant filed the additional claims to merely increase the amount of its requested civil penalties and gain leverage. The State is operating much like a private party in a common law breach of contract or personal injury action to fund its functions and enterprise. It is not acting as the protector of the public interest. As such, this case does not meet the three criteria specifically identified by Illinois courts for determining whether the complainant is pursuing a public right. Even when considering the public interest factors and the associated test, the five year statute of limitations set forth in Section 5/13-205 applies.

### **CONCLUSION**

The Complainant seeks to enforce the Act against Petco for new violations set forth in Counts 62 through 73 that occurred more than eight to nine years before the First Amended Complaint was filed. Therefore, a five-year statute of limitations applies to those twelve counts.

The First Amended Complaint was filed on October 20, 2022. Any cause of action which accrued prior to October 20, 2017 is time-barred. Counts 62 through 73 accrued from May 27, 2018 through September 1, 2019. Moreover, the alleged violations were corrected many years ago. As such, Counts 62 through 73 are barred by the statute of limitations in Section 5/13-205 and should be dismissed.

WHEREFORE, Respondent Petco Petroleum Corporation respectfully requests that Counts LXII through LXXIII of the First Amended Complaint and claims asserted therein be dismissed, that judgment be entered in its favor and against Complainant, and that Petco Petroleum Corporation be granted any other any further relief as the Board deems proper under the circumstances.

Respectfully submitted,

/s/ Paul T. Sonderegger

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Corporation*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on January 18, 2023, the foregoing was filed via the Board's electronic filing system providing notice of the same to all the clerk and all counsel of record.

/s/ Paul T. Sonderegger

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 ) PCB No. 13-72  
 v. ) (Enforcement - Water)  
 )  
 PETCO PETROLEUM CORPORATION, )  
 )  
 Respondent. )

**PETCO PETROLEUM CORPORATION'S**  
**ANSWER, AFFIRMATIVE AND ADDITIONAL DEFENSES**  
**TO THE FIRST AMENDED COMPLAINT**

COMES NOW Respondent Petco Petroleum Corporation (“Petco”), by and through its undersigned counsel, and for its Answer, Affirmative and Additional Defenses to the First Amended Complaint,<sup>1</sup> states as follows:

1. This action is brought on behalf of the People of the State of Illinois, by Kwame Raoul, the Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“IEPA”), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020).

**ANSWER:** Petco states that the allegations contained in paragraph 1 contain legal conclusions to which no substantive responses are necessary. However, to the extent the paragraph 1 allegations state factual matters to which a response is necessary, Petco admits that the State of Illinois (“State”) has brought the First Amended Complaint in the above-captioned action, but denies that the First Amended Complaint is brought consistent with or “pursuant to” the terms and

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<sup>1</sup> Respondent Petco Petroleum Corporation contemporaneously herewith has filed a Motion to Dismiss Counts 62 through 73 of the First Amended Complaint.

provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020).

2. IEPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2020), and is charged, inter alia, with the duty of enforcing the Act.

**ANSWER:** Petco admits the allegations contained in paragraph 2.

3. Respondent, Petco Petroleum Corporation (“Petco”) is, and was at all times relevant to this Complaint, an Indiana corporation in good standing and authorized to transact business in the State of Illinois.

**ANSWER:** Petco admits the allegations contained in paragraph 3.

4. Petco engages in operating mature oil and gas fields by operating wells, facilities, and proprietary pipelines in several counties within Illinois, among other states. Petco is authorized to operate approximately 971 oil production wells and 763 Class II UIC (injection) wells in accordance with permits issued by the Department of Natural Resources pursuant to Subsection 6(2) of the Illinois Oil and Gas Act, 225 ILCS 725/6(2) (2020).

**ANSWER:** Petco admits that it engages in operating mature oil and gas fields by operating wells, facilities, and proprietary pipelines in several counties within Illinois, among other states and that it is authorized to operate oil production wells and Class II UIC (injection) wells in accordance with Illinois Department of Natural Resources (IDNR) permits. Petco denies the remaining allegations contained in paragraph 4.

5. Section 12 of the Act, 415 ILCS 5/12 (2020), 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;

\* \* \*

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

\* \* \*

**ANSWER:** Petco admits that paragraph 5 contains language set forth in Section 12 of the Act, 415 ILCS 5/12.

6. In its operations, Petco produces fluids, including crude oil, salt water, and brine, all of which contain varying amounts of petroleum constituents, and all of which are “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), as follows:

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

**ANSWER:** Petco admits that it produces certain fluids, including crude oil, salt water, and brine. Petco denies the remaining allegations contained in paragraph 6. Answering further, Petco states that the allegations contained in paragraph 6 concerning “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020) allege legal conclusions to which no substantive responses are necessary. However, to the extent those legal conclusions in paragraph 6 allege additional factual matters to which a response is necessary, Petco denies the same.

7. Section 3.545 of the Act, 415 ILCS 5/3.545 (2020), 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 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:** Petco admits that paragraph 7 contains language set forth in Section 3.545 of the Act, 415 ILCS 5/3.545.

8. Section 3.550 of the Act, 415 ILCS 5/3.550 (2020), 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.

**ANSWER:** Petco admits that paragraph 8 contains language set forth in Section 3.550 of the Act, 415 ILCS 5/3.550.

9. Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, prohibits offensive conditions in waters of the State, as follows:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin. . . .

**ANSWER:** Petco admits that paragraph 9 contains language set forth in Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

10. Section 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.105, prohibits the violation of water quality standards, as follows:

[N]o effluent shall, alone or in combination with other sources, cause a violation of any applicable water quality standard. . . .

**ANSWER:** Petco admits that paragraph 10 contains language set forth in Section 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.105.



11. In order to protect waters of the State, Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), sets the General Water Quality Standard for chloride at 500 milligrams per liter ("mg/l") (or 500 parts per million ("ppm")).

**ANSWER:** Petco admits that Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), sets the General Water Quality Standard for chloride at 500 mg/l (or 500 ppm).

12. Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, prohibits offensive discharges, as follows:

[N]o effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

**ANSWER:** Petco admits that paragraph 12 contains language set forth in Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106.

13. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court, 99-CH-55 (imposing \$42,500 in penalties, awarding \$14,000 in attorney's fees and ordering Petco to submit a preventive maintenance plan), and for subsequent violations through a settlement approved by the Board, PCB No. 05-66 (February 2, 2006) (imposing \$135,000 in penalties and ordering Petco to cease and desist from violations of the Act). These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), and Complainant is authorized to seek attorney's fees and costs.

**ANSWER:** Petco admits that it was involved in prior proceedings in Jefferson County Circuit Court and before the Board. Answering further, Petco states that the allegations contained in paragraph 13 contain legal conclusions to which no substantive responses are necessary.

However, to the extent the paragraph 13 allegations state additional factual matters to which a response is necessary, Petco denies the same.

14. Petco has also previously been adjudicated in violation of the Illinois Oil and Gas Act, 225 ILCS 725/1 *et seq.*, and the Illinois Oil and Gas Regulations, 62 Ill. Adm. Code 240.10 *et seq.*, in Sangamon County Circuit Court, 00-CH-458, and ordered to pay \$168,000 in penalties to the Illinois Department of Natural Resources (“IDNR”). As injunctive relief, Petco was also ordered to implement a “written oil and gas facilities operation maintenance plan,” in which Petco was required to commit to, amongst other items, regular inspections and “replacement of equipment and steel lines impacted by wear and tear and corrosion which may likely contribute to spill events.” *See People ex rel. Madigan v. Petco Petroleum*, 363 Ill. App. 3d 613 (4th Dist. 2006); Order after Remand, April 28, 2006. Finally, in a Consent Order entered November 19, 2002 in Fayette County Circuit Court, 01-MR-36, Petco agreed to pay \$22,500 in penalties to resolve violations alleged by the Illinois Emergency Management Agency (“IEMA”) for Petco’s failure to report several releases between July 16, 1999 and September 26, 2000.

**ANSWER:** Petco admits the allegations contained in paragraph 14.

15. Pursuant to the 2006 Order after Remand, Petco submitted a Facilities Operation Maintenance Plan to IDNR on October 10, 2006 (“O&M Plan”). Since that time, in addition to the pollutional spills alleged herein as violations of the Act, Petco has reported to IDNR at least 230 produced fluid spills from its facilities prior to January 2010 and at least 488 that occurred during the time period covered in this Complaint. The People believe that Petco’s continued failure to cease and desist such unauthorized releases evidences both the absence of Petco’s due diligence and the inadequacy of Petco’s O&M Plan in preventing such discharges and protecting human health and the environment. Through the previous injunctive orders entered in the Jefferson

County and Sangamon County litigation, the People had insisted that the O&M Plan be prepared by an independent and objective consultant to include the following components: 1) inspection of all facilities within four (4) years; 2) replacement of equipment and lines impacted by wear and tear and corrosion; 3) record-keeping of spills and leaks to anticipate where future failures may take place; 4) preparation of a schedule of weekly inspections of all active facilities; 5) documentation of alarm systems; and 6) employee training at least every six (6) months. Petco failed to properly develop and implement its O&M Plan to effectively and proactively prevent the spills alleged herein and the consequential pollutional impacts.

**ANSWER:** Petco admits that it submitted a Facilities Operation Maintenance Plan (“O&M Plan”) to IDNR. Petco denies that it failed to properly develop and implement its O&M Plan. Answering further, Petco states that the allegations contained in paragraph 15 contain legal conclusions to which no substantive responses are necessary. However, to the extent the paragraph 15 allegations state additional factual matters to which a response is necessary, Petco denies the same.

16. The seventy-three counts herein alleged all occurred between 2010 and 2014 and involve the discharge of produced fluids that were reported to the Illinois Emergency Management Agency (“IEMA”), which assigns each spill with an identification number. All discharges occurred in or near Fayette County, Illinois, and near or into a waterway, thereby creating a water pollution hazard and/or causing water pollution. Estimated ranges of contaminants released range from 2 to 1000 barrels per release.

**ANSWER:** Petco admits that it made reports to the Illinois Emergency Management Agency (“IEMA”) regarding the discharge of fluids between 2010 and 2014. Petco denies that the “estimated ranges of contaminants released range from 2 to 1000 barrels per release.” Answering

further, Petco states that the allegations contained in paragraph 16 contain legal conclusions to which no substantive responses are necessary. However, to the extent the paragraph 16 allegations state additional factual matters to which a response is necessary, Petco denies the same.

17. Although not necessary to prove the alleged violations, Complainant is including information regarding the cause of the releases and represents, on information and belief, that any release attributable to human error, corrosion, old equipment or other circumstances that could have been prevented, should be evaluated in the context of the operation and preventive maintenance plan(s) intended to prevent repeated releases ordered by prior courts. While each release has its own cause and location, the releases are all due in large part to Petco's failure to maintain and upgrade its older equipment in mature oil and gas fields so as to prevent the release of produced fluids onto the ground and into waterways and, to a varying degree, should have been prevented or minimized by Petco's implementation of a sufficient operation and preventive maintenance plan.

**ANSWER:** Petco denies that the releases alleged in the First Amended Complaint "are all due in large part to Petco's failure to maintain and upgrade its older equipment in mature oil and gas fields" and that it failed to implement a sufficient operation and preventative maintenance program. Answering further, Petco states that the allegations contained in paragraph 17 contain legal conclusions to which no substantive responses are necessary. However, to the extent the paragraph 17 allegations state additional factual matters to which a response is necessary, Petco denies the same.

**COUNT I**  
**MARY RHODES #1 PRODUCTION WELL**  
**IEMA Incident #2010-0157**

1-17. Complainant incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count I.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count I.

18. On or about February 22, 2010, Petco discharged approximately two (2) barrels of crude oil and an unknown amount of salt water from a corroded two-inch steel flow line located approximately three feet underground at the Mary Rhodes #1 production well in or near St. Elmo, Illinois. The released fluids flowed through a natural spring-fed creek and drained into a low-lying wetland of cane grass, located on the residential property of Mr. Bruce Dilley.

**ANSWER:** Petco admits that, on or about February 22, 2010, a discharge of crude oil and salt water occurred at the Mary Rhodes #1 production well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count I, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Answering further, Petco states that new polymer flow lines and headers have been installed at this location.

19. On February 22, 2010, IEPA conducted an inspection of the site. On that date, the area was wet and flooded with rain water. The cane grass field in the wetland was visibly impacted by saltwater and approximately one-half barrel of crude oil. IEPA tested the creek one-half mile downstream from the spill with a result of 3455 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count I, paragraph 19, and, therefore, denies the same.

20. Petco tested the creek from February 23, 2010 through February 25, 2010, with chloride concentrations exceeding 500 mg/l as follows:

Date	2/23/10	2/24/10	2/25/10
Chloride Concentration (mg/l)	1300	1800	1200

**ANSWER:** Petco admits that it conducted preliminary on-site testing of the creek from February 23, 2010 through February 25, 2010, and that the chloride concentration tested 1300 mg/l on February 23, 2010. Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count I, paragraph 20, and, therefore, denies the same.

21. On February 25, 2010, IEPA inspected the site. On that date, the absorbent pads used on the spill were frozen to the ice and could not be replaced. IEPA tested the creek with a result of 3455 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count I, paragraph 21, and, therefore, denies the same.

22. On February 25 and 26, 2010, due to difficulty remediating the released fluids in freezing temperatures, Petco conducted controlled burns of the cane grass field.

**ANSWER:** Petco admits the allegations contained in Count I, paragraph 22. Answering further, Petco states that it sought proper permitting for the controlled burns.

23. On February 26, 2010, IEPA tested the creek with a result of 3134 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count I, paragraph 23, and, therefore, denies the same.

24. Petco tested the creek from February 26, 2010 through March 10, 2010, with chloride concentrations exceeding 500 mg/l as follows:

Date	2/26/10	3/1/10	3/3/10	3/4/10	3/10/10
Chloride Concentration (mg/l)	3246	3556	3556	2900	2507

**ANSWER:** Petco admits that preliminary on-site chloride concentration test results totaled 3556 mg/l on March 3, 2010, 2900 mg/l on March 4, 2010, and 2507 mg/l on March 10, 2010. Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count I, paragraph 24, and, therefore, denies the same.

25. On March 13, 2010, following a rain event, Petco tested the creek with a result of 984 mg/l of chloride.

**ANSWER:** Petco admits the allegations contained in Count I, paragraph 25. Answering further, Petco's chloride testing was on-site and preliminary.

26. On March 24, 2010, Petco tested the creek with a result of 1600 mg/l of chloride.

**ANSWER:** Petco denies the allegations contained in Count I, paragraph 26.

27. On April 6, 2010, Petco tested the creek with a result of 646 mg/l of chloride.

**ANSWER:** Petco admits the allegations contained in Count I, paragraph 27. Answering further, Petco's chloride testing was on-site and preliminary.

28. On April 14, 2010, Petco collected three surface water samples and had them analyzed. The results indicated chloride levels at 160 mg/l, 610 mg/l and 1040 mg/l.

**ANSWER:** Petco denies the allegations contained in Count I, paragraph 28.

29. On April 27, 2010, Petco tested the creek with a result of 298 mg/l of chloride.

**ANSWER:** Petco admits that it conducted preliminary on-site testing of the creek. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count I, paragraph 29, and, therefore, denies the same.

30. The creek and wetland are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count I, paragraph 30 contain legal conclusions to which no substantive responses are necessary. To the extent Count I, paragraph 30 alleges factual matters to which a response is necessary, Petco denies the same.

31. By discharging crude oil so as to visibly impair the creek and wetland, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count I, paragraph 31.

32. By discharging salt water into waters of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count I, paragraph 32.

33. By discharging visible oil into the creek and wetland, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count I, paragraph 33.

34. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate



the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count I, paragraph 34.

35. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the creek and wetland, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count I, paragraph 35.

**COUNT II**  
**EMERY HOPPER #1 PC PUMP**  
**IEMA Incident #2010-0179**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count II.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count II.

18. On or about February 26, 2010, Petco discharged approximately four to five barrels of crude oil from the Emery Hopper #1 PC Pump production well in or near St. Elmo, Illinois, onto the land, which then traveled into a nearby unnamed creek. The oil ran over from the casing when the PC pump was shut down due to increased pressure in the well after Petco personnel left a two-inch valve open on the pump.

**ANSWER:** Petco admits that, on or about February 26, 2010, crude oil was discharged from the Emery Hopper #1 PC Pump production well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count II, paragraph 18 and any implication that Petco discharged such oil intentionally or negligently, or that such oil was discharged into or near a “water” of the State.

19. On February 26, 2010, IEPA conducted an inspection of the site. The discharged oil had traveled approximately 100 feet downstream in the creek, contaminating a total area of approximately 2900 square feet.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count II, paragraph 19, and, therefore, denies the same.

20. Petco constructed a dam and employed a tank truck, booms and pads to recover crude oil in the creek. Petco excavated and disposed of six inches of soil and spread lime to soak up the remaining crude oil on the soil.

**ANSWER:** Petco admits the allegations contained in Count II, paragraph 20.

21. The creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count II, paragraph 21 contain legal conclusions to which no substantive responses are necessary. To the extent Count II, paragraph 21 alleges factual matters to which a response is necessary, Petco denies the same.

22. By discharging crude oil so as to visibly impair the creek, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count II, paragraph 22.

23. By discharging visible oil into the creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count II, paragraph 23.

24. By causing, allowing or threatening the discharge of crude oil to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count II, paragraph 24.

25. By causing or allowing crude oil to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count II, paragraph 25.

**COUNT III**  
**CHAS. McCOLLUM TANK BATTERY**  
**IEMA Incident #2010-0223**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count III.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count III.

18. On or about March 11, 2010, Petco discharged crude oil and approximately five (5) to twenty (20) barrels of salt water when a three-inch PVC riser pipe to an oil water separator broke off from the Charles McCollum tank battery in or near St. Elmo, Illinois. The crude oil stayed in the secondary containment berm, but the salt water seeped through the dike and migrated downhill, damaging the residential property of Mr. Evan Schaefer, and into an unnamed creek that serves as a tributary to Hog Creek.

**ANSWER:** Petco admits that, on or about March 11, 2010, crude oil and salt water was discharged when a three-inch PVC riser pipe to an oil water separator broke off from the Charles McCollum tank battery near St. Elmo, Illinois. However, Petco denies the remaining allegations

in Count III, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Answering further, Petco states that the riser pipe has been properly repaired.

19. On March 11, 2010, IEPA conducted an inspection of the site. On that date, the spill had impacted approximately 100 feet of soil between the tank battery and the creek and approximately 200 feet of the unnamed creek, for a total contaminated area of approximately 9300 square feet. Petco had constructed two earthen dams in the creek.

**ANSWER:** Petco admits that it constructed two dams. Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count III, paragraph 19, and, therefore, denies the same.

20. On March 11, 2010, IEPA tested the creek, with results of 696 mg/l of chloride at the first earthen dam and 3825 mg/l of chloride at the second earthen dam.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count III, paragraph 20, and, therefore, denies the same.

21. On March 11, 2010, Petco tested the creek with a result of 4311 mg/l of chloride.

**ANSWER:** Petco admits that it conducted preliminary on-site testing of the creek for chlorides. Petco states that it is without information that is sufficient to admit or deny the allegation that the chloride test results totaled 4311 mg/l, and, therefore, denies the same.

22. On March 16, 2010, Petco tested the creek with a result of 490 mg/l of chloride.

**ANSWER:** Petco admits the allegations contained in Count III, paragraph 22. Answering further, Petco states that its chloride testing was on-site and preliminary.

23. The creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count III, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent Count III, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By discharging salt water into a water of the State so that such water exceeds 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count III, paragraph 24.

25. By causing, allowing or threatening the discharge of salt water to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count III, paragraph 25.

26. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count III, paragraph 26.

**COUNT IV**  
**BUZZARD SALT WATER DISPOSAL LINE**  
**IEMA Incident # 2010-0246**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count IV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count IV.

18. On or about March 14, 2010, Petco discharged approximately 50 to 100 barrels of salt water directly to Hog Creek when a creek bed located on the property of the Buzzard family, approximately 200 feet upstream of county road 2100E in or near St. Elmo, Illinois, washed out and breached a four-inch salt water disposal line.

**ANSWER:** Petco admits that, on or about March 14, 2010, salt water was discharged on or around the Buzzard property near St. Elmo, Illinois. However, Petco states that it is without information that is sufficient to admit or deny the allegation that such release occurred to a waterway known as “Hog Creek,” and, therefore, denies the same. Answering further, Petco denies any implication in Count IV, paragraph 18 that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State.

19. On or about March 17, 2010, approximately three days after the salt water line breached, Petco constructed one earthen dam in Hog Creek approximately one and one-half miles downstream from the original spill location. The March 14, 2010 spill contaminated Hog Creek for an area of approximately 92,400 square feet.

**ANSWER:** Petco admits that it constructed a dam; however, Petco is without information sufficient to admit or deny the allegation that such dam was constructed in or around a waterway known as “Hog Creek”, and, therefore, denies the same. Petco denies that the March 14, 2010 release “contaminated Hog Creek for an area of approximately 92,400 square feet.” Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count IV, paragraph 19, and, therefore, denies the same.

20. On March 18, 2010, IEPA tested Hog Creek at four locations downstream of Petco's earthen dam, three of which revealed chloride concentrations that indicated the salt water had traveled beyond the one and one-half mile where Petco built the first earthen dam, as follows:

Location	Chloride Concentration
150-200 ft downstream of earthen dam, upstream of County Road 2100E	1053-1141 mg/l
150 ft downstream of County Road 2100E	531-583 mg/l
More than 150 ft downstream of County Road 2100E and upstream of the bridge at County Road 2100E	758 mg/l
300 ft downstream of earthen dam, downstream of bridge at County Road 2100E	276-313 mg/l

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count IV, paragraph 20, and, therefore, denies the same.

21. On March 18, 2010, Petco constructed an additional earthen dam in Hog Creek approximately 300 feet further downstream than the first earthen dam.

**ANSWER:** Petco admits that it constructed a dam. Answering further, Petco is without information sufficient to admit or deny the allegation that such dam was constructed in or around a waterway known as "Hog Creek", and, therefore, denies the same.

22. On March 22, 2010, IEPA inspected the site. On that date, the second earthen dam had been washed away by a rain event the day prior. IEPA tested the creek water in five separate locations, all of which indicated the March 21, 2010 rain event had diluted the chloride to concentrations below the water quality standard.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count IV, paragraph 22, and, therefore, denies the same.

23. Hog Creek is a "water" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count IV, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent Count IV, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count IV, paragraph 24.

25. By causing, allowing or threatening the discharge of salt water to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count IV, paragraph 25.

**COUNT V**  
**GEORGE BAUER SALT WATER DISPOSAL LINE**  
**IEMA Incident #2010-0289**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count V.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count V.

18. On or about March 29, 2010, Petco discharged approximately 100-150 barrels of salt water when a buried six-inch pressurized fiberglass flowline operating at approximately 1000 pounds per square inch ("psi"), failed at a "T" connection on the George Bauer lease in or near St.



Elmo, Illinois. The salt water impacted an area approximately two feet wide and stretching nearly one mile in length; it flowed northward through a culvert, crossed County Road 2675N, entered a ravine and continued to flow east into a drainage pathway serving as a tributary to Little Moccasin Creek in St. Elmo, Illinois.

**ANSWER:** Petco admits that, on or about March 29, 2010, salt water was discharged when a buried six-inch pressurized fiberglass flowline failed at a “T” connection on the George Bauer lease in or near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count V, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State.

19. On March 29, 2010, IEPA inspected the site. At that time, surface water was entering the tributary and comingling with the discharged salt water. Petco had constructed one earthen dam approximately one-third mile downstream of the release.

**ANSWER:** Petco admits that it constructed a dam. Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count V, paragraph 19, and, therefore, denies the same.

20. On March 30, 2010, IEPA returned to the site and tested the water in the tributary at three separate locations upstream of Petco’s earthen dam, with chloride concentrations exceeding 500 mg/l as follows:

<b>Location</b>	<b>Chloride Concentration (mg/l)</b>
250 ft downstream of County Road 2675N	895
1000 ft downstream of release	1141
75 ft upstream of earthen dam	895-971

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count V, paragraph 20, and, therefore, denies the same.

21. On April 1, 2010, IEPA inspected the site. Petco was excavating salt contaminated soil from the release site and preparing it for disposal. IEPA tested the water in the tributary upstream of Petco's earthen dam, with results for chloride concentrations as follows:

<b>Location</b>	<b>Chloride Concentration (mg/l)</b>
250 ft downstream of County Road 2675N	515-531
750 downstream of release	477-583

**ANSWER:** Petco denies the allegations contained in Count V, paragraph 21 that it was excavating soil or that such excavated material was "contaminated." Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count V, paragraph 21, and, therefore, denies the same.

22. The tributary and Little Moccasin Creek are "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count V, paragraph 22 contain legal conclusions to which no substantive responses are necessary. To the extent Count V, paragraph 22 alleges factual matters to which a response is necessary, Petco denies the same.

23. By discharging salt water into waters of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count V, paragraph 23.

24. By causing, allowing or threatening the discharge of salt water to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count V, paragraph 24.

25. By causing or allowing salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the tributary and Little Moccasin Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count V, paragraph 25.

**COUNT VI**  
**JOHN TUCKER SALT WATER DISPOSAL LINE**  
**IEMA Incident #2010-0311**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count VI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count VI.

18. On or about April 1, 2010, Petco discharged approximately 300 to 500 barrels of salt water into a dry unnamed tributary to Wolf Creek when a three-inch buried pressurized fiberglass salt water disposal line connecting the John Tucker station to the Rosie Seelock injection system in or near St. Elmo, Illinois failed. The line was operating at approximately 1000 psi when it failed and the discharged salt water traveled approximately one-third of a mile in the tributary.

**ANSWER:** Petco admits that, on or about April 1, 2010, salt water was discharged when a three-inch fiberglass disposal line connecting the John Tucker station to the Rosie Seelock injection system failed in or near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count VI, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Answering further, Petco states that new fiberglass disposal lines have been installed at this location.

19. On April 1, 2010, Petco constructed one earthen dam approximately one-third of a mile downstream of the release.

**ANSWER:** Petco admits the allegations contained in Count VI, paragraph 19.

20. On April 5, 2010, IEPA inspected the site. On that date, the earthen dam had been breached. IEPA tested the tributary just past the washed out dam location, with results ranging from 467 to 515 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count VI, paragraph 20, and, therefore, denies the same.

21. On April 6, 2010, IEPA tested the water in the Wolf Creek tributary, with results for chloride concentrations as follows:

<b>Location</b>	<b>Chloride Concentration (mg/l)</b>
Ponded water at pipeline repair site	179-602
1/4 mile downstream of release, immediately upstream of dam, within cattail and cane grasses	482-531

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count VI, paragraph 21, and, therefore, denies the same.

22. The unnamed tributary and Wolf Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count VI, paragraph 22 contain legal conclusions to which no substantive responses are necessary. To the extent Count VI, paragraph 22 alleges factual matters to which a response is necessary, Petco denies the same.

23. By causing or allowing salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the tributary and Wolf Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count VI, paragraph 23.

**COUNT VII**  
**ARNOLD UNIT TANK BATTERY**  
**IEMA Incident #2010-0322**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count VII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count VII.

18. On or about April 5, 2010, Petco discharged approximately 500 barrels of salt water when a two-foot vertical PVC salt water vent pipe at the Arnold Unit tank battery broke at a brass valve near ground level. The head pressure caused all the salt water contained within the tanks to erode the secondary containment berm and discharge, draining from the site. The discharged salt water traveled downhill and entered an unnamed tributary to the South Fork Kaskaskia River northwest of St. Elmo, Illinois, and traveled approximately one-third of a mile within the tributary.

**ANSWER:** Petco admits that, on or about April 5, 2010, salt water was discharged when a vertical PVC salt water vent pipe at the Arnold Unit tank battery broke at a brass valve near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count VII, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Answering further, Petco states that the vent pipe broke due to a severe windstorm, and Petco has since secured all vent pipes at its tank batteries.

19. On April 5, 2010, IEPA inspected the site. On that date, Petco had constructed one earthen dam. IEPA tested the tributary approximately 250 to 300 feet downstream of Petco’s dam with results ranging from 602 to 651 mg/l of chloride.

**ANSWER:** Petco admits that it constructed a dam. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count VII, paragraph 19, and, therefore, denies the same.

20. On April 6, 2010, IEPA inspected the site. On that date, salt staining of the ground near the tank battery was visible. IEPA tested the tributary in two separate locations downstream of the dam with results below 500 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count VII, paragraph 20, and, therefore, denies the same.

21. The South Fork Kaskaskia River and its tributary are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count VII, paragraph 21 contain legal conclusions to which no substantive responses are necessary. To the extent Count VII, paragraph 21 alleges factual matters to which a response is necessary, Petco denies the same.

22. By discharging salt water into waters of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count VII, paragraph 22.

23. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count VII, paragraph 23.

24. By causing or allowing salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the tributary and the South Fork Kaskaskia River, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count VII, paragraph 24.

**COUNT VIII**  
**QUADE SUMP TRANSITE PIPELINE**  
**IEMA Incident #2010-0363**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count VIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count VIII.

18. On or before April 12, 2010, Petco discharged crude oil and at least 200 barrels of salt water into a mostly dry unnamed intermittent tributary to the South Fork Kaskaskia River in or near St. Elmo, Illinois, when the soil within a steep ravine gave way and broke out a four foot section of a six-inch transite pipeline operating under approximately 20 psi from the Quade sump to the Mary Welker sump. The discharged salt water traveled approximately one-third of a mile in the tributary, and an unknown amount of salt water entered the South Fork Kaskaskia River.

**ANSWER:** Petco admits that, on or before April 12, 2010, crude oil and salt water was discharged in or near St. Elmo, Illinois, when the soil within a steep ravine gave way and broke out a six-inch transite pipeline from the Quade sump to the Mary Welker sump. However, Petco denies the remaining allegations in Count VIII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Answering further, Petco states that the transite pipelines at this location have been replaced by PVC pipelines.

19. On April 12, 2010, Petco constructed two earthen dams, with the second dam as close to the South Fork Kaskaskia River as possible. The South Fork Kaskaskia River was flowing at a rate that made containment in and recovery from the creek difficult, given Petco's limited spill response resources.

**ANSWER:** Petco admits that it constructed two earthen dams. Petco denies each and every remaining allegation in Count VIII, paragraph 19.

20. On April 13, 2010, IEPA inspected the site. On that date, visible salt staining located immediately prior to the tributary's connection to the South Fork Kaskaskia River indicated salt water had entered the South Fork Kaskaskia River.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count VIII, paragraph 20, and, therefore, denies the same.

21. On April 13, 2010, IEPA tested the tributary at three separate locations downstream of the release, including one location downstream of the second earthen dam and only a few feet away from the South Fork Kaskaskia River. All readings exceeded the maximum test limit for chloride at 6107 mg/l.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count VIII, paragraph 21, and, therefore, denies the same.

22. On April 16, 2010, IEPA inspected the site. On that date, the first dam had been breached, allowing water to flow to the second dam. IEPA tested the tributary at two separate locations downstream of the release, including one location just upstream of the second earthen dam. All readings exceeded the maximum test limit for chloride at 6107 mg/l.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count VIII, paragraph 22, and, therefore, denies the same.



23. The unnamed tributary and the South Fork Kaskaskia River are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count VIII, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent Count VIII, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By causing, allowing or threatening the discharge of crude oil and salt water to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board’s regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count VIII, paragraph 24.

25. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the tributary and the South Fork Kaskaskia River, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count VIII, paragraph 25.

**COUNT IX**  
**T.C. CLOW #12 PRODUCTION WELL**  
**IEMA Incident #2010-0384**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count IX.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count IX.

18. On or about April 15, 2010, Petco discharged approximately two to four barrels of crude oil and twenty-five to thirty barrels of salt water from the T.C. Clow #12 production well in

or near St. Elmo, Illinois, when the pump jack pulled the pumping “T” from the stuffing box affixed to the well casing as a result of corrosion. The discharged fluids pumped onto the ground, flowed downhill and entered an unnamed tributary to Little Creek.

**ANSWER:** Petco admits that, on or about April 15, 2010, crude oil and salt water was discharged from the T.C. Clow #12 production well in or near St. Elmo, Illinois, when the pump jack pulled the pumping “T” from the stuffing box affixed to the well casing. However, Petco denies the remaining allegations in Count IX, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Answering further, Petco states that Bronze aluminum stuffing boxes have been installed with polished rods that prevent wear and corrosion.

19. On April 15, 2010, Petco constructed one earthen dam approximately one-quarter of a mile downstream from the release and upstream of where the tributary enters Little Creek.

**ANSWER:** Petco admits the allegations contained in Count IX, paragraph 19.

20. On April 16, 2010, IEPA inspected the site. On that date, two to four barrels of crude oil had traveled approximately one-eighth mile from the release and the salt water had traveled approximately one-quarter of a mile, contaminating a total area of approximately 32,600 square feet. Little Creek was flowing at a rate that would have made containment in and recovery from the creek difficult, given Petco’s limited spill response resources.

**ANSWER:** Petco denies the allegation contained in Count IX, paragraph 20 that it has or had limited spill response resources. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count IX, paragraph 20, and, therefore, denies the same.

21. On April 16, 2010, IEPA tested the tributary downstream of the earthen dam and upstream of Little Creek, with a result of 2853 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count IX, paragraph 21, and, therefore, denies the same.

22. On April 16, 2010, at the request of IEPA due to the high chloride levels, Petco installed a second earthen dam in the tributary, downstream of the first dam and just upstream of its connection to Little Creek.

**ANSWER:** Petco admits the allegations contained in Count IX, paragraph 22.

23. The unnamed tributary and Little Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count IX, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent Count IX, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By discharging crude oil so as to visibly impair the tributary, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count IX, paragraph 24.

25. By discharging salt water into waters of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count IX, paragraph 25.

26. By discharging visible oil into the tributary, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count IX, paragraph 26.

27. By causing, allowing or threatening the discharge of crude oil and salt water to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count IX, paragraph 27.

28. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the tributary and Little Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count IX, paragraph 28.

**COUNT X**  
**MAIN INJECTION STATION TO GEORGE DURBIN PIT**  
**IEMA Incident #2010-0539**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count X.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count X.

18. On or about May 20, 2010, Petco discharged less than one barrel crude oil and approximately two to three barrels of salt water when a four-inch PVC drain line connecting the

Main Injection Station and the George Durbin Pit in or near St. Elmo, Illinois, leaked directly into Wolf Creek, a tributary of Big Creek.

**ANSWER:** Petco admits that, on or about May 20, 2010, crude oil and salt water was discharged when a four-inch PVC drain line leaked that connects the Main Injection Station and the George Durbin Pit in or near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count X, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Answering further, Petco states that new polymer lines have been installed underneath the creek bed at this location.

19. On May 21, 2010, IEPA inspected the site. On that date, oil sheen was visible in Wolf Creek. Petco had deployed three absorbent booms in Wolf Creek near the release point.

**ANSWER:** Petco admits that it deployed booms in Wolf Creek. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count X, paragraph 19, and, therefore, denies the same.

20. Petco had to dig an eight-foot deep pit next to the creek in order to cut the line and stop the flow of liquids. On or about June 23, 2010, Petco bored a new line and replaced the drain line with a new three-inch pipeline inside of an eight-inch conduct under Wolf Creek.

**ANSWER:** Petco admits the allegations contained in Count X, paragraph 20.

21. Wolf Creek and Big Creek are “waters” of the State as that term is defined in Section 5/3.550 of the Act, 415 ILCS 3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count X, paragraph 21 contain legal conclusions to which no substantive responses are necessary. To the extent Count X, paragraph 21 alleges factual matters to which a response is necessary, Petco denies the same.

22. By discharging crude oil so as to visibly impair Wolf Creek, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count X, paragraph 22.

23. By discharging visible oil into the creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count X, paragraph 23.

24. By causing, allowing or threatening the discharge of crude oil and salt water to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count X, paragraph 24.

**COUNT XI**  
**CYNTHIA HOPPER #2 INJECTION LINE<sup>2</sup>**  
**IEMA Incident #2010-0544**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XI.

18. On or about May 21, 2010, Petco discharged approximately ten (10) barrels of crude oil and 200 to 300 barrels of salt water into a dry ditch when a new six-inch fiberglass

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<sup>2</sup> Cynthia Hopper #2 is the name of a lease in Loudan field, not the name of a production well as indicated in Count XI, Paragraph 18.

injection line ruptured at the Cynthia Hopper #2 well in or near St. Elmo, Illinois, when a thread joint sank in the soil. The spill traveled 100 yards on soil until it reached and entered Wolf Creek, a tributary to Big Creek.

**ANSWER:** Petco admits that, on or about May 21, 2010, salt water was discharged when a new six-inch fiberglass injection line ruptured at the Cynthia Hopper #2 well in or near St. Elmo, Illinois due to a thread joint sinking in the soil. Petco denies the remaining allegations contained in Count XI, paragraph 18 and any implication that Petco discharged salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. In addition, Petco specifically denies that oil was released during this incident. Answering further, Petco states that new injection lines have been installed at the location of this incident, which are now supported by gravel and sand.

19. On May 21, 2010, IEPA inspected the site. On that date, IEPA tested the ditch, with a result exceeding the maximum test limit for chloride at 6107 mg/l.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XI, paragraph 19, and, therefore, denies the same.

20. On May 25, 2010, IEPA inspected the site. On that date, most of the crude oil had been removed from the ditch. IEPA tested the water in the ditch, with a result of 4763 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XI, paragraph 20, and, therefore, denies the same.

21. On May 26, 2010, Petco tested the water in the ditch with a result of 1664 mg/l of chloride.

**ANSWER:** Petco admits the allegations contained in Count XI, paragraph 21. Answering further, Petco states that its chloride testing was on-site and preliminary.

22. On June 2, 2010, Petco tested the water in the ditch with a result below 298 mg/l of chloride.

**ANSWER:** Petco admits the allegations contained in Count XI, paragraph 22. Answering further, Petco states that its chloride testing was on-site and preliminary.

23. Wolf Creek and Big Creek are “waters” of the State as that term is defined in Section 5/3.550 of the Act, 415 ILCS 3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XI, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent Count XI, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By causing, allowing or threatening the discharge of salt water to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XI, paragraph 24.

25. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the ditch and Wolf Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XI, paragraph 25.

**COUNT XII**  
**GEORGE DURBIN PIT**  
**IEMA Incident #2010-0636**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XII.



**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XII.

18. On or about June 14, 2010, Petco discharged approximately five (5) barrels of crude oil and 200 barrels of salt water when the variable drives that control the amount of salt water on the pumps at the George Durbin Pit in or near St. Elmo, Illinois, stopped working during a power outage and did not restart. No alarms were working because of the power outage. The discharged fluids overflowed onto the ground for approximately 50 to 100 feet before entering Wolf Creek and then Big Creek.

**ANSWER:** Petco admits that, on or about June 14, 2010, crude oil and salt water were discharged when the variable drives that control the amount of salt water on the pumps at the George Durbin Pit in or near St. Elmo, Illinois stopped working during a power outage and no resulting alarms sounded. However, Petco denies the remaining allegations in Count XII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Answering further, Petco states that battery backups have been installed in the new alarm system throughout Loudan field to prevent future occurrences.

19. On June 15, 2010, IEPA inspected the site. On that date, the water in Wolf Creek was moving swiftly due to recent rainfall and chloride levels were low. However, oil sheen was visible in Wolf Creek, both at the bridge near the George Durbin Pit and at the Little Weber Bridge, approximately one mile downstream of the release point.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XII, paragraph 19, and, therefore, denies the same.

20. Wolf Creek and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XII, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XII, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair Wolf Creek, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XII, paragraph 21.

22. By discharging visible oil into Wolf Creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XII, paragraph 22.

23. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XII, paragraph 23.

24. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to the tributary, Wolf Creek and Big Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XII, paragraph 24.

**COUNT XIII**  
**LIZZIE FITCHMAN #1 FLOWLINE**  
**IEMA Incident #2010-0643**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XIII.

18. On or about June 16, 2010, Petco discharged approximately five to ten barrels of crude oil and 100 barrels of salt water from a hole in a collar clamp on the Lizzie Fitchman #1 flowline in or near St. Elmo, Illinois, when a hole corroded in the flowline at an old repair collar clamp. The discharged fluids traveled on grassy land to eventually reach Wolf Creek, impairing the same portion of Wolf Creek as IEMA Incident #2010-0636, which had occurred several days prior. See Count XII.

**ANSWER:** Petco admits that, on or about June 16, 2010, crude oil and salt water were discharged from a hole in a collar clamp on the Lizzie Fitchman #1 flowline in or near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XIII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Answering further, Petco states that all clamps in Loudan field have been or are going to be replaced with stainless steel bolts to prevent future occurrences. The flow line at this location has also been replaced.

19. On June 17, 2010, IEPA inspected the site. On that date, cane grass at the release point was oiled about two feet high for approximately two acres – the quarter-mile distance from the spill to an unnamed tributary serving Wolf Creek. The spill had impacted a backwater swamp

area with crude oil and saltwater and contaminated a total area of approximately 122,500 square feet, or nearly three acres.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XIII, paragraph 19, and, therefore, denies the same.

20. On June 17, 2010, Petco had installed a siphon dam in the tributary just upstream of Wolf Creek to collect crude oil and saltwater. Three absorbent booms from IEPA Incident #2010-0636 were already in place in Wolf Creek. One additional boom was added to replace an old boom that had disconnected due to swift currents, and was visibly collecting scum and sheen.

**ANSWER:** Petco admits the allegations contained in Count XIII, paragraph 20.

21. Wolf Creek eventually merges with Little Moccasin Creek to form Big Creek.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XIII, paragraph 21, and, therefore, denies the same.

22. The swamp, Wolf Creek and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XIII, paragraph 22 contain legal conclusions to which no substantive responses are necessary. To the extent Count XIII, paragraph 22 alleges factual matters to which a response is necessary, Petco denies the same.

23. By discharging crude oil so as to visibly impair the backwater swamp and Wolf Creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIII, paragraph 23.

24. By discharging visible oil into the backwater swamp and Wolf Creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIII, paragraph 24.

25. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIII, paragraph 25.

26. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the swamp, tributary, Wolf Creek and Big Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/1(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIII, paragraph 26.

**COUNT XIV**  
**CYNTHIA HOPPER #2 INJECTION WELL**  
**IEMA Incident #2010-0681**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XIV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XIV.

18. On or about June 24, 2010, Petco discharged crude oil and approximately 400 barrels of salt water when a six-inch fiberglass pipeline located just north of Wolf Creek in or near

St. Elmo, Illinois, blew the threads out of the collar clamp at the Cynthia Hopper #2 injection well – the same spill site as IEMA Incident #2010-0544, which had occurred just a month earlier. See Count XI. Saltwater flowed into a drainage ditch and emptied into Wolf Creek.

**ANSWER:** Petco admits that, on or about June 24, 2010, crude oil and salt water were discharged when a collar clamp failed on a six-inch fiberglass pipeline located just north of Wolf Creek in or near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XIV, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. In addition, Petco specifically denies that the release on or around June 23, 2010, occurred at “the same spill site as IEMA Incident #2010-0544.” Answering further, Petco states that a new collar was installed at this location.

19. Wolf Creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XIV, paragraph 19 contain legal conclusions to which no substantive responses are necessary. To the extent Count XIV, paragraph 19 alleges factual matters to which a response is necessary, Petco denies the same.

20. By causing, allowing or threatening the discharge of crude oil and salt water to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIV, paragraph 20.

21. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the ditch and Wolf Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIV, paragraph 21.

**COUNT XV**  
**CYNTHIA HOPPER #2 FLOWLINE**  
**IEMA Incident #2010-0799**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XV.

18. On or about July 25, 2010, Petco failed to close flowline valves at a creek crossing and discharged approximately two to three barrels of crude oil from a two-inch steel sleeved flowline at the Cynthia Hopper #2 well in or near St. Elmo, Illinois, after installation of a new pump jack and new piping at the well head. Rising water due to heavy rainfall submerged the broken flowline, allowing liquids to discharge from the flow line sleeve directly into Wolf Creek. This spill site is the same as IEMA Numbers 2010-0544 and 2010-0681. See Counts XI and XIV.

**ANSWER:** Petco admits that, on or about July 25, 2010, Petco failed to close flowline valves at a creek crossing and discharged approximately two to three barrels of crude oil from a two-inch steel sleeved flowline at the Cynthia Hopper #2 well in or near St. Elmo, Illinois, after installation of a new pump jack and new piping. However, Petco denies the remaining allegations in Count XV, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. In addition, Petco specifically denies that the release, on or around July 25, 2010,

occurred at the same spill site as IEMA #s 2010-544 and 2010-681. Answering further, Petco states that new fiberglass lines were installed underneath the creek bed from well to header at this location.

19. Downstream from the release, Wolf Creek merges with Little Moccasin Creek to form Big Creek.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XV, paragraph 19, and, therefore, denies the same.

20. On July 25, 2010, IEPA inspected the site. On that date, three absorbent booms with pads were present in Wolf Creek. Visible clumps of oil and rainbow sheen were flowing past the first two booms. No recoverable oil was present at the third boom location. The vast majority of recoverable oil had already flowed past Petco's ineffective containment barriers.

**ANSWER:** Petco denies the allegations contained in Count XV, paragraph 20 that it installed "ineffective" containment barriers. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XV, paragraph 20, and, therefore, denies the same.

21. Wolf Creek and Big Creek were flowing at a rate that made containment in and recovery from the creeks difficult, given Petco's limited spill response resources. Petco did not have enough skirt or hard containment boom to deploy across either Wolf Creek or Big Creek to prevent migration of the discharged fluids throughout the high velocity waters. The July 25, 2010 spill contaminated a total area of approximately 308 acres.

**ANSWER:** Petco denies the allegations contained in Count XV, paragraph 21. Answering further, Petco states that the allegation that 308 acres were "contaminated" appears to



be a typo, as it is likely the First Amended Complaint was intended to state 3.8 acres, not 308 acres.

22. On July 25, 2010, visible clumps of oil and rainbow sheen were also present in Big Creek, approximately one-third mile from the release.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XV, paragraph 22, and, therefore, denies the same.

23. On July 26, 2010, IEPA inspected the site. On that date, visible clumps of oil and rainbow sheen were flowing past the first boom. Minor amounts of emulsified oil had accumulated behind the remaining booms.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XV, paragraph 23, and, therefore, denies the same.

24. Wolf Creek and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XV, paragraph 24 contain legal conclusions to which no substantive responses are necessary. To the extent Count XV, paragraph 24 alleges factual matters to which a response is necessary, Petco denies the same.

25. By discharging crude oil so as to visibly impair both Wolf Creek and Big Creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XV, paragraph 25.

26. By discharging visible oil into Wolf Creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XV, paragraph 26.

27. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XV, paragraph 27.

**COUNT XVI**  
**SARA CLOW #8W INJECTION WELL**  
**IEMA Incident #2010-0981**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XVI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XVI.

18. On September 7, 2010, Petco discharged approximately eighty (80) barrels of salt water into an unnamed creek when a valve to the injection line from the Sara Clow #8W injection well in or near St. Elmo, Illinois was activated. The spill traveled for one-half mile.

**ANSWER:** Petco admits that, on September 7, 2010, salt water was discharged when a valve to the injection line from the Sara Clow #8W injection well in or near St. Elmo, Illinois was activated. However, Petco denies any implication the remaining allegations in Count XVI, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a "water" of the State. Further answering, the injection line at this location has been plugged.

19. On September 8, 2010, IEPA inspected the site. On that date, Petco had deployed pads on the soil near the injection well and had constructed four earthen dams in the creek. Petco tested the water at the second earthen dam with a result of 2332 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XVI, paragraph 19, and, therefore, denies the same.

20. On September 8, 2010, a Petco representative stated that there had been approximately twelve dead minnows present at the third earthen dam.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XVI, paragraph 20, and, therefore, denies the same.

21. On September 14, 2010, Petco tested the water between the second and third earthen dams with a result of 700 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XVI, paragraph 21, and, therefore, denies the same.

22. On September 20, 2010, Petco tested the water between the second and third earthen dams with a result under 400 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XVI, paragraph 22, and, therefore, denies the same.

23. The unnamed creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XVI, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent Count XVI, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XVI, paragraph 24.

25. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XVI, paragraph 25.

**COUNT XVII**  
**DIAL/DURBIN DISPOSAL LINE**  
**IEMA Incident #2010-1160**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XVII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XVII.

18. On or about October 25, 2010, Petco discharged approximately 100 barrels of salt water into the headwaters of Riley Run Creek when a break occurred at a joint in the Dial/Durbin disposal pipeline, a six-inch PVC gravity salt water transfer line in or near St. Elmo, Illinois. The spill traveled for over one-half mile.

**ANSWER:** Petco admits that, on or about October 25, 2010, salt water was discharged when a break occurred at a joint in the Dial/Durbin disposal pipeline in or near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XVII, paragraph 18 and any implication

that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Further answering, the entire disposal line at this location has been replaced with a polymer line.

19. On October 26, 2010, IEPA inspected the site. On that date, Petco had constructed three earthen dams in the creek and the leaked salt water had reached the second earthen dam, which was located approximately one-half mile from the release point, for a total contaminated area of approximately 27,000 square feet. IEPA tested the water at the second earthen dam with results ranging from 5370 to 6107 mg/l of chloride.

**ANSWER:** Petco admits that it constructed three dams. Petco denies that any area was “contaminated.” Answering further, Petco that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XVII, paragraph 19, and, therefore, denies the same.

20. Riley Run Creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XVII, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XVII, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XVII, paragraph 21.

22. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XVII, paragraph 22.

**COUNT XVIII**  
**LEROY CUMMINGS #10W INJECTION WELL**  
**IEMA Incident #2010-1293**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XVIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XVIII.

18. On or about November 29, 2010, Petco discharged approximately one barrel of crude oil and 200 to 250 barrels of salt water when a six-inch pipeline failed due to old threads that stripped on a T-joint to an injection line near the Leroy Cummings #10W injection well in or near St. Elmo, Illinois. The salt water drained onto the soil of a cattle pasture area and flowed into an unnamed tributary of Little Creek.

**ANSWER:** Petco admits that, on or about November 29, 2010, crude oil and salt water were discharged when a six-inch pipeline failed due to a stripped T-joint near the Leroy Cummings #10W injection well in or near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XVIII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a "water" of the State. Further answering, a new T-joint and valve were installed at this location to allow for faster containment.

19. On November 29, 2010, IEPA inspected the site. On that date, Petco had constructed two earthen dams in the tributary to contain the release. The second earthen dam was located just upstream of the confluence with Little Creek.

**ANSWER:** Petco admits the allegations contained in Count XVIII, paragraph 19.

20. On November 29, 2010, IEPA tested the water at the second earthen dam, which exceeded the maximum test limit for chloride with a result of 6107 mg/l. Petco tested the water at the second earthen dam, which exceeded the maximum test limit for chloride with a result of 6765 mg/l.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XVIII, paragraph 20, and, therefore, denies the same.

21. On November 29, 2010, due to the maximum chloride test readings during the field tests, IEPA collected a water sample upstream of the second earthen dam for further laboratory analysis: surface water chloride sample #S301. Laboratory analysis of sample #S301 indicated 12,300 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in XVIII, paragraph 21, and, therefore, denies the same.

22. On December 1, 2010, Petco tested the water in the tributary with a result just over 800 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XVIII, paragraph 22, and, therefore, denies the same.

23. On December 2, 2010, Petco tested the water at the second earthen dam with a result of 667 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XVIII, paragraph 23, and, therefore, denies the same.

24. The unnamed tributary and Little Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XVIII, paragraph 24 contain legal conclusions to which no substantive responses are necessary. To the extent Count XVIII, paragraph 24 alleges factual matters to which a response is necessary, Petco denies the same.

25. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XVIII, paragraph 25.

26. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XVIII, paragraph 26.

27. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to the tributary and Little Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XVIII, paragraph 27.



**COUNT XIX**  
**RICHARD LARIMORE SUMP**  
**IEMA Incident #2010-1328**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XIX.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XIX.

18. On or about December 7, 2010, Petco discharged a small quantity of crude oil and approximately 200 to 250 barrels of salt water when a buried ten-inch steel flowline at the Richard Larimore sump near St. Elmo, Illinois, split approximately six feet longitudinally due to corrosion. The salt water, along with crude oil, breached the inadequate containment berm, flowed into a roadside ditch, continued into an unnamed tributary of Wolf Creek, and then flowed directly into the fast-moving waters of Wolf Creek. The discharged fluids traveled approximately 500 feet over land and contaminated an area of approximately 6600 square feet before entering Wolf Creek.

**ANSWER:** Petco admits that, on or about December 7, 2010, salt water was discharged when a buried ten-inch steel flowline split at the Richard Larimore sump near St. Elmo, Illinois. However, Petco denies the remaining factual allegations contained in Count XIX, paragraph 18 and any implication that Petco discharged salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Answering further, Petco specifically denies that any crude oil was released or that an amount of 200 to 250 barrels of salt water was released. Petco further denies that its containment berm was “inadequate,” that the waters of Wolf Creek were “fast-moving,” or that any area was “contaminated.” Finally, Petco further answers that the flowline at this location has been replaced with a PVC line.

19. On December 8, 2010, IEPA inspected the site. On that date, the breached pipeline was exposed, but it continued to discharge salt water and crude oil. Crude oil and salt water had entered Wolf Creek, as indicated by the staining present in the unnamed tributary just prior to entering Wolf Creek. IEPA tested the water within the tributary, which exceeded the maximum test limit for chloride at 6815 mg/l.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XIX, paragraph 19, and, therefore, denies the same.

20. On December 8, 2010, Petco only had one vacuum truck collecting liquids from the pipeline repair at the sump, due to another release that had occurred that day, and no additional recovery or remediation was occurring while attempts were made to repair the breached pipeline.

**ANSWER:** Petco denies the allegations contained in Count XIX, paragraph 20.

21. The ditch, unnamed tributary, and Wolf Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XIX, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XIX, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

22. By discharging crude oil so as to visibly impair the creek, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

**ANSWER:** Petco denies the allegations contained in Count XIX, paragraph 22.

23. By discharging visible oil into the creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIX, paragraph 23.

24. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIX, paragraph 24

25. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIX, paragraph 25.

26. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the ditch, unnamed tributary and Wolf Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XIX, paragraph 26.

**COUNT XX**  
**M. TIRREY #9 FLOWLINE**  
**IEMA Incident #2010-1329**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XX.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XX.

18. On or about December 8, 2010, Petco discharged approximately two barrels of crude oil and thirty barrels of salt water from a two-inch PVC flowline serving the Martha Terry #9 well in an area where the line ran through a creek crossing near St. Elmo, Illinois. The flowline became exposed at a crossing due to soil erosion, and cracked when the banks of the creek gave way due to rain and contaminated an area of approximately 5000 square feet.

**ANSWER:** Petco admits that, on or about December 8, 2010, crude oil and salt water were discharged from a two-inch PVC flowline serving the Martha Terry #9 well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XX, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Petco specifically denies that any area was “contaminated.” Finally, Petco further answers that the fiberglass flowline has been installed at this location underneath the creek bed.

19. On December 8, 2010, IEPA inspected the site. On that date, saltwater and visible oil were present in the creek.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XX, paragraph 19, and, therefore, denies the same.

20. The creek is a “water” of the State as that term is defined in Section 5/3.550 of the Act, 415 ILCS 3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XX, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XX, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By causing, allowing or threatening the discharge of salt water and crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate

the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XX, paragraph 21.

**COUNT XXI**  
**OLA HARPER #5 FLOWLINE**  
**IEMA Incident #2010-1336**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXI.

18. On or about December 9, 2010, Petco discharged approximately two to four barrels of crude oil and 300 to 400 barrels of salt water when an underground PVC flowline serving the Ola Harper #5 production well near St. Elmo, Illinois failed approximately sixty feet north of the well due to a sudden increase in well pressure. Crude oil impacted a farm field while the salt water flowed nearly two miles to enter the South Fork Kaskaskia River.

**ANSWER:** Petco admits that, on or about December 9, 2010, crude oil and salt water were discharged when an underground PVC flowline serving the Ola Harper #5 production well failed near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXI, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. In addition, Petco specifically denies the allegations that more than approximately two barrels of oil and more than approximately two hundred barrels of salt water were released on or around December 9, 2010. Petco further denies that any farm fields were “impacted” by the alleged release. Finally, Petco answers that polymer flowline has been installed at this location.

19. The South Fork Kaskaskia River is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXI, paragraph 19 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXI, paragraph 19 alleges factual matters to which a response is necessary, Petco denies the same.

20. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXI, paragraph 20.

21. By causing or allowing salt water and crude oil to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the South Fork Kaskaskia River, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXI, paragraph 21.

**COUNT XXII**  
**JENNY BRAUER #10 FLOWLINE**  
**IEMA Incident #2010-1400**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXII.

18. On or about December 24, 2010, Petco discharged approximately two to four barrels of crude oil and five barrels of salt water when Petco restarted production of the Jenny Brauer #10 well in or near St. Elmo, Illinois. A two-inch flowline along the bank of a ditch had previously been damaged by drilling crews and was not repaired prior to the resumption of

production of the well. The discharged fluids entered the snow-covered ditch and flowed approximately 100 feet into a Petco quarry pond.

**ANSWER:** Petco admits that, on or about December 24, 2010, crude oil and salt water were discharged from a flowline associated with the Jenny Brauer #10 well in or near St. Elmo, Illinois. However, Petco denies the remaining allegations contained in Count XXII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. In addition, Petco specifically denies that its own drilling crews damaged the two-inch flow line. Finally, Petco further answers that an underground fiberglass flow line has been installed at this location.

19. On December 27, 2010, IEPA inspected the site. On that date, the discharged fluids had traveled approximately two feet from the quarry pond bank. Crude oil was present on the ice at the quarry pond.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXII, paragraph 19, and, therefore, denies the same.

20. On December 30, 2010, IEPA inspected the site. On that date, the ice in the quarry pond had broken up and a vacuum truck was still recovering crude oil scum that was being contained to the bank by absorbent boom.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXII, paragraph 20, and, therefore, denies the same.

21. The pond is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXII, paragraph 21 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXII, paragraph 21 alleges factual matters to which a response is necessary, Petco denies the same.

22. By discharging crude oil so as to visibly impair the quarry pond, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXII, paragraph 22.

23. By discharging visible oil into the pond, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXII, paragraph 23.

24. By causing, allowing or threatening the discharge of salt water and crude oil to a water of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXII, paragraph 24.

25. By causing or allowing salt water and crude oil to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the pond, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXII, paragraph 25.



**COUNT XXIII**  
**S.M. DIAL #16 DRILLING PIT**  
**IEMA Incident #2010-1406**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXIII.

18. On or about December 30, 2010, Petco discharged approximately two barrels of crude oil into an unnamed creek when the S.M. Dial #16 drilling pit dike in or near St. Elmo, Illinois, was washed out by one-half inch of rain. The discharged fluids ran down a hill into the unnamed creek before entering Riley Run Creek, contaminating an area of approximately 20,000 square feet.

**ANSWER:** Petco admits that, on or about December 30, 2010, crude oil was discharged around the S.M. Dial #16 drilling pit dike near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXIII, paragraph 18 and any implication that Petco discharged such oil intentionally or negligently, or that such oil was discharged into or near a “water” of the State.

19. On December 30, 2010, IEPA inspected the site. On that date, Petco was breaking up ice in the unnamed creek in order to allow the crude oil to flow to recovery points at the low water bridges in Riley Run Creek. Some crude oil had traveled to the William Ireland low water bridge, where Petco was constructing a siphon dam.

**ANSWER:** Petco admits the allegations contained in Count XXIII, paragraph 19.

20. The unnamed creek and Riley Run Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXIII, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXIII, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair the unnamed creek and Riley Run Creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXIII, paragraph 21.

22. By discharging visible oil into the unnamed creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXIII, paragraph 22.

23. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXIII, paragraph 23.

24. By causing or allowing crude oil to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to the unnamed creek and Riley Run Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXIII, paragraph 24.

**COUNT XXIV**  
**EDITH DURBIN PIT**  
**IEMA Incident #2011-0010**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXIV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXIV.

18. On or about January 6, 2011, Petco discharged crude oil and salt water from a six-inch underground pipeline that drains into the Edith Durbin Pit in or near St. Elmo, Illinois, when a collar on the line broke into two pieces, potentially due to pressure caused by tree roots. The discharged salt water flowed approximately two miles down nearby Little Creek, a tributary to the South Fork Kaskaskia River.

**ANSWER:** Petco admits that, on or about January 6, 2011, crude oil and salt water were discharged from a six-inch underground pipeline near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXIV, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State.

19. Little Creek and the South Fork Kaskaskia River are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXIV, paragraph 19 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXIV, paragraph 19 alleges factual matters to which a response is necessary, Petco denies the same.

20. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXIV, paragraph 20.

21. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through their proximity to Little Creek and the South Fork Kaskaskia River, Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXIV, paragraph 21.

**COUNT XXV**  
**S.M. DIAL #5 FLOWLINE**  
**IEMA Incident #2011-0076**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXV.

18. On or about January 28, 2011, Petco discharged approximately two to four barrels of crude oil and sixty barrels of salt water from the S.M. Dial tank battery site in or near St. Elmo, Illinois, when the S.M. Dial #5 flowline broke. The spill filled the inadequate containment berm and overflowed into an unnamed creek and then traveled approximately one and one-half mile in Riley Run Creek, impacting an area of 32,400 square feet.

**ANSWER:** Petco admits that, on or about January 28, 2011, crude oil and salt water were discharged from the S.M. Dial tank battery site near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXV, paragraph 18 and any implication that Petco

discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, Petco specifically denies that the containment berm was “inadequate.”

19. On January 29, 2011, IEPA inspected the site. On that date, Petco had constructed two siphon dams in Riley Run Creek – one at the William Ireland Low Water Bridge and one at the Fred Ireland Low Water Bridge. Eleven vacuum trucks were flushing and recovering crude oil and salt water from the creek. IEPA tested surface water at both bridges with chloride concentrations of 1339 mg/l at the William Ireland and 1704 mg/l at the Fred Ireland.

**ANSWER:** Petco admits that two dams were constructed and eleven vacuum trucks were utilized. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count I, paragraph 19, and, therefore, denies the same.

20. The unnamed creek and Riley Run Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXV, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXV, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair the unnamed creek and Riley Run Creek, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXV, paragraph 21.

22. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXV, paragraph 22.

23. By discharging visible oil into the unnamed creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXV, paragraph 23.

24. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXV, paragraph 24.

**COUNT XXVI**  
**ARNOLD UNIT TANK BATTERY**  
**IEMA Incident #2011-0257**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXVI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXVI.

18. On or about March 22, 2011, Petco discharged approximately ten barrels of crude oil and 100 barrels of salt water into an unnamed intermittent creek when a PVC line failed after

the metal braces broke off the Arnold Unit Tank Battery on the J.B. Tucker lease in or near St. Elmo, Illinois, potentially due to high winds. The spill impacted the creek for approximately one-eighth of a mile, just upstream of Wolf Creek, contaminating an area of approximately 45,400 square feet.

**ANSWER:** Petco admits that, on or about March 22, 2011, crude oil and salt water were discharged when a PVC line failed at the Arnold Unit Tank Battery on the J.B. Tucker lease in or near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXV, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, Petco specifically denies that any area was “contaminated.”

19. On March 23, 2011, four vacuum trucks were used to recover crude oil and salt water from the creek. Petco tested the creek with a result of 4023 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXV, paragraph 19, and, therefore, denies the same.

20. On March 24, 2011, IEPA inspected the site. On that date, Petco had constructed a siphon dam and two earthen dams in the unnamed creek, just upstream of Wolf Creek. IEPA tested the creek upstream of the siphon dam with a result of 1968 mg/l of chloride.

**ANSWER:** Petco admits that dams were constructed upstream from Wolf Creek. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXVI, paragraph 20, and therefore, denies the same.

21. On March 24, 2011, Petco tested the creek downstream of the siphon dam with a result of 1832 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXVI, paragraph 21, and, therefore, denies the same.

22. On March 25, 2011, Petco tested the creek downstream of the siphon dam with a result of 1561 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXVI, paragraph 22, and, therefore, denies the same.

23. On April 4, 2011, Petco tested the creek downstream of the siphon dam and upstream of the earthen dams with results ranging between 579 and 613 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXVI, paragraph 23, and, therefore, denies the same.

24. The unnamed creek and Wolf Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXVI, paragraph 24 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXVI, paragraph 24 alleges factual matters to which a response is necessary, Petco denies the same.

25. By discharging crude oil so as to visibly impair the unnamed creek, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVI, paragraph 25.

26. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in



Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVI, paragraph 26.

27. By discharging visible oil into the creek. Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVI, paragraph 27.

28. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVI, paragraph 28.

**COUNT XXVII**  
**J.T. WRIGHT #8 PRODUCTION WELL**  
**IEMA Incident #2011-0324**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXVII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXVII.

18. On or about April 11, 2011, Petco discharged approximately two barrels of crude oil from a leak in a two-inch gas vent "L" fitting associated with the J.T. Wright #8 production well in Fayette County near St. Elmo, Illinois. The spill impacted the soil and traveled

approximately one-eighth of a mile in a narrow creek that had a natural water flow due to recent rains and that drained to an approximately two-acre pond.

**ANSWER:** Petco admits that, on or about April 11, 2011, crude oil was discharged from a two-inch gas vent “L” fitting associated with the J.T. Wright #8 production well in Fayette County near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXVII, paragraph 18 and any implication that Petco discharged such oil intentionally or negligently, or that such oil was discharged into or near a “water” of the State. Further answering, Petco denies that soil was “impacted.”

19. On April 13, 2011, IEPA inspected the site. On that date, Petco had constructed three siphon dams in the creek. Oil was present at the first and second dam locations, but did not reach the pond.

**ANSWER:** Petco admits the allegations contained in Count XXVII, paragraph 19.

20. The creek and pond are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXVII, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXVII, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair the creek, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVII, paragraph 21.

22. By discharging visible oil into the creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVII, paragraph 22.

23. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVII, paragraph 23.

24. By causing or allowing crude oil to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to the creek, Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVII, paragraph 24.

**COUNT XXVIII**  
**KATIE OWENS PIT**  
**IEMA Incident #2011-0539**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXVIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXVIII.

18. On or about May 25, 2011, Petco discharged approximately twenty barrels or more of crude oil into Big Creek when the Katie Owens Pit in or near St. Elmo, Illinois overflowed. Petco intentionally cut the power to the pit pump in order to allow for power line repairs after a significant storm event, but the pit continued to receive liquids and eventually overflowed. The crude oil atop the water in the pit was the first material to be discharged; it flowed from the pit and

traveled approximately 250 feet in a small drainage ditch before directly entering Big Creek, a tributary to the Kaskaskia River.

**ANSWER:** Petco admits that, on or about May 25, 2011, crude oil was discharged when the Katie Owens Pit in or near St. Elmo, Illinois overflowed. However, Petco denies the remaining allegations in Count XXVIII, paragraph 18 and any implication that Petco discharged such oil intentionally or negligently, or that such oil was discharged into or near a “water” of the State. Further answering, Petco specifically denies that it “intentionally” cut the power to the pit pump.

19. On May 26, 2011, IEPA inspected the site. On that date, the direct impact to Big Creek was significant. Petco had established three separate sorbent boom locations within Big Creek, which was flowing at an above-average rate. The majority of the oil was contained at the first boom location, approximately one-quarter mile from where it entered Big Creek, but ribbons of oil were making it past the first boom sets and collecting at intermittent points along the south bank of the creek for another quarter-mile. The area was heavily wooded and required clearing before vacuum trucks could gain access.

**ANSWER:** Petco admits that it established boom locations within Big Creek. Answering further, Petco specifically denies the allegation of Count XXVIII, paragraph 19 that any direct impact to Big Creek was “significant.” Finally, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXVIII, paragraph 19, and, therefore, denies the same.

20. Big Creek and the Kaskaskia River are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXVIII, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count

XXVIII, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair Big Creek, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVIII, paragraph 21.

22. By discharging visible oil into Big Creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVIII, paragraph 22.

23. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVIII, paragraph 23.

24. By causing or allowing crude oil to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Big Creek and the Kaskaskia River, Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXVIII, paragraph 24.

**COUNT XXIX**  
**SARAH CLOW TANK BATTERY**  
**IEMA Incident #2011-0619**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXIX.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXIX.

18. On or about June 12, 2011, Petco discharged approximately 80 to 100 barrels of salt water into an unnamed creek when a valve on the header failed due to both interior and exterior corrosion at the Sarah Clow tank battery near St. Elmo, Illinois. The spill breached the inadequate containment berm and impacted soil, vegetation and surface water, for a total area of approximately 38,400 square feet.

**ANSWER:** Petco admits that, on or about June 12, 2011, salt water was discharged into when a valve on the header failed at the Sarah Clow tank battery near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXIX, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Further answering, Petco specifically denies that its containment berm was “inadequate” or that the release “impacted” soil, vegetation and surface water.

19. The unnamed creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXIX, paragraph 19 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXIX, paragraph 19 alleges factual matters to which a response is necessary, Petco denies the same.

20. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXIX, paragraph 20.

21. By causing or allowing salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to the creek, Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXIX, paragraph 21.

**COUNT XXX**  
**LEANDER WOOD #15B7 INJECTION WELL**  
**IEMA Incident #2011-0626**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXX.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXX.

18. On or about June 13, 2011, Petco discharged approximately twenty barrels of salt water when a drain valve on the top cylinder at the Leander Wood #15B7 injection well located in a fenced horse area in or near St. Elmo, Illinois was opened. Some of the salt water entered into an approximately 80 by 100 foot pond; what did not make it to the pond soaked into the soil of a mostly dry creek that was approximately 100 feet long from the injection well to the pond.

**ANSWER:** Petco admits that, on or about June 13, 2011, salt water was discharged when a drain valve opened at the Leander Wood #15B7 injection well located near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXX, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Petco further states that the drain valve at this location is enclosed by a guard.

19. On June 14, 2011, IEPA inspected the site. On that date, it was raining. Petco had constructed two dams in the ditch in the woods upstream from the pond. Petco tested the creek upstream of the first dam with a result of 4792 mg/l of chloride.

**ANSWER:** Petco admits that it constructed two dams. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXX, paragraph 19, and, therefore, denies the same.

20. The June 13, 2011 spill contaminated an area of approximately 6,650 square feet. Several shallow private drinking wells were in the vicinity of the spill site. One private well was within 1000 feet of the spill site and only 25 feet deep.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXX, paragraph 20, and, therefore, denies the same.

21. On June 16, 2011, Petco tested the creek upstream of the first dam with a result of 1800 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXX, paragraph 21, and, therefore, denies the same.

22. The surface pond and groundwater are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXX, paragraph 22 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXX, paragraph 22 alleges factual matters to which a response is necessary, Petco denies the same.

23. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).



**ANSWER:** Petco denies the allegations contained in Count XXX, paragraph 23.

24. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the creek, pond and groundwater, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXX, paragraph 24.

**COUNT XXXI**  
**MAE DURBIN SUMP**  
**IEMA Incident #2011-0646**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXXI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXXI.

18. On or about June 17, 2011, Petco discharged approximately five barrels of crude oil and ten barrels of salt water into a tributary of Big Creek due to human error when Petco was replacing the Mae Durbin Sump in or near St. Elmo, Illinois and one new line blew apart in the containment berm just before it began raining. The berm breached and crude oil and salt water spilled out onto the ground and into the tributary, contaminating an area of approximately 7000 square feet.

**ANSWER:** Petco admits that, on or about June 17, 2011, crude oil and salt water were discharged from Mae Durbin Sump near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXXI, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, Petco specifically denies that any area was “contaminated.”

19. On June 18, 2011, IEPA inspected the site. On that date, the water in the tributary was moving swiftly because of recent and continuing rains. Petco had constructed a siphon dam the prior day that was washed out by the heavy rains. Two river booms were present along the creek bank of the tributary, and little crude oil remained.

**ANSWER:** Petco admits the allegations contained in Count XXXI, paragraph 19 that a siphon dam was constructed. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXI, paragraph 19, and, therefore, denies the same.

20. The tributary and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXXI, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXXI, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair the tributary, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXI, paragraph 21.

22. By discharging visible oil into the tributary, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXI, paragraph 22.

23. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXI, paragraph 23.

24. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Big Creek and its tributary, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXI, paragraph 24.

**COUNT XXXII**  
**LEANDER WOOD LEASE**  
**IEMA Incident #2011-0647**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXXII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXXII.

18. On or about June 17, 2011, Petco discharged approximately one barrel of crude oil from the Leander Wood Lease into Wolf Creek in or near St. Elmo, Illinois, contaminating an area of approximately 27,000 square feet.

**ANSWER:** Petco admits that, on or about June 17, 2011, crude oil was discharged from the Leander Wood Lease near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXXII, paragraph 18 and any implication that Petco discharged such oil intentionally or negligently, or that such oil was discharged into or near a “water” of the State.

19. On June 18, 2011, IEPA inspected the site. On that date, the water in Wolf Creek was moving swiftly because of recent rains. Petco had deployed a river boom but it had washed away. No evidence of crude oil remained in Wolf Creek.

**ANSWER:** Petco admits that it deployed a boom in Wolf Creek that washed away. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXII, paragraph 19, and, therefore, denies the same.

20. Wolf Creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXXII, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXXII, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXII, paragraph 21.

**COUNT XXXIII**  
**BIG CREEK OVERFLOW FISH KILL**  
**IEMA Incident #2011-0742**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXXIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXXIII.

18. On or about July 9, 2011, Petco discharged crude oil and approximately 80 to 100 barrels of salt water into back waters and an overflow slough area of Big Creek when a two-inch high pressure pipeline associated with the George Durbin injection well in Fayette County near St. Elmo, Illinois, failed due to internal corrosion of a two-inch non-stainless steel nipple affixed to the pipeline. The salt water flowed for approximately 300 feet to an area known as "Big Creek Overflow," which is subject to routine flooding when Big Creek overflows its banks. Big Creek Overflow usually contains surface water and reed grasses, such as cattails. The ponded salt water affected approximately one-quarter acre of the area (where the fish kill occurred) and then flowed, via ditches, approximately another 400 feet to Big Creek.

**ANSWER:** Petco admits that, on or about July 9, 2011, crude oil and salt water were discharged when a two-inch pipeline associated with the George Durbin injection well failed near St. Elmo, Illinois. Petco is without information sufficient to admit or deny the allegations contained in Count XXXIII, paragraph 18 regarding the flow of the saltwater or the description of the "Big Creek Overflow," and, therefore, denies the same. However, Petco denies the remaining allegations in Count XXXIII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a "water" of the State. Finally, Petco specifically denies the allegations contained in Count XXXIII, paragraph 18 that the pipeline failed due to internal corrosion.

19. On July 9, 2011, IEPA inspected the site. On that date, several hundred minnows and 100 or more fish, including but not limited to, catfish and sunfish ranging in size from three to seven inches, were either dead or dying.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXIII, paragraph 19, and, therefore, denies the same.

20. On July 9, 2011, staining was present in the ditch leading to Big Creek, indicating salt water had entered Big Creek. The flow within Big Creek was substantial and quickly diluted the salt water. No dead fish were present in Big Creek. Petco had installed one containment dam within 75 to 100 feet of Big Creek and four vacuum trucks were recovering liquids.

**ANSWER:** Petco admits the allegations that it dammed Big Creek in multiple locations and that it employed vacuum trucks to recover liquids. Answering further, Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXIII, paragraph 20, and, therefore, denies the same.

21. On July 9, 2011, IEPA tested the surface water in the Big Creek Overflow where the fish kill occurred and where it is contained at the dam before entering Big Creek, with both results exceeding the maximum test limit for chloride at 6815 mg/l.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXIII, paragraph 21, and, therefore, denies the same.

22. On July 11, 2011, all the fish and aquatic life within the Big Creek Overflow were dead.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXIII, paragraph 22, and, therefore, denies the same.

23. On July 11, 2011, IEPA tested the Big Creek Overflow where the fish kill occurred with results ranging between 1437 and 1554 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXIII, paragraph 23, and, therefore, denies the same.

24. On July 11, 2011, IEPA tested the surface water contained at the dam before entering Big Creek with results ranging between 1047 and 1134 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXIII, paragraph 24, and, therefore, denies the same.

25. IDNR investigated the fish kill over the three-day period, documenting a total of fifty-four dead fish, including but not limited to, largemouth bass, white crappie and yellow bullhead.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXIII, paragraph 25, and, therefore, denies the same.

26. The Big Creek Overflow and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXXIII, paragraph 26 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXXIII, paragraph 26 alleges factual matters to which a response is necessary, Petco denies the same.

27. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIII, paragraph 27.

28. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIII, paragraph 28.

29. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Big Creek and its Overflow, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIII, paragraph 29.

**COUNT XXXIV**  
**CHARITY McCLAIN DISPOSAL LINE**  
**IEMA Incident #2011-1041**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXXIV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXXIV.

18. On or about September 28, 2011, Petco discharged an unknown amount of salt water into an intermittent drainage tributary to Little Creek when an older non-stainless steel clamp failed where the Charity McClain six-inch gravity drain salt water disposal pipeline connects underground to the Hobbs Sump pipeline on the T.C. Clow lease in Fayette County near St. Elmo, Illinois. The release occurred on the property of Mr. and Mrs. Gary Bartel and traveled over one-quarter of a mile in the tributary, very near to Little Creek.

**ANSWER:** Petco admits that, on or about September 28, 2011, salt water was discharged where the Charity McClain six-inch gravity drain salt water disposal pipeline connects underground to the Hobbs Sump pipeline on the T.C. Clow lease near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXXIV, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Finally, Petco specifically denies that denies that the clamp



was “older.” Further answering, the clamps and bolts at this location are now stainless steel, and the steel lines have been changed to polymer and PVC.

19. On September 29, 2011, IEPA inspected the site. On that date, the pipeline upgradient of the failed clamp was constructed of transite and the pipeline downgradient of the clamp was constructed of PVC plastic, indicating the clamp was originally intended to be temporary.

**ANSWER:** Petco denies the allegations contained in Count XXXIV, paragraph 19.

20. On September 29, 2011, Petco had constructed three dams within the tributary between the release and Little Creek and five vacuum trucks were recovering liquids and flushing the tributary with fresh water. The tributary was not flowing, but rather was holding ponded water throughout the drainage way.

**ANSWER:** Petco admits the allegations contained in Count XXXIV, paragraph 20 that it constructed three dams and five vacuum trucks were used to recover liquids. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXIV, paragraph 20, and, therefore, denies the same.

21. On September 29, 2011, IEPA tested surface water in the tributary between the second and third dam, approximately 150 feet from Little Creek, with a result exceeding the maximum test limit for chloride at 6109 mg/l.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXIV, paragraph 21, and, therefore, denies the same.

22. The surface waters in the tributary and Little Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXXIV, paragraph 22 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXXIV, paragraph 22 alleges factual matters to which a response is necessary, Petco denies the same.

23. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIV, paragraph 23.

24. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIV, paragraph 24.

25. By causing or allowing salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Little Creek and its tributary, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIV, paragraph 25.

**COUNT XXXV**  
**MARTIN McCLAIN #8-W INJECTION WELL**  
**IEMA Incident #2011-1169**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXXV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXXV.

18. On or about November 1, 2011, Petco discharged approximately 400 barrels of salt water into Little Creek when the one-inch right swedge to the Martin McClain 8W injection well in Fayette County near St. Elmo, Illinois developed a hole due to both internal and external corrosion. The release traveled two miles in Little Creek, contaminating an area of approximately 2.6 acres.

**ANSWER:** Petco admits that, on or about November 1, 2011, salt water was discharged due to a hole in a one-inch right swedge to the Martin McClain 8W injection well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXXV, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State.

19. On November 2, 2011, IEPA inspected the site. On that date, Petco had constructed three siphon dams in Little Creek and seven vacuum trucks were recovering salt water. IEPA tested surface water in Little Creek at the first recovery point, Bartell’s Low Water Bridge, with a result exceeding the maximum test limit for chloride at 6109 mg/l. IEPA also tested water at each siphon dam, with results of 2406 mg/l of chloride at siphon dam #1, 3858 mg/l of chloride at siphon dam #2, and a maximum test limit of 6109 mg/l of chloride at siphon dam #3. Two miles downstream from the release, IEPA tested the water at the Hobbs Low Water Bridge, with a result of 972 mg/l of chloride.

**ANSWER:** Petco admits that it constructed three dams and employed seven vacuum trucks. Answering further, Petco states that it is without information that is sufficient to admit or

deny the remaining allegations contained in Count XXXV, paragraph 19, and, therefore, denies the same.

20. On November 2, 2011, due to the maximum limit reading of 6109 mg/l of chloride at the Bartell's Low Water Bridge during the field test, IEPA collected a water sample for further laboratory analysis: surface water chloride sample #S301. Laboratory analysis of sample #S301 indicated 32,100 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXV, paragraph 20, and, therefore, denies the same.

21. On November 3, 2011, Little Creek had flowing water about halfway up the siphon dams due to overnight rainfall and seven vacuum trucks were recovering salt water and flushing Little Creek with fresh water. Petco dammed off the Hobbs Low Water Bridge for containment and tested surface water in Little Creek, with chloride concentrations exceeding 500 mg/l as follows:

<b>Siphon Dam #1</b>	<b>Siphon Dam #2</b>	<b>Hobbs Low Water Bridge</b>
6587 mg/l (max)	4374 mg/l	2470 mg/l

**ANSWER:** Petco admits that it built dams and utilized vacuum trucks. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXV, paragraph 21, and, therefore, denies the same.

22. On November 4, 2011, IEPA inspected the site. On that date, two vacuum trucks were flushing from the release point and five vacuum trucks were recovering salt water in Little Creek. During the inspection, IEPA and Petco tested surface water in Little Creek, with chloride concentrations exceeding 500 mg/l as follows:

Bartell's Low Water Bridge (mg/L)		Siphon Dam #1 (mg/L)		Siphon Dam #2 (mg/L)		Siphon Dam #3 (mg/L)		Hobbs Low Water Bridge (mg/L)	
IEPA	Petco	IEPA	Petco	IEPA	Petco	IEPA	Petco	IEPA	Petco
2206	2339	3487	3641	5389	5019	6109	5699	3164	3024

**ANSWER:** Petco admits that it utilized vacuum trucks. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXV, paragraph 22, and, therefore, denies the same.

23. Petco tested surface water in Little Creek from November 4, 2011 through November 9, 2011, with chloride concentrations exceeding 500 mg/l as follows:

LOCATION	11/4/11	11/8/11	11/9/11	11/10/11
Bartell's Low Water Bridge (mg/L)	2543	1041	-	-
Siphon Dam #1 (mg/L)	1986	1041	-	-
Siphon Dam #2 (mg/L)	4474	-	673	-
Siphon Dam #3 (mg/L)	6587 (max)	806	806	-
Hobbs Low Water Bridge (mg/L)	2770	1041	613	673

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXV, paragraph 23, and, therefore, denies the same.

24. Little Creek is a "water" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXXV, paragraph 24 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXXV, paragraph 24 alleges factual matters to which a response is necessary, Petco denies the same.

25. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in

Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXV, paragraph 25.

26. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXV, paragraph 26.

**COUNT XXXVI**  
**Loudon #33 #G4 Injection Well**  
**IEMA Incident #2012-0001**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXXVI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXXVI.

18. On or about January 2, 2012, Petco discharged approximately twenty to fifty barrels of salt water at the #33 injection well #G4 on the S.M. Dial Lease in or near St. Elmo, Illinois, after vandals apparently opened the valve and removed a one-quarter inch bull plug. The release traveled on land downgradient into a ditch and then into an unnamed tributary of Riley Run Creek, approximately one mile from the release point.

**ANSWER:** Petco admits that, on or about January 2, 2012, salt water was discharged at the #33 injection well #G4 on the S.M. Dial Lease near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXXVI, paragraph 18 and any implication that Petco

discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State.

19. On January 3, 2012, IEPA inspected the site. On that date, Petco had constructed three siphon dams in the tributary and one siphon dam downstream of the tributary in Riley Run Creek at the Low Water Bridge. Four vacuum trucks were recovering salt water from the tributary.

**ANSWER:** Petco admits the allegations contained in Count XXXVI, paragraph 19.

20. On January 3, 2012, IEPA tested water at each siphon dam, with results of 3487 mg/l of chloride at siphon dam #1 and 3179 mg/l at siphon dam #2.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXVI, paragraph 20, and, therefore, denies the same.

21. Petco tested surface water at each siphon dam from January 3, 2012 through January 6, 2012, with chloride concentrations exceeding 500 mg/l as follows:

<b>LOCATION</b>	<b>1/3/12</b>	<b>1/4/12</b>	<b>1/6/12</b>
Siphon Dam #1 (mg/L)	2660	1610	-
Siphon Dam #2 (mg/L)	3179	2241	-
Siphon Dam #3 (mg/L)	1610	2060	530

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXVI, paragraph 21, and, therefore, denies the same.

22. Riley Run Creek and its tributary are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXXVI, paragraph 22 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXXVI, paragraph 22 alleges factual matters to which a response is necessary, Petco denies the same.

23. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXVI, paragraph 23.

24. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXVI, paragraph 24.

25. By causing or allowing salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Little Creek and its tributary, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXVI, paragraph 25.

**COUNT XXXVII**  
**MAE DURBIN SUMP STORAGE TANK**  
**IEMA Incident #2012-0068**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXXVII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXXVII.

18. On or about January 27, 2012, Petco discharged approximately fifty barrels of salt water into an unnamed tributary to Big Creek during a power outage at the Mae Durbin Sump salt water tank in or near St. Elmo, Illinois. The salt water overflowed from the aboveground storage



tank and collapsed the containment berm, allowing the salt water to reach the unnamed tributary flowing next to the containment berm.

**ANSWER:** Petco admits that, on or about January 27, 2012, salt water was discharged during a power outage at the Mae Durbin Sump salt water tank near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXXVII, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State.

19. On January 27, 2012, IEPA inspected the site. On that date, Petco had constructed one siphon dam and employed four booms downstream of the siphon dam. Five vacuum trucks were recovering salt water from the unnamed tributary. Water in the tributary was moving swiftly due to recent rainfall and chloride levels were low, indicating the salt water had been carried past the siphon dam and diluted by the rainfall.

**ANSWER:** Petco admits that it constructed a dam and employed booms and vacuum trucks. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXVII, paragraph 19, and, therefore, denies the same.

20. The unnamed tributary and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXXVII, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXXVII, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXVII, paragraph 21.

22. By causing or allowing salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Big Creek and its tributary, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXVII, paragraph 22.

**COUNT XXXVIII**  
**J.B. DREES #13 FLOWLINE**  
**IEMA Incident #2012-0130**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXXVIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXXVIII.

18. On or about February 19, 2012, Petco discharged approximately five barrels of crude oil and fifty barrels of salt water into Wolf Creek, a tributary to Big Creek, when a steel-sleeved fiberglass crude oil flowline serving the J.B. Drees #13 well broke where it crossed Wolf Creek and beneath the northern creek bank in or near St. Elmo, Illinois. The release traveled one-quarter of a mile in Wolf Creek before two log jams trapped a majority of the oil.

**ANSWER:** Petco admits that, on or about February 19, 2012, crude oil and salt water were discharged when a steel-sleeved fiberglass crude oil flowline serving the J.B. Drees #13 well broke near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXXVIII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or

negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, the flowlines at this location are now fiberglass, a new header has been installed, and a new pumpover line has been installed underneath the creek bed.

19. On February 19, 2012, IEPA inspected the site. On that date, the sandy creek bank was saturated with oil and was visibly leaching oil and sheen to Wolf Creek. An approximately ten by twelve area was oil-stained from the pump spraying oil farther up the creek bank from the broken sleeve.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XXXVIII, paragraph 19, and, therefore, denies the same.

20. On February 19, 2012, Petco had deployed a skirted boom approximately 100 feet downstream of the release. Pockets of oil were trapped approximately 100 feet downstream of the skirted boom. Further downstream, a large log debris jam trapped the majority of the oil. Even further downstream, an extremely large log debris jam trapped the leading edge of the oil. As a result, the log jams contained a majority of the oil within one-quarter to one-third mile of the release. A second skirted boom was positioned downstream of the second log jam and two vacuum trucks were recovering crude oil and sheen from Wolf Creek.

**ANSWER:** Petco admits the allegations contained in Count XXXVIII, paragraph 20.

21. On February 19, 2012, IEPA instructed Petco to excavate the oil soaked sand on the creek bank that continued to leach oil into Wolf Creek and to install additional sorbent booms closer to the release and downstream of both log jams.

**ANSWER:** Petco admits the allegations contained in Count XXXVIII, paragraph 21.

22. On February 21, 2012, IEPA inspected the site. On that date, the contaminated creek bank and contaminated wood from the first log jam was being excavated and stockpiled.

The water level in Wolf Creek was dropping, allowing rainbow sheen to escape the second log jam uncontained. Upon IEPA instruction, Petco deployed several sections of additional sorbent booms downstream of the second jam during the inspection.

**ANSWER:** Petco admits the allegations contained in Count XXXVIII, paragraph 22 that it deployed additional booms upon IEPA instruction. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXVIII, paragraph 22, and, therefore, denies the same.

23. On February 23, 2012, Petco completed cleaning the creek and the creek banks, with the exception of the second log jam, which it left in place for containment until after the forecasted rainfall. Petco generated at least four dumpsters of oily debris excavated from Wolf Creek and its banks.

**ANSWER:** Petco admits the allegations contained in paragraph XXXVIII, paragraph 23.

24. Wolf Creek and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXXVIII, paragraph 24 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXXVIII, paragraph 24 alleges factual matters to which a response is necessary, Petco denies the same.

25. By discharging crude oil so as to visibly impair Wolf Creek, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXVIII, paragraph 25.

26. By discharging visible oil into Wolf Creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXVIII, paragraph 26.

27. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXVIII, paragraph 27.

28. By causing or allowing crude oil to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Wolf Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXVIII, paragraph 28.

**COUNT XXXIX**  
**KENNETH STUBBLEFIELD #1 FLOWLINE**  
**IEMA Incident #2012-0264**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XXXIX.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XXXIX.

18. On or about March 24, 2012, Petco discharged approximately five barrels of crude oil and forty barrels of salt water from a hole caused by corrosion in the two-inch steel flowline serving the Kenneth Stubblefield #1 production well in or near St. Elmo, Illinois. The release had traveled approximately 200 feet down a hillside to an intermittent drainage way and then

approximately one-half mile to reach Wolf Creek, a tributary of Big Creek, before Petco discovered it on March 27, 2012. The release contaminated an area of approximately 3.2 acres.

**ANSWER:** Petco admits that, on or about March 24, 2012, crude oil and salt water were discharged from a hole in the two-inch steel flowline serving the Kenneth Stubblefield #1 production well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XXXIX, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, the flowline at this location is now fiberglass from the well to the header.

19. On March 27, 2012, IEPA inspected the site. On that date, the intermittent drainage way was flowing and oiled for the one-half mile distance from the point where the release entered until it discharged into Wolf Creek. Petco had constructed a siphon dam at the mouth of the intermittent drainage way and deployed a skirted boom in Wolf Creek where the discharge entered.

**ANSWER:** Petco admits that it constructed a dam and deployed a boom. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXIX, paragraph 19, and, therefore, denies the same.

20. On March 27, 2012, Wolf Creek contained intermittent pockets of oil, generally along the banks, for a distance of approximately one-quarter mile. Petco was installing another skirted boom near the mouth of Wolf Creek before it enters Big Creek.

**ANSWER:** Petco admits that it deployed a boom. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXIX, paragraph 20, and, therefore, denies the same.

21. On March 27, 2012, Big Creek contained smaller pockets of oil and oil sheen for a distance of a couple of hundred yards. Petco had deployed a skirted boom in Big Creek near the leading edge of the release.

**ANSWER:** Petco admits that it constructed a dam and deployed a boom. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XXXIX, paragraph 21, and, therefore, denies the same.

22. By March 27, 2012, the single steel flow line had impacted soils and more than three-quarters of a mile of surface waters.

**ANSWER:** Petco denies the allegations contained in Count XXXIX, paragraph 22.

23. Wolf Creek and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XXXIX, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent Count XXXIX, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By discharging crude oil so as to visibly impair the flowing drainage way, Wolf Creek and Big Creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIX, paragraph 24.

25. By discharging visible oil into the flowing drainage way, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIX, paragraph 25.

26. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIX, paragraph 26.

27. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to Big Creek, Little Creek and its tributary, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XXXIX, paragraph 27.

**COUNT XL**  
**ED HARPER SUMP TANK BATTERY**  
**IEMA Incident #2012-0349**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XL.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XL.

18. On or about April 18, 2012, Petco discharged approximately twenty barrels of crude oil and forty barrels of salt water into an unnamed creek when a reclosure switch shorted out on an electrical pole and the Ed Harper Sump tank battery in or near St. Elmo, Illinois released product that overflowed the inadequate containment berm and reached the unnamed creek, which is an unnamed tributary to the South Fork Kaskaskia River. The creek is fed by two fresh water springs,



which helped the release cover the entire width of the creek while it traveled for one-eighth of a mile downstream.

**ANSWER:** Petco admits that, on or about April 18, 2012, crude oil and salt water were discharged when a reclosure switch shorted out at the Ed Harper Sump tank battery near St. Elmo, Illinois. Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XL, paragraph 18, that the creek is fed by two fresh water springs, “which helped the release cover the entire width of the creek while it traveled for one-eighth of a mile downstream,” and, therefore, denies the same. Petco denies the remaining allegations in Count XL, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, Petco specifically denies that the amount of crude oil released totaled twenty barrels, the amount of salt water released totaled forty barrels, and its containment berm was “inadequate.”

19. On April 18, 2012, IEPA inspected the site. On that date, Petco had constructed two siphon dams in the creek approximately 660 feet from the release point and five vacuum trucks were recovering crude oil and salt water from the creek.

**ANSWER:** Petco admits that it constructed dams and employed vacuum trucks. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XL, paragraph 19, and, therefore, denies the same.

20. On April 19, 2012, IEPA inspected the site. On that date, five vacuum trucks were recovering crude oil and salt water from the creek and crews were cleaning the creek with booms and pads. IEPA tested water at siphon dam #2 with a result of 1072 mg/l of chloride. Crude oil was present and being recovered with pads both upstream and downstream of siphon dam #2.

**ANSWER:** Petco admits that it employed vacuum trucks, booms, and pads. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XL, paragraph 20, and, therefore, denies the same.

21. On April 20, 2012, Petco was collecting crude oil at siphon dam #1 and three vacuum trucks continued to recover crude oil from the creek.

**ANSWER:** Petco admits the allegations contained in Count XL, paragraph 21.

22. On April 24, 2012, IEPA inspected the site. On that date, crude oil and a brown haze was still present on the surface water upstream of siphon dam #1. Petco had only one vacuum truck working on recovery because it was focusing on a more recent spill that occurred on April 21, 2012. See Count XLI below.

**ANSWER:** Petco admits the allegations contained in Count XL, paragraph 22.

23. The unnamed spring-fed creek and the South Fork Kaskaskia River are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XL, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent Count XL, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By discharging crude oil so as to visibly impair the spring-fed creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XL, paragraph 24.

25. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in

Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XL, paragraph 25.

26. By discharging visible oil into the spring-fed creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XL, paragraph 26.

27. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XL, paragraph 27.

28. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to the spring-fed creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XL, paragraph 28.

**COUNT XLI**  
**JOHN DIAL #5 FLOWLINE**  
**IEMA Incident #2012-0369**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XLI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XLI.

18. On or about April 21, 2012, Petco discharged at least ten barrels of crude oil and twenty barrels of salt water from a corroded two-inch steel flowline at the John Dial #5 production well, which produces 700 barrels of liquids a day, in or near St. Elmo, Illinois. The release traveled by entering a drainage ditch, then Riley Run Creek, where the crude oil traveled approximately three-quarters of a mile before containment, and then migrating to Big Creek, with the salt water traveling nearly two miles downstream to a point where recovery was no longer possible, ultimately contaminating an area of approximately 2.5 acres.

**ANSWER:** Petco admits that, on or about April 21, 2012, crude oil and salt water were discharged from a flowline at the John Dial #5 production well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XLI, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, Petco specifically denies the allegations that any area was “contaminated.”

19. On April 23, 2012, IEPA inspected the site. There were no living organisms left in Riley Run Creek to be affected by the release. Seven vacuum trucks were recovering liquids from the drainage ditch. IEPA tested water in Riley Run Creek with a result exceeding the maximum test limit for chloride at 6100 mg/l.

**ANSWER:** Petco admits the allegation that vacuum trucks were used. Petco states that it is without information sufficient to admit or deny the remaining allegations contained in Count XLI, paragraph 19, and, therefore, denies the same.

20. Riley Run Creek and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XLI, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XLI, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair Riley Run Creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLI, paragraph 21.

22. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLI, paragraph 22.

23. By discharging visible oil into the drainage ditch and Riley Run Creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLI, paragraph 23.

24. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLI, paragraph 24.

25. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the drainage way, Riley Run Creek and Big Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLI, paragraph 25.

**COUNT XLII**  
**M.E. HOGAN #11 PRODUCTION WELL**  
**IEMA Incident #2012-0469**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XLII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XLII.

18. On or about May 12, 2012, Petco discharged approximately two to five barrels of crude oil from the M.E. Hogan #11 production well in or near St. Elmo, Illinois when the valve to the well header was closed, purportedly due to vandalism, and the pump jack continued to operate, spraying oil from the valve on the header pipe. The release traveled on the ground from the header pipe, downgradient for a distance of approximately seventy-five to ninety feet before entering an approximately 1.5-acre pond.

**ANSWER:** Petco admits that, on or about May 12, 2012, crude oil was discharged from the M.E. Hogan #11 production well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XLII, paragraph 18 and any implication that Petco discharged such oil intentionally or negligently, or that such oil was discharged into or near a “water” of the State.

19. On May 15, 2012, IEPA inspected the site. On that date, approximately half of the pond was covered with oil or oil sheen. Petco had deployed booms to contain the oil in the pond, but had not yet established adequate containment, so that wind was allowed to blow oil throughout. A ground surface area of approximately forty feet by forty feet next to the well was oil covered.

**ANSWER:** Petco admits that it deployed booms. Petco denies that containment was not “adequate.” Answering Further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XLII, paragraph 19, and, therefore, denies the same.

20. The 1.5-acre pond is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XLII, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XLII, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair the pond, Respondent caused offensive conditions in a water of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLII, paragraph 21.

22. By discharging visible oil into the pond, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLII, paragraph 22.

23. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLII, paragraph 23.

24. By causing or allowing crude oil to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the pond, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLII, paragraph 24.

**COUNT XLIII**  
**L.F. BECK #5 FLOWLINE**  
**IEMA Incident #2012-0479**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XLIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XLIII.

18. On or about May 15, 2012, Petco discharged approximately two barrels of crude oil and twenty barrels of salt water when the L.F. Beck #5 underground two-inch fiberglass flowline ruptured on a hillside and entered a 2-acre pond in or near St. Elmo, Illinois. The release traveled approximately one-eighth of a mile in a drainage ditch before entering the pond, contaminating an area of approximately 2.8 acres and requiring removal of dead vegetation and oil from the ditch and pond.

**ANSWER:** Petco admits that, on or about May 15, 2012, crude oil and salt water were discharged when the L.F. Beck #5 underground fiberglass flowline ruptured near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XLIII, paragraph 18 and any implication



that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, Petco specifically denies that an area was “contaminated.”

19. On May 15, 2012, IEPA inspected the site. On that date, three vacuum trucks were recovering oil from the ditch and pond. Oil was flowing past the one siphon dam in the ditch, entering the pond and becoming windblown. Oil was present on both the northern and southern banks of the pond.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XLIII, paragraph 19, and, therefore, denies the same.

20. The pond is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XLIII, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count XLIII, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair the pond, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLIII, paragraph 21.

22. By discharging visible oil into the pond, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLIII, paragraph 22.

23. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLIII, paragraph 23.

24. By causing or allowing crude oil and salt water to be deposited upon the land in the ditch in such place and manner so as to create a water pollution hazard through its proximity to the pond, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLIII, paragraph 24.

**COUNT XLIV**  
**MAUDE-FOSTER #3 INJECTION WELL**  
**IEMA Incident #2012-0506**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XLIV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XLIV.

18. On or about May 21, 2012, Petco discharged approximately 500 barrels of salt water from a two-inch pipeline serving the Maude-Foster #3 injection well in Jefferson County near Dix, Illinois. The release traveled for approximately one mile through an unnamed tributary to reach Snow Creek, contaminating an area of approximately 9000 square yards.

**ANSWER:** Petco admits that, on or about May 21, 2012, salt water was discharged from pipeline serving the Maude-Foster #3 injection well near Dix, Illinois. However, Petco denies the remaining allegations in Count XLIV, paragraph 18 and any implication that Petco discharged

such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Further answering, Petco specifically denies that an area was “contaminated.”

19. The unnamed tributary and Snow Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XLIV, paragraph 19 contain legal conclusions to which no substantive responses are necessary. To the extent Count XLIV, paragraph 19 alleges factual matters to which a response is necessary, Petco denies the same.

20. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board’s regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLIV, paragraph 20.

**COUNT XLV**  
**LIZZIE SMITH TANK BATTERY DISPOSAL LINE**  
**IEMA Incident #2012-0528**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XLV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XLV.

18. On or about May 25, 2012, Petco discharged approximately twenty (20) barrels of salt water from a corroded gravity drain disposal line to the Hobbs Sump from the Lizzie Smith tank battery located on a hillside in or near St. Elmo, Illinois. The release was contained in a farm field and intermittent creek that was dry at the time of the release, contaminating an area of approximately 4090 square feet.

**ANSWER:** Petco admits that, on or about May 25, 2012, salt water was discharged from a disposal line to the Hobbs Sump from the Lizzie Smith tank battery near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XLV, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Further answering, Petco denies that an area was “contaminated.” Petco states that the disposal line at this location has been replaced with a PVC line.

19. By causing, allowing or threatening salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to the creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLV, paragraph 19.

**COUNT XLVI**  
**EDITH DURBIN #5 INJECTION PIPELINE**  
**IEMA Incident #2012-0550**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XLVI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XLVI.

18. On or about May 31, 2012, Petco discharged approximately 500 barrels of salt water into Little Creek when an underground three-inch steel and fiberglass connection to the Edith Durbin #5 injection pipeline ruptured in or near St. Elmo, Illinois. The release occurred one-half of a mile from the residence of Mr. and Mrs. Gary Bartel and traveled approximately two miles in Little Creek before entering the South Fork Kaskaskia River.

**ANSWER:** Petco admits that, on or about May 31, 2012, salt water was discharged from a connection to the Edith Durbin #5 injection pipeline near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XLVI, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State.

19. On June 1, 2012, IEPA inspected the site. On that date, Petco was unable to contain the 500 barrels of salt water due to heavy rainfall the prior day, and the spill had traveled approximately three miles from the release point. Petco had constructed one siphon dam in Little Creek, which had been breached by the rainfall and rebuilt, and four vacuum trucks were recovering liquids from Little Creek. IEPA tested the surface water at the siphon dam with a result of 4288 mg/l of chloride and approximately two miles downstream at the South Fork Kaskaskia River Bridge with a result of 637 mg/l of chloride.

**ANSWER:** Petco admits that it constructed and rebuilt a siphon dam and utilized vacuum trucks. Petco denies that it “was unable to contain the 500 barrels of salt water due to heavy rainfall.” Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XLVI, paragraph 19, and, therefore, denies the same.

20. Petco constructed a total of four siphon dams and tested surface water at each of the siphon dams and the Hobbs Low Water Bridge from June 4, 2012 through June 8, 2012, with chloride concentrations exceeding 500 mg/l as follows:

<b>LOCATION</b>	<b>6/4/12</b>	<b>6/5/12</b>	<b>6/6/12</b>	<b>6/7/12</b>	<b>6/8/12</b>
Siphon Dam #1 (mg/l)	6559	5828	5828	4685	3834
Siphon Dam #2 (mg/l)	6559	6559	5828	5212	5212
Siphon Dam #3 (mg/l)	2060	2060	2660	2241	1369
Siphon Dam #4 (mg/l)	2660	2440	2440	1747	1610
Behind Dam #4 (mg/l)	6559	6559	5828	5828	5828

Hobbs Low Water Bridge (mg/l)	6559	5828	5212	4685	3834
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**ANSWER:** Petco admits the allegations contained in Count XLVI, paragraph 20. Further answering, Petco's chloride testing was on-site and preliminary.

21. Petco tested surface water at each of the siphon dams and the Hobbs Low Water Bridge from June 11, 2012 through June 19, 2012, with chloride concentrations exceeding 500 mg/l as follows:

LOCATION	6/11/12	6/12/12	6/13/12	6/14/12	6/15/12	6/18/12	6/19/12
Siphon Dam #1 (mg/l)	1369	1072	1164	1610	1610	1369	1262
Siphon Dam #2 (mg/l)	5828	988	1262	538	2241	5212	5212
Siphon Dam #3 (mg/l)	1262	988	1484	1747	1896	5486	3486
Siphon Dam #4 (mg/l)	3834	645	1610	1747	2660	3129	2905
Behind Dam #4 (mg/l)	5828	645	1610	1747	1610	2905	2660
Hobbs Low Water Bridge (mg/l)	2905	988	1484	1896	1610	2660	2660

**ANSWER:** Petco denies that preliminary on-site chloride concentration testing results totaled 5486 mg/l and 3129 mg/l at Siphon Dam #3 and Siphon Dam #4, respectively, on June 18, 2012. Petco admits the remaining allegations contained in Count XLVI, paragraph 21.

22. Petco tested surface water at each of the siphon dams and the Hobbs Low Water Bridge from June 20, 2012 through June 26, 2012, with chloride concentrations exceeding 500 mg/l as follows:

LOCATION	6/20/12	6/21/12	6/22/12	6/23/12	6/24/12	6/25/12	6/26/12
Siphon Dam #1 (mg/l)	704	4515	4068	5034	1806	871	1111
Siphon Dam #2 (mg/l)	5212	5034	4515	4068	4068	3680	4068
Siphon Dam #3 (mg/l)	2660	2538	2538	2774	2538	2135	2326

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Siphon Dam #4 (mg/l)	2660	2538	2538	2774	2538	2538	4068
Behind Dam #4 (mg/l)	1262	2538	2538	1963	1664	1305	1111
Hobbs Low Water Bridge (mg/l)	1164	2538	2538	945	1664	1305	1534

**ANSWER:** Petco denies that preliminary on-site chloride concentration testing results totaled 1963 mg/l at Behind Dam #4 on June 23, 2012. Petco admits the remaining allegations contained in Count XLVI, paragraph 22.

23. On June 27, 2012, IEPA inspected the site. The creek had been so dry that Petco's flushing with freshwater was leaching the salt water out of the sand in the creek bottom and Petco did not have adequate vacuum trucks on site. Minnows were swimming in salt water pooled at siphon dams #2 and #4. IEPA tested the surface water, with chloride concentrations exceeding 500 mg/l as follows:

Siphon Dam #1	Siphon Dam #2	Siphon Dam #3	Siphon Dam #4	Hobbs Low Water Bridge
4792 mg/l	2880 mg/l	3858 mg/l	1457 mg/l	1144 mg/l

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XLVI, paragraph 23, and, therefore, denies the same.

24. Petco tested surface water at each of the siphon dams and the Hobbs Low Water Bridge from June 28, 2012 through July 5, 2012, with chloride concentrations exceeding 500 mg/l as follows:

LOCATION	6/28/12	6/29/12	6/30/12	7/1/12	7/2/12	7/3/12	7/5/12
Siphon Dam #1 (mg/l)	-	-	1534	1534	-	-	-
Siphon Dam #2 (mg/l)	4515	1963	2538	2135	3040	3680	1415
Siphon Dam #3 (mg/l)	3040	2538	-	-	1025	1111	1305

Siphon Dam #4 (mg/l)	1963	5034	1035	1025	1305	1305	1963
Behind Dam #4 (mg/l)	566	1963	945	871	1415	1204	676
Hobbs Low Water Bridge (mg/l)	1305	1204	1204	1111	1305	1111	676

**ANSWER:** Petco denies that preliminary on-site chloride concentration testing results totaled 1035 mg/l at Siphon Dam #4 on June 30, 2012. Petco admits the remaining allegations contained in Count XLVI, paragraph 24.

25. Petco tested surface water at the siphon dams and the Hobbs Low Water Bridge from July 6, 2012 through July 13, 2012, with chloride concentrations exceeding 500 mg/l as follows:

LOCATION	7/6/12	7/7/12	7/9/12	7/10/12	7/11/12	7/13/12
Siphon Dam #2 (mg/l)	945	871	1025	3340	3040	3680
Siphon Dam #3 (mg/l)	801	1305	1415	1204	3340	871
Siphon Dam #4 (mg/l)	1534	1305	1415	3680	1025	3340
Behind Dam #4 (mg/l)	1534	1806	1806	-	737	516
Hobbs Low Water Bridge (mg/l)	619	619	676	-	-	-

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XLVI, paragraph 25 regarding any preliminary on-site chloride concentration testing results on July 10, 2012, and, therefore, denies the same. Petco admits the remaining allegations contained in Count XLVI, paragraph 25.

26. Petco tested surface water at the siphon dams and the Hobbs Low Water Bridge from July 15, 2012 through July 19, 2012, with chloride concentrations exceeding 500 mg/l as follows:



LOCATION	7/15/12	7/16/12	7/17/12	7/18/12	7/19/12	7/21/12
Siphon Dam #2 (mg/l)	2774	2538	2538	2774	2774	2538
Siphon Dam #3 (mg/l)	871	871	737	737	-	-
Siphon Dam #4 (mg/l)	2774	2538	2326	676	-	-
Behind Dam #4 (mg/l)	-	-	516	737	-	-
Hobbs Low Water Bridge (mg/l)	-	-	516	-	-	-

**ANSWER:** Petco admits the allegations contained in Count XLVI, paragraph 26.

Further answering, Petco’s chloride testing was on-site and preliminary.

27. Petco tested surface water at siphon dam #2 from July 22, 2012 through July 28, 2012, with chloride concentrations exceeding 500 mg/l as follows:

7/22/12	7/23/12	7/24/12	7/25/12	7/26/12	7/28/12
2538 mg/l	2538 mg/l	1963 mg/l	1025 mg/l	1025 mg/l	871 mg/l

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count XLVI, paragraph 27 regarding any preliminary on-site chloride concentration testing results at Siphon Dam #2 on July 24, 2012, and, therefore, denies the same. Petco admits the remaining allegations contained in Count XLVI, paragraph 27.

28. Little Creek and the South Fork Kaskaskia River are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XLVI, paragraph 28 contain legal conclusions to which no substantive responses are necessary. To the extent Count XLVI, paragraph 28 alleges factual matters to which a response is necessary, Petco denies the same.

29. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in

Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLVI, paragraph 29.

30. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLVI, paragraph 30.

**COUNT XLVII**  
**ROBERT McCLOY DISPOSAL LINE**  
**IEMA Incident #2012-0561**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XLVII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XLVII.

18. On or about June 11, 2012, Petco discharged approximately 100 barrels of salt water from a pig trap on the Robert McCloy disposal pipeline into a dry tributary to Riley Run Creek in or near St. Elmo, Illinois.

**ANSWER:** Petco admits that, on or about June 11, 2012, salt water was discharged from a pig trap on the Robert McCloy disposal pipeline near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XLVII, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a "water" of the State.

19. Petco installed four siphon dams and tested surface water at each of the dams from June 11, 2012 through June 18, 2012, with chloride concentrations exceeding 500 mg/l as follows:

LOCATION	6/11/12	6/12/12	6/13/12	6/14/12	6/15/12	6/18/12
Siphon Dam #1 (mg/l)	909	-	590	645	909	1164
Siphon Dam #2 (mg/l)	538	-	836	768	400	2060
Siphon Dam #3 (mg/l)	3175	590	836	768	988	988
Siphon Dam #4 (mg/l)	704	-	-	645	909	1610

**ANSWER:** Petco admits that it installed siphon dams. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XLVII, paragraph 19, and, therefore, denies the same.

20. Petco installed four siphon dams and tested surface water at each of the dams from June 19, 2012 through June 25, 2012, with chloride concentrations exceeding 500 mg/l as follows:

LOCATION	6/19/12	6/20/12	6/21/12	6/22/12	6/25/12
Siphon Dam #1 (mg/l)	2060	1369	566	566	-
Siphon Dam #2 (mg/l)	1164	1369	-	801	-
Siphon Dam #3 (mg/l)	1610	836	-	-	-
Siphon Dam #4 (mg/l)	2060	2660	1534	1111	1111

**ANSWER:** Petco admits that it installed siphon dams. Answering further, Petco states that it is without information that is sufficient to admit or deny the remaining allegations contained in Count XLVII, paragraph 20, and, therefore, denies the same.

21. Riley Run Creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XLVII, paragraph 21 contain legal conclusions to which no substantive responses are necessary. To the extent Count XLVII, paragraph 21 alleges factual matters to which a response is necessary, Petco denies the same.

22. By causing or allowing salt water to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to Riley Run Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLVII, paragraph 22.

**COUNT XLVIII**  
**ARNOLD UNIT DISPOSAL LINE**  
**IEMA Incident #2012-0713**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XLVIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XLVIII.

18. On or about July 13, 2012, Petco discharged approximately thirty barrels of salt water when a collar cracked on the six-inch Arnold Unit transite disposal pipeline in or near St. Elmo, Illinois when it was being pigged. The salt water traveled approximately 800 feet, across the ground and into a dry unnamed creek, contaminating an area of approximately 11,750 square feet. The release was located in an area with high potential for groundwater recharge, putting nearby private drinking wells at risk.

**ANSWER:** Petco admits that, on or about July 13, 2012, salt water was discharged when a collar cracked on the Arnold Unit transite disposal pipeline near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count XLVIII, paragraph 18 and any implication that

Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Further answering, Petco specifically denies that an area was “contaminated” and that “[t]he release was located in an area with high potential for groundwater recharge, putting nearby private drinking wells at risk.”

19. Petco tested the surface water at the site of the release and at a large hole in the unnamed creek on July 13, 2012 and July 15, 2012, with chloride concentrations exceeding 500 mg/l as follows:

<b>LOCATION</b>	<b>7/13/12</b>	<b>7/15/12</b>
Release Site	2774 mg/l	619 mg/l
Creek Hole	801 mg/l	-

**ANSWER:** Petco admits the allegations contained in Count XLVIII, paragraph 19. Further answering, Petco’s chloride testing was on-site and preliminary.

20. By causing or allowing salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to the unnamed creek and groundwater, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLVIII, paragraph 20.

**COUNT XLIX**  
**LOUDON #22 C-7 INJECTION WELL**  
**IEMA Incident #2012-0823**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count XLIX.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count XLIX.

18. On or about August 8, 2012, Petco discharged approximately fifty barrels of salt water when a bull plug was removed and a one-quarter inch bleeder valve opened at injection well

#22C7 in or near St. Elmo, Illinois, purportedly due to vandalism. The release traveled approximately 1800 yards in Wolf Creek, a tributary to Big Creek, contaminating an area of approximately 30,000 square feet.

**ANSWER:** Petco admits that, on or about August 8, 2012, salt water was discharged when a bleeder valve opened at injection well #22C7 near St. Elmo, Illinois due to vandalism. However, Petco denies the remaining allegations in Count XLIX, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Further answering, Petco denies that an area was “contaminated.”

19. On August 8, 2012, Petco tested the surface water at the site of the release and downstream with results of 1415 mg/l and 871 mg/l of chloride, respectively.

**ANSWER:** Petco admits the allegations contained in Count XLIX, paragraph 19. Further answering, Petco’s chloride testing was on-site and preliminary.

20. On August 9, 2012, Petco tested the water at the site of the release with results of 586 mg/l of chloride and 619 mg/l of chloride.

**ANSWER:** Petco admits the allegations contained in Count XLIX, paragraph 20. Further answering, Petco’s chloride testing was on-site and preliminary.

21. Wolf Creek and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count XLVI, paragraph 28 contain legal conclusions to which no substantive responses are necessary. To the extent Count XLVI, paragraph 28 alleges factual matters to which a response is necessary, Petco denies the same.

22. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLIX, paragraph 22.

23. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count XLIX, paragraph 23.

**COUNT L**  
**ROCK QUARRY INJECTION PIPELINE**  
**IEMA Incident #2012-0836**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count L.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count L.

18. On or about August 12, 2012, Petco discharged approximately 150 barrels of salt water from the Rock Quarry injection pipeline in or near St. Elmo, Illinois, when the six-inch injection line separated at a "T" connection. The release traveled in a ditch, with a small amount entering the Rock Quarry pond.

**ANSWER:** Petco admits that, on or about August 12, 2012, salt water was discharged from the Rock Quarry injection pipeline near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count L, paragraph 18 and any implication that Petco discharged such

salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State.

19. The quarry pond is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count L, paragraph 19 contain legal conclusions to which no substantive responses are necessary. To the extent Count L, paragraph 19 alleges factual matters to which a response is necessary, Petco denies the same.

20. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count L, paragraph 20.

21. By causing or allowing salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to the quarry pond, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count L, paragraph 21.

**COUNT LI**  
**KATIE OWENS PIT**  
**IEMA Incident #2012-0956**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LI.

18. On or about September 10, 2012, Petco discharged approximately five barrels of crude oil and twenty barrels of salt water into Big Creek when Petco lost electrical power at the



Katie Owens cement containment pit in or near St. Elmo, Illinois, and the pit overflowed. The release traveled approximately one-eighth of a mile, from a ditch into Big Creek.

**ANSWER:** Petco admits that, on or about September 10, 2012, crude oil and salt water were discharged electrical power was lost at the Katie Owens cement containment pit near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LI, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, a new sump has been built at this location which releases into a separate pit, and new polymer lines have been installed at this location.

19. On September 10, 2012, Petco constructed one dam at the mouth of the ditch serving Big Creek and deployed three booms in Big Creek to contain oil. Seven vacuum trucks were recovering liquids and one boat was skimming oil from the creek.

**ANSWER:** Petco admits the allegations contained in Count LI, paragraph 19.

20. On September 11, 2012, Petco continued to use trucks to recover liquids and one boat crew, which was blowing oil to the booms for collection.

**ANSWER:** Petco admits the allegations contained in Count LI, paragraph 20.

21. On September 12, 2012, Petco reported its plan to continue working at the creek, due to the ongoing presence of a haze on the surface of the water caused by the crude oil discharge.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count LI, paragraph 21, and, therefore, denies the same.

22. Big Creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LI, paragraph 22 contain legal conclusions to which no substantive responses are necessary. To the extent Count LI, paragraph 22 alleges factual matters to which a response is necessary, Petco denies the same.

23. By discharging crude oil so as to visibly impair Big Creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LI, paragraph 23.

24. By discharging visible oil into the ditch that entered Big Creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LI, paragraph 24.

25. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LI, paragraph 25.

26. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Big Creek, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count LI, paragraph 26.

**COUNT LII**  
**J.G. MAIN #P15**  
**IEMA Incident #2012-1222**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LII.

18. On or about November 20, 2012, Petco discharged approximately fifty barrels of crude oil and eighty barrels of salt water into an unnamed creek from a broken two-inch PVC flowline that was underwater across the bottom of the creek in or near St. Elmo, Illinois. The release was reported to Petco and IEPA by a citizen and detected by Petco on November 21, 2012, by which time it had traveled approximately one-quarter mile, so that the leading edge of the release was found at the Emery Hopper #1 well.

**ANSWER:** Petco admits that, on or about November 20, 2012, crude oil and salt water were discharged from a broken PVC flowline near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, a new fiberglass line has been bored underneath the creek bed at this location.

19. On November 26, 2012, IEPA inspected the site. On that date, Petco had constructed four siphon dams in the creek, two of which were safety dams, and three vacuum trucks were flushing and recovering crude oil and salt water. Petco was having difficulty migrating the crude oil to the collection points and flushing the salt water due to leaves and other vegetation in the creek and estimated it would take another week to fully remediate.

**ANSWER:** Petco admits the allegations contained in Count LII, paragraph 19.

20. On November 26, 2012, IEPA tested the surface water in the creek at siphon dam #1 with a result of 2629 mg/l of chloride and at siphon dam #2, at the end of the spill, with a result of 582 mg/l. Petco tested surface water at the first two siphon dams from November 22, 2012 through November 26, 2012, with chloride concentrations exceeding 500 mg/l as follows:

LOCATION	11/21/12	11/22/12	11/23/12	11/24/12	11/25/12	11/26/12
Siphon Dam #1 (mg/l)	6110	4839	6110	4839	4346	1638
Siphon Dam #2 (mg/l)	-	2475	1099	556	506	727

**ANSWER:** Petco admits that IEPA tested the surface water in the creek at siphon dam and that Petco tested surface water from the first two siphon dams. Petco is without information that is sufficient to admit or deny the remaining allegations contained in Count LII, paragraph 20, and, therefore, denies the same.

22. Petco tested surface water at siphon dam #1 from November 27, 2012 through December 2, 2012, with chloride concentrations exceeding 500 mg/l as follows:

11/27/12	11/28/12	11/29/12	11/30/12	12/1/12	12/2/12
2273 mg/l	2273 mg/l	1638 mg/l	1512 mg/l	1512 mg/l	747 mg/l

**ANSWER:** Petco admits the allegations contained in Count LII, paragraph 22. Further answering, Petco's chloride testing was on-site and preliminary.

23. Petco tested surface water at siphon dam #1 from December 3, 2012 through December 7, 2012, with chloride concentrations exceeding 500 mg/l as follows:

12/3/12	12/4/12	12/5/12	12/6/12	12/7/12
934 mg/l	-	934 mg/l	791 mg/l	506 mg/l

**ANSWER:** Petco admits that it tested surface water at siphon dam #1. However, Petco denies that preliminary on-site chloride concentration test results totaled 791 mg/l on December 6,

2012. Further answering, Petco is without information that is sufficient to admit or deny the remaining allegations contained in Count LII, paragraph 23, and, therefore, denies the same.

24. From November 27, 2012 through December 13, 2012, Petco continued to use two to three vacuum trucks to flush and recover liquids and a crew of four to six men to puddle crude oil to siphon dam #1 and bag debris.

**ANSWER:** Petco admits the allegations contained in Count LII, paragraph 24.

25. The unnamed creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LII, paragraph 25 contain legal conclusions to which no substantive responses are necessary. To the extent Count LII, paragraph 25 alleges factual matters to which a response is necessary, Petco denies the same.

26. By discharging crude oil so as to visibly impair the unnamed creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LII, paragraph 26.

27. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LII, paragraph 27.

28. By discharging visible oil into the unnamed creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LII, paragraph 28.

29. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LII, paragraph 29.

**COUNT LIII**  
**T.C. CLOW DISPOSAL LINE**  
**IEMA Incident #2012-1272**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LIII.

18. On or about December 11, 2012, Petco discharged approximately twenty barrels of crude oil and 300 barrels of salt water from a hole in a six-inch steel spool where steel and plastic sections of the T.C. Clow disposal line met in or near St. Elmo, Illinois. The crude oil was contained in a pasture, but the salt water traveled through the pasture and entered Little Creek.

**ANSWER:** Petco admits that, on or about December 11, 2012, crude oil and salt water were discharged from a hole where steel and plastic sections of the T.C. Clow disposal line met in or near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LIII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or

negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, a new polymer disposal line has been installed at this location.

19. On December 12, 2012, Petco limed the soil at the release site and six vacuum trucks were recovering salt water from Little Creek. Petco tested surface water at the Hobbs Low Water Bridge with a result of 800 mg/l of chloride.

**ANSWER:** Petco admits that it limed the soil at the release site and utilized vacuum trucks. Further answering, Petco states that it is without information sufficient to admit or deny the remaining allegations contained in Count LIII, paragraph 19, and, therefore, denies the same.

20. Petco tested surface water at the Hobbs Low Water Bridge from December 13, 2012 through December 15, 2012, with chloride concentrations exceeding 500 mg/l as follows:

<b>12/13/12</b>	<b>12/14/12</b>	<b>12/15/12</b>
934 mg/l	791 mg/l	727 mg/l

**ANSWER:** Petco admits the allegations contained in Count LIII, paragraph 20. Further answering, Petco’s chloride testing was on-site and preliminary.

21. Little Creek is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LIII, paragraph 21 contain legal conclusions to which no substantive responses are necessary. To the extent Count LIII, paragraph 21 alleges factual matters to which a response is necessary, Petco denies the same.

22. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIII, paragraph 22.

23. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIII, paragraph 23.

24. By causing or allowing crude oil and salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Big Creek and its tributary, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIII, paragraph 24.

**COUNT LIV**  
**MARY WILLIAMS PUMP OVERLINE LEASE**  
**IEMA Incident #2013-0110**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LIV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LIV.

18. On or about February 4, 2013, Petco discharged approximately fifty barrels of crude oil and 200 barrels of salt water when a three-inch fiberglass/steel pump changeover leaked from the header to the tank battery on the Mary Williams Pump Overline Lease in or near St. Elmo, Illinois—the same general area containing private drinking water wells as a release that occurred in August 2012—and traveled one-half mile in a tributary to Big Creek.

**ANSWER:** Petco admits that, on or about February 4, 2013, crude oil and salt water were discharged when a fiberglass/steel pump changeover leaked from the header to the tank battery on the Mary Williams Pump Overline Lease near St. Elmo, Illinois. However, Petco denies



the remaining allegations in Count LIV, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, Petco specifically denies that the release was “the same general area containing private drinking water wells as a release that occurred in August 2012.”

19. On February 5, 2013, IEPA visited the site. Petco had constructed two siphon dams in the tributary and placed four sets of booms between siphon dams. Six vacuum trucks were recovering crude oil and salt water and flushing the tributary with fresh water. A small crew was utilizing absorbent pads between the two siphon dams.

**ANSWER:** Petco admits the allegations contained in Count LIV, paragraph 19.

20. Early in the morning of February 5, 2013, Petco tested the water at each siphon dam, with results of 3235 mg/l of chloride at siphon dam #1 and 4839 mg/l of chloride at siphon dam #2.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count LIV, paragraph 20, and, therefore, denies the same.

21. On February 5, 2013, IEPA tested the water at each siphon dam, with results of 2614 mg/l of chloride at siphon dam #1 and 3149 mg/l of chloride at siphon dam #2.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count LIV, paragraph 21, and, therefore, denies the same.

22. On February 6, 2013, Petco was washing crude oil from the release down to siphon dam #1. Five vacuum trucks were recovering crude oil and salt water and flushing the tributary with fresh water. Petco tested the water at each siphon dam, with results of 1099 mg/l of chloride at siphon dam #1 and 1775 mg/l of chloride at siphon dam #2.

**ANSWER:** Petco admits the allegations contained in Count LIV, paragraph 22. Further answering, Petco's chloride testing was on-site and preliminary.

23. On February 7, 2013, six vacuum trucks were recovering crude oil and salt water and flushing the tributary with fresh water. Clean-up crew members were attempting to recover the remaining oil between the two siphon dams before an impending rainfall. Petco tested the water at each siphon dam, with results of 1014 mg/l of chloride at siphon dam #1 and 1512 mg/l at siphon dam #2.

**ANSWER:** Petco admits the allegations contained in Count LIV, paragraph 23. Further answering, Petco's chloride testing was on-site and preliminary.

24. On February 8, 2013, four vacuum trucks were recovering crude oil and flushing the tributary with fresh water. Petco tested the water at each siphon dam, with results of 666 mg/l of chloride at siphon dam #1 and 727 mg/l of chloride at siphon dam #2.

**ANSWER:** Petco admits the allegations contained in Count LIV, paragraph 24. Further answering, Petco's chloride testing was on-site and preliminary.

25. On February 9, 2013, Petco tested the water at siphon dam #1, with a result of 506 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count LIV, paragraph 25, and, therefore, denies the same.

26. On February 10, 2012, heavy rains washed out the two siphon dams. The river boom placed in Big Creek was collecting oil scum. Three vacuum trucks were recovering oil and a crew was washing the river bank.

**ANSWER:** Petco admits that three vacuum trucks recovered oil and a crew was washing the area. Petco denies the remaining allegations in Count LIV, paragraph 26 and any implication that it took until February 18, 2013 for chloride results to be read under 500 mg/l.

27. Petco continued to remediate the spill site until February 18, 2013, when all oil was cleaned up and Petco tested the surface water in the tributary with chloride results under 500 mg/l.

**ANSWER:** Petco admits that it continued to remediate the spill site. However, Petco denies the remaining allegations in Count LIV, paragraph 27, including that it took until February 18, 2013 for chloride results to total under 500 mg/l.

28. Big Creek and its tributary are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LIV, paragraph 28 contain legal conclusions to which no substantive responses are necessary. To the extent Count LIV, paragraph 28 alleges factual matters to which a response is necessary, Petco denies the same.

29. By discharging crude oil so as to visibly impair the tributary and Big Creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIV, paragraph 29.

30. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIV, paragraph 30.

31. By discharging visible oil into the tributary and Big Creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIV, paragraph 31.

32. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIV, paragraph 32.

**COUNT LV**  
**MARY WILLIAMS #1 WELL**  
**IEMA Incident #2013-0244**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LV.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LV.

18. On or about March 13, 2013, Petco discharged approximately one barrel of crude oil and five barrels of salt water to a private pond containing fish when a stuffing box ruptured on the Mary Williams #1 well in or near St. Elmo, Illinois.

**ANSWER:** Petco admits that, on or about March 13, 2013, crude oil and salt water were discharged when a stuffing box ruptured on the Mary Williams #1 well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LV, paragraph 18 and any implication

that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State.

19. On or about March 13, 2013, Petco boomed the private pond and skimmed oil from the pond surface.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count LV, paragraph 19, and, therefore, denies the same.

20. The pond is a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LV, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count LV, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging crude oil so as to visibly impair the pond, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LV, paragraph 21.

22. By discharging visible oil into the pond, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LV, paragraph 22.

23. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate

the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LV, paragraph 23.

**COUNT LVI**  
**ROCK QUARRY INJECTION PLANT FLOWLINE**  
**IEMA Incident #2013-0309**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LVI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LVI.

18. On or about March 30, 2013, Petco discharged approximately 100 barrels of salt water into Riley Run Creek when a three-inch fiberglass flowline that feeds the Rock Quarry Injection Plant pulled out at a “T” connection on the Mary Dunaway Lease in or near St. Elmo, Illinois. The spill traveled approximately 1800 feet in Riley Run Creek.

**ANSWER:** Petco admits that, on or about March 30, 2013, salt water was discharged when fiberglass flowline that feeds the Rock Quarry Injection Plant pulled out at a “T” connection on the Mary Dunaway Lease near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LVI, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State. Further answering, a new “T” connection has been installed at this location.

19. On March 30, 2013, Petco constructed a siphon dam at the leading edge of the release, approximately one-quarter of a mile downstream, and six vacuum trucks were recovering salt water. Petco tested the surface water upstream of the siphon dam with a result of 800 mg/l of chloride.

**ANSWER:** Petco admits the allegations contained in Count LVI, paragraph 19. Further answering, Petco's chloride testing was on-site and preliminary.

20. Riley Run Creek is a "water" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LVI, paragraph 20 contain legal conclusions to which no substantive responses are necessary. To the extent Count LVI, paragraph 20 alleges factual matters to which a response is necessary, Petco denies the same.

21. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LVI, paragraph 21.

22. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LVI, paragraph 22.

**COUNT LVII**  
**BIRDIE KIMBRELL #3 FLOWLINE**  
**IEMA Incident #2013-0436**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LVII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LVII.

18. On or about April 23, 2013, Petco discharged approximately ten barrels of crude oil and thirty barrels of salt water into Wolf Creek when high surface waters tore a tree free of the creek bank and carried it over a two-inch flowline serving the Birdie Kimbrell #3 well in or near St. Elmo, Illinois. When the creek receded, the tree dropped onto and broke the flowline at the creek crossing. The release traveled approximately one-tenth of a mile in Wolf Creek, a tributary to Big Creek.

**ANSWER:** Petco admits that, on or about April 23, 2013, crude oil and salt water were discharged when surface waters tore a tree free of the creek bank and carried it over a flowline serving the Birdie Kimbrell #3 well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LVII, paragraph 18 and any implication that Petco discharged such oil and salt water intentionally or negligently, or that such oil and salt water were discharged into or near a “water” of the State. Further answering, a new fiberglass flowline has been installed at this location underneath the creek bed.

19. On April 23, 2013, it was raining. Petco recovered approximately 98% of the spill by deploying river boom, and utilizing both a boat to migrate the crude oil to a recovery point, and two vacuum trucks to skim and recover crude oil.

**ANSWER:** Petco admits the allegations contained in Count LVII, paragraph 19.

20. On April 24, 2012, the rain caused the creek to breach the river booms.

**ANSWER:** Petco admits the allegations contained in Count LVII, paragraph 20.

21. Wolf Creek and Big Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).



**ANSWER:** Petco states that the allegations contained in Count LVII, paragraph 21 contain legal conclusions to which no substantive responses are necessary. To the extent Count LVII, paragraph 21 alleges factual matters to which a response is necessary, Petco denies the same.

22. By discharging crude oil so as to visibly impair Wolf Creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LVII, paragraph 22.

23. By discharging visible oil into Wolf Creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LVII, paragraph 23.

24. By causing, allowing or threatening the discharge of crude oil and salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LVII, paragraph 24.

**COUNT LVIII**  
**IVA MILLER #2 WELL**  
**IEMA Incident #2013-0498**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LVIII.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LVIII.

18. On or about May 3, 2013, Petco discharged approximately ten barrels of crude oil from the Iva Miller #2 well in or near St. Elmo, Illinois when a Petco employee forgot to close the valve. The release was approximately one foot wide and traveled approximately one-tenth of a mile in an unnamed creek until it collected in a pond located in a pasture.

**ANSWER:** Petco admits that, on or about May 3, 2013, crude oil was discharged from the Iva Miller #2 well near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LVIII, paragraph 18 and any implication that Petco discharged such oil intentionally or negligently, or that such oil was discharged into or near a “water” of the State. Further answering, Petco specifically denies that a Petco employee forgot to close the valve and that the release collected in a “pond.” Petco states that a new fiberglass flowline has been installed at this location underneath the creek bed.

19. On May 3, 2013, Petco deployed two sets of booms and pads downstream of the release and constructed one siphon dam at the pond. One vacuum truck recovered oil from the well site and one vacuum truck recovered oil from the creek.

**ANSWER:** Petco admits the allegations contained in Count LVIII, paragraph 19.

20. From May 4, 2013 through May 6, 2013, Petco personnel and one vacuum truck skimmed crude oil from the creek.

**ANSWER:** Petco admits the allegations contained in Count LVIII, paragraph 20.

21. The unnamed creek and the pond are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LVIII, paragraph 21 contain legal conclusions to which no substantive responses are necessary. To the extent Count

LVIII, paragraph 21 alleges factual matters to which a response is necessary, Petco denies the same.

22. By discharging crude oil so as to visibly impair the creek and pond, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LVIII, paragraph 22.

23. By discharging visible oil into the creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LVIII, paragraph 23.

24. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LVIII, paragraph 24.

**COUNT LIX**  
**ROBERT MCCLOY #8 FLOWLINE**  
**IEMA Incident #2013-0536**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LIX.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LIX.

18. On or about May 9, 2013, Petco discharged approximately two barrels of crude oil and twenty barrels of salt water when the Robert McCloy #8 flowline ruptured near St. Elmo,

Illinois, due to a cracked polyline fuse at the weld. The release traveled approximately one-third of a mile, going over a hillside and entering a small creek that serves as a tributary to Riley Run Creek.

**ANSWER:** Petco admits that, on or about May 9, 2013, crude oil and salt water were discharged from the Robert McCloy #8 flowline near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LIX, paragraph 18 and any implication that Petco discharged such oil intentionally or negligently, or that such oil was discharged into or near a “water” of the State. Further answering, anew fiberglass flowline has been installed at this location underneath the creek bed.

19. On May 9, 2013, Petco deployed booms and pads and constructed one siphon dam in the creek at the head of Riley Run Creek, but heavy rains washed out the dam. Two vacuum trucks were recovering released fluids.

**ANSWER:** Petco admits the allegations contained in Count LIX, paragraph 19.

20. On May 10, 2013, Petco replaced the dam at the head of Riley Run Creek, which was running bank full.

**ANSWER:** Petco admits the allegations contained in Count LIX, paragraph 20.

21. On May 13, 2013, Petco still had approximately 500 feet of oiled vegetation to clean up within the creek.

**ANSWER:** Petco denies the allegations contained in Count LIX, paragraph 21.

22. On May 14, 2013, IEPA performed a site inspection, and observed scum from the discharge collected by the siphon dam.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count LIX, paragraph 22, and, therefore, denies the same.

23. The creek and Riley Run Creek are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LIX, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent LIX, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By discharging crude oil so as to visibly impair the creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIX, paragraph 24.

25. By discharging visible oil into the creek, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIX, paragraph 25.

26. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board’s regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LIX, paragraph 26.

**COUNT LX**  
**LEMUEL LILLY TANK BATTERY**  
**IEMA Incident #2013-0537**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LX.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LX.

18. On or about May 9, 2013, Petco discharged approximately thirty to fifty barrels of crude oil when the Lam Lilly tank battery lost power and overflowed near St. Elmo, Illinois. None of the alarms worked so the crude oil tank continued to fill and overflow into the containment berm. The oil breached the berm, travelled down a hill and then entered a tributary to Little Moccasin Creek. Approximately one barrel of crude oil entered Little Moccasin Creek, which was running bank full.

**ANSWER:** Petco admits that, on or about May 9, 2013, crude oil was discharged when the Lam Lilly tank battery lost power and overflowed near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LX, paragraph 18 and any implication that Petco discharged such oil intentionally or negligently, or that such oil was discharged into or near a “water” of the State. Further answering, all alarms in Loudon field are constantly being upgraded.

19. On May 9 2013, Petco deployed river booms in Little Moccasin Creek and four sets of absorbent booms and pads in the tributary. Five vacuum trucks and a crew of seven recovered approximately 80% of the oil from the tributary.

**ANSWER:** Petco denies the allegation of Count LX, paragraph 19 that only 80% of the oil was recovered. Petco admits the remaining allegations contained in Count LX, paragraph 19.

20. On May 10, 2013, two vacuum trucks and a crew of fifteen continued to recover oil from the tributary. Little Moccasin Creek continued to run bank full and washed away Petco’s river booms.

**ANSWER:** Petco admits the allegations contained in Count LX, paragraph 20.

21. On May 13, 2013, all free-product was recovered, but Petco still had approximately 300 feet of oiled vegetation and wood debris to cleanup within the tributary.

**ANSWER:** Petco admits the allegations contained in Count LX, paragraph 21.

22. Little Moccasin Creek and its tributary are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LX, paragraph 22 contain legal conclusions to which no substantive responses are necessary. To the extent Count LX, paragraph 22 alleges factual matters to which a response is necessary, Petco denies the same.

23. By discharging crude oil so as to visibly impair the tributary and Little Moccasin Creek, Respondent caused offensive conditions in waters of the State in violation of Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LX, paragraph 23.

24. By discharging visible oil into the tributary, Respondent caused offensive discharges in violation of Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LX, paragraph 24.

25. By causing, allowing or threatening the discharge of crude oil to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board’s regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LX, paragraph 25.

**COUNT LXI**  
**ADA CLOW SUMP**  
**IEMA Incident #2013-0586**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein as paragraphs 1 through 17 of this Count LXI.

**ANSWER:** Petco incorporates by reference its responses to paragraphs 1 through 17 as if fully set forth herein as its responses to paragraphs 1 through 17 of this Count LXI.

18. On or about May 17, 2013, Petco discharged approximately 500 barrels of salt water when a six-inch PVC collar line that pumps from the Ada Clow sump to the Main Line injection station broke in or near St. Elmo, Illinois. The release traveled one-quarter of a mile in a tributary before entering Wolf Creek.

**ANSWER:** Petco admits that, on or about May 17, 2013, salt water was discharged when PVC collar line that pumps from the Ada Clow sump to the Main Line injection station broke near St. Elmo, Illinois. However, Petco denies the remaining allegations in Count LXI, paragraph 18 and any implication that Petco discharged such salt water intentionally or negligently, or that such salt water was discharged into or near a “water” of the State.

19. On May 17, 2013, Petco constructed two earthen dams in the tributary and five vacuum trucks were recovering salt water.

**ANSWER:** Petco admits the allegations contained in Count LXI, paragraph 19.

20. On May 19, 2013, the ditch was dried up between the two earthen dams and Petco had recovered approximately 80% of the salt water. Petco tested the water at the release point with a result of 2742 mg/l of chloride.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count LXI, paragraph 20, and, therefore, denies the same.



21. On May 20, 2013, Petco tested the surface water, and detected chloride levels at the release point of 1922 mg/l.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count LXI, paragraph 21, and, therefore, denies the same.

22. On May 21, 2013, after a rainfall event, Petco reported its plans to place oily debris in a dumpster for disposal at a landfill.

**ANSWER:** Petco states that it is without information that is sufficient to admit or deny the allegations contained in Count LXI, paragraph 22, and, therefore, denies the same.

23. Wolf Creek and its tributary are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

**ANSWER:** Petco states that the allegations contained in Count LXI, paragraph 23 contain legal conclusions to which no substantive responses are necessary. To the extent Count LXI, paragraph 23 alleges factual matters to which a response is necessary, Petco denies the same.

24. By discharging salt water into a water of the State so that such waters exceed 500 mg/l of chloride, Respondent violated the water quality standard for chloride as established in Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LXI, paragraph 24.

25. By causing, allowing or threatening the discharge of salt water to waters of the State so as to cause or tend to cause water pollution in Illinois and so as to violate the Board's regulations or standards, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**ANSWER:** Petco denies the allegations contained in Count LXI, paragraph 25.

26. By causing or allowing salt water to be deposited upon the land in such place and manner so as to create a water pollution hazard through its proximity to Big Creek and its tributary, Respondent violated Section 12(d) of the Act, 415 ILCS 5/120(d) (2020).

**ANSWER:** Petco denies the allegations contained in Count LXI, paragraph 26.

**COUNTS LXII – LXXIII (62 – 73)**

Petco has filed contemporaneously herewith a Motion to Dismiss Counts 62 Through 73 of the First Amended Complaint. *See* 35 Ill. Adm. Code 101.506 (motions attacking the sufficiency of the complaint). Pursuant to 35 Ill. Adm. Code 103.204(e), the period to file an answer as to those Counts is stayed upon filing of the Motion to Dismiss, which stay will end when the Board disposes of the Motion. Therefore, Petco need not answer or provide another response to Counts 62 through 73 at this time.

**AFFIRMATIVE AND ADDITIONAL DEFENSES**

Defendant Petco Petroleum Corporation's ("Petco") affirmative and additional defenses are set forth below. By setting forth these defenses, Petco does not assume the burden of proving any fact, issue or element of a claim for relief where such burden properly belongs to Complainant the State of Illinois ("State"). Moreover, nothing stated herein is intended to be construed as an acknowledgment that any particular issue or subject matter is relevant to the State's claims in the above-captioned action.

A. The First Amended Complaint fails to state a claim against Petco upon which relief can be granted.

B. The First Amended Complaint fails to comply with and/or satisfy one or more statutory and/or regulatory prerequisites to file and maintain the State's action.

C. As to the majority of these counts, Section 31 of the Act, 415 ILCS 5/31, was bypassed and the legislatively created opportunity to reach compliance through the timely negotiation of a CCA was not afforded Petco. The Board, as a creature of statute, is without authority to ignore these statutory requirements. Thus, the First Amended Complaint needs to allege compliance with Section 31 for each and every Count and, absent such, the First Amended Complaint (or at least any nonconforming Counts) must be dismissed.

D. Petco's authorization to operate is pursuant to permits issued by the Illinois Department of Natural Resources ("IDNR"), pursuant to its enabling authority under the Illinois Oil and Gas Act ("IOGA"). It is not pursuant to any authority of the IEPA under the Act. Section 3 of the IOGA, 225 ILCS 725/3, charges IDNR with the "duty of enforcing [the IOGA] and all rules, regulations and orders promulgated in pursuance of [the IOGA]." Section 8 of the IOGA, 225 ILCS 725/8, sets forth IDNR's enforcement authority and responsibility.

E. Upon information and belief, IDNR investigated most, if not all, of the factual underpinnings for the claims set forth in the First Amended Complaint and, pursuant to its authority and jurisdiction, either (a) fined Petco (and Petco paid) or (b) determined that Petco was not in violation (or was no longer in violation) and declined to pursue any administrative enforcement. The State is without authority to prosecute Petco twice for the same offense(s). Thus, the Board should dismiss any of the Counts which allege facts identical to those here and which have been adjudicated to finality by IDNR.

F. As stated in the First Amended Complaint, prior adjudications have resulted in prior judicial orders requiring Petco to take certain actions, including the development of a written oil and gas facilities operation maintenance plan – which is applicable to some of the very same wells relevant to the First Amended Complaint. Accordingly, any release that has occurred despite

Petco's best efforts under the prior orders cannot appropriately be alleged to be a violation, a repeat violation, or a continuing violation, in the First Amended Complaint.

G. Any claims for equitable relief in the First Amended Complaint are barred because the State has adequate remedies at law, to the extent its claims are provable.

H. The claims in the First Amended Complaint are barred, in whole or in part, by the five-year statute of limitations set forth in 735 ILCS 5/13-205 and/or other rule, regulation or doctrine requiring the filing and pursuit of the claim within a certain prescribed period of time or by a certain date.

I. The claims in the First Amended Complaint are barred, in whole or in part, by the doctrines of estoppel, collateral estoppel, waiver, release, res judicata, and/or laches.

J. To the extent that the State has already received payments from Petco for any of the alleged damages and/or penalties alleged in the First Amended Complaint, the full amount of such payments should be credited to reduce the costs that the State seeks to recover against Petco in this action.

K. The claims in the First Amended Complaint are barred, in whole or in part, because the State cannot prove that Petco was the cause-in-fact and/or proximate cause of the alleged discharges alleged in the First Amended Complaint.

L. Petco reserves the right to amend its Answer, Affirmative and Additional Defenses to allege any additional defenses which may arise in discovery, at hearing or otherwise.

WHEREFORE, Respondent Petco Petroleum Corporation respectfully request that the First Amended Complaint and claims asserted therein be dismissed, that judgment be entered in its favor and against Complainant, and that Petco Petroleum Corporation be granted any other any further relief as the Board deems proper under the circumstances.

Respectfully submitted,

*/s/ Paul T. Sonderegger* \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on January 18, 2023, the foregoing was filed via the Board's electronic filing system providing notice of the same to all the clerk and all counsel of record.

*/s/ Paul T. Sonderegger* \_\_\_\_\_