

**BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS**

**PEOPLE OF THE STATE OF ILLINOIS,)**

**Petitioner, )**

**v. )**

**PCB NO. 12-35**

**(Enforcement – Water)**

**SIX-M CORPORATION, INC., and )**

**WILLIAM MAXWELL, and )**

**Respondents. )**

**NOTICE OF FILING AND PROOF OF SERVICE**

To: Don Brown, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
State of Illinois Building, Suite 11-500  
Chicago, IL 60601

Elizabeth Dubats  
Assistant Attorney General  
69 West Washington St.  
Suite 1800  
Chicago, IL 60602  
[Edubats@atg.state.il.us](mailto:Edubats@atg.state.il.us)

Phillip R. Van Ness  
Webber & Thies, P.C.  
202 Lincoln Square  
P.O. Box 189  
Urbana, IL 61801  
[pvanness@webberthies.com](mailto:pvanness@webberthies.com)

Carol Webb, Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East,  
Springfield, IL 62794-9274  
[Carol.Webb@illinois.gov](mailto:Carol.Webb@illinois.gov)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board, RESPONDENTS' MOTION FOR SUMMARY JUDGMENT AS TO WILLIAM MAXWELL, a copy of which is herewith served upon you.

The undersigned hereby certifies that a true and correct copy of this Notice and attached document were served upon the above counsel of record to this cause by electronic mail on March 6, 2017, before 5:00 p.m. The total number of pages in the transmission is 53.

SIX M. CORPORATION, INC. and WILLIAM  
MAXWELL, respondents,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Law Office of Patrick D. Shaw  
80 Bellerive Road  
Springfield, IL 62704  
217-299-8484  
[pdshaw1law@gmail.com](mailto:pdshaw1law@gmail.com)

**BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>PCB NO. 12-35</b>
	)	<b>(Enforcement – Water)</b>
<b>SIX-M CORPORATION, INC., and</b>	)	
<b>WILLIAM MAXWELL,</b>	)	
<b>Respondents.</b>	)	

**RESPONDENTS' MOTION FOR SUMMARY JUDGMENT**  
**AS TO WILLIAM MAXWELL**

NOW COME Respondents, Six-M Corporation, Inc., and William Maxwell, by their undersigned counsel, pursuant to Section 101.502 of the Board's Procedural Rules (35 Ill. Admin. Code §101.502 and moves for summary judgment as to William Maxwell, stating as follows:

**Introduction**

Six-M Corporation, Inc. (hereinafter "Six-M") owned and operated underground storage tanks formerly at the Walker Tire Service facility in Farmer City, Illinois. There have been two incidents of suspected petroleum releases at the property for which Six-M has received a determination from the Office of the State Fire Marshall (hereinafter "OSFM") that it was the owner and operator of said tanks and therefore eligible for the cost of corrective action to be paid by the Leaking Underground Storage Tank (LUST) Fund. Consequently, this matter involves a specific body of statutory and regulatory law, the LUST Program (415 ILCS 5/57.3), as well as a large source of public documents detailing the course of remediation, as administered by OSFM and the Illinois Environmental Protection Agency (hereinafter "Illinois EPA").

During the course of this litigation, the People made available a digital copy of the Illinois

EPA's LUST Fund file to the parties, which appears to be complete up to 2008, which may be when the matter was referred to the Attorney General. The People have admitted to the genuineness of these documents (Ex. A), and many of the exhibits supporting this motion are from that digital record (and will be identified as Ex. A-1, Ex. A-2, etc.).

The Affidavit of Tom Maxwell (Ex. B) was previously submitted in support of a motion to dismiss William and Marilyn Maxwell at the outset of the litigation. On November 17, 2011, the Board ordered decedent Marilyn Maxwell dismissed on People's consent, but denied the motion with respect to her husband William Maxwell due to its reliance on information outside the pleadings:

**As to William Maxwell, the Board is persuaded by the People's arguments that the Board should not consider the exhibits attached to the respondents' motion. Based on the well-pleaded allegations of the complaint and the material properly before the Board, the motion to dismiss William Maxwell is denied. In so holding, the Board takes no position as to whether this respondent will ultimately be found to be an owner/operator of the USTs at Walker's Service within the meaning of the complaint.**

(Board Order, at p. 4 (Nov. 17, 2011)).

The discovery schedule is completed, and Respondents ask the Board to consider the exhibits herein and find that William Maxwell was not the owner/operator of the USTs.

### **UNDISPUTED FACTS**

Six-M Corporation, Inc. owns and operates Walker Tire Service, also known as Walker Service Station. (Ex. B, ¶ 3) Tom Maxwell manages the day-to-day operations and has done so since at least May, 13, 1996, when he reported the first incident. (Ex. B, at ¶ 7; see also Ex. A-1 (IEMA Report)) On October 28, 1996, the Office of the State Fire Marshal determined that

Walker Service Station (hereinafter "Walker") was eligible as owner/operator to access the LUST Fund for corrective action costs in excess of \$15,000 for said incident. (Ex. A-2)

Walker retained a consultant to remediate the release. (Complaint, ¶ 20) Thereafter, from time to time, documents would be submitted to the Illinois EPA, which included a taxpayer identification number and legal status disclosure certification which indicated that the business was operated as a corporate entity. (Ex. A-3 (Employer Identification Number redacted)) Some of the tanks were removed and a recovery trench was installed. (Complaint, ¶ 19 & ¶ 21 ) Various plans and budgets were submitted and ultimately approved over the years. (Complaint, ¶ 22 & ¶ 23) In late 2004, approximately 13,676 tons of contaminated soils were removed from the facility and neighboring property. (Complaint, ¶ 24)

On November 2, 2005, the Illinois EPA issued a violation notice to Walker, to the attention of Tom Maxwell, for failure to submit a high priority corrective action plan. (Ex. A-4) On February 1, 2006, the Illinois EPA issued a Notice of Intent to Pursue Legal Action to Walker for failure to submit a high priority corrective action plan, also to the attention of Tom Maxwell (Ex. A-5)

On March 8, 2006, a second incident was reported at the site by Walker's consultant, who identified Walker as the responsible party and Tom Maxwell as the contact person. (Ex. A-6)

On April 3, 2006, OSFM determined that Walker was eligible as owner/operator to access the LUST Fund for corrective action costs in excess of \$15,000 for second incident. (Ex. A-7) On August 1, 2006, Walker's consultant submitted an Addendum to the 45 Day Report on behalf of Walker, indicating that all of the tanks had been removed. (Ex. A-8 (first five pages of report))

On October 16, 2007, Walker submitted the high priority corrective action plan,



specifically a Phase IV Corrective Action Plan & Budget, for the 1996 incident, which was approved with modifications. (Ex. A-9)

On August 25, 2011, the Attorney General on her own behalf and on referral from the Illinois EPA filed this lawsuit. Proof of service filed with the Board indicates that three copies of the complaint were mailed to the business address for Walker, which were signed by Tom Maxwell. Neither William Maxwell, nor Marilyn Maxwell, were ever given a notice of violation. The Complaint alleges failure to perform the Stage One Site Investigation for the second incident (Complaint, ¶ 26 & ¶ 32) This was subsequently done and on January 7, 2016, the Illinois EPA approved a stage 3 site investigation plan. (Ex. C)

### ARGUMENT

#### **I. Six-M was the owner and operator of the underground storage tanks.**

The LUST Program is unique in Illinois environmental law in that is not merely a remediation program, but also a state fund that pays for that remediation subject to regulatory oversight over all aspects of the work. (415 ILCS 5/57) As part of this process, OSFM is charged with the responsibility of determining whether a person or entity is the owner or operator and eligible to access the LUST Fund, which is a final, appealable decision. (415 ILCS 5/57.9(c)) The participant must seek and obtain approval of its work plan and budget from the Illinois EPA. (415 ILCS 5/57.7) The Board's rules require that each budget include "a copy of the eligibility and deductibility determination of the OSFM." (35 Ill. Adm. § 734.310(b)) After the work is performed, each application for payment for the work must include the OSFM determination, as well as a federal taxpayer identification number and legal status disclosure certification. (415

ILCS 5/57.8(a)(6)) This information is then used by the Illinois EPA to forward vouchers to the Comptroller to permit payment to be made. (415 ILS 5/57.8(a)(2))

Within the aforementioned legal context, Six-M, d/b/a Walker, is uncontravertibly the owner/operator of the underground storage tanks formerly on the premises. The OSFM made this determination twice based upon the record before it, and the submittals to the Illinois EPA are on behalf of the corporate entity.

The allegations of the complaint are that the Respondents failed to perform stage one site investigation work. In Count I, the gravaman of the complaint is that Respondents allegedly have not performed approved site investigation plans (technically these are 45-day reports that were approved, though the People's point remains that the next stage, whatever it is called, has not been performed). (Complaint, ¶ 26) In Count II, it is alleged that Repondents have failed to perform site investigation. (Complaint, ¶ 32) These are regulatory obligations placed on the owner/operator through the LUST Program:

**(a) An owner or operator of an underground storage tank who meets the definition of this Title shall be required to conduct tank removal, abandonment and repair, site investigation, and corrective action in accordance with the requirements of the Leaking Underground Storage Tank Program.**

(415 ILCS 5/57.1(a))

Since the tanks were removed in 2006, the only way for someone else to own or operate the tanks would be by filing an election to proceed as owner of the cleanup. (415 ILCS 5/57.2 (definition of "owner" and "operator" cf. Zervos Three v. IEPA, PCB No. 10-54, at p. 86 (Jan. 20, 2011) (explaining that once the tanks are removed, ownership of cleanup responsibility necessitates an election). No such election exists. Accordingly, the violations alleged to extent

they are accurate are the responsibility of Six-M.

**II. William Maxwell Retired Over Twenty Years Ago.**

The allegations of the complaint treat William Maxwell, Marilyn Maxwell and Six-M collectively as owners and operators of the facility. (Complaint, ¶ 6) In the previous motion to dismiss, undersigned counsel speculated that the People were arguing that William and Marilyn had actively participated in the alleged violations, an argument denied by the People in its response. (Response to Mot. Dismiss, at p. 7) Still, Respondent will restate the standard for personal liability for corporate conduct under the Illinois Environmental Protection Act:

**in order to state a claim for personal liability against a corporate officer under the Act, a plaintiff must do more than allege corporate wrongdoing. Similarly, the plaintiff must allege more than that the corporate officer held a management position, had general corporate authority, or served in a supervisory capacity in order to establish individual liability under the Act. The plaintiff must allege facts establishing that the corporate officer had personal involvement or active participation in the acts resulting in liability, not just that he had personal involvement or active participation in the management of the corporation.**

People ex rel. Madigan v. Tang, 346 Ill. App. 3d 277, 289 (1st Dist. 2004).

“Wrongdoing” is an awkward concept with respect to the LUST Program, since the owner/operator of tanks has strict responsibility to take certain steps in response to a confirmed release. (415 ILCS 5/57.1(a)) Releases from tanks can occur without any wrongdoing. Malone v. Ware Oil Co., 179 Ill.App.3d 730, 737 (4<sup>th</sup> Dist. 1989) (holding that “substantial quantities of gasoline can, in the ordinary course of affairs, escape from premises where a service station is being operated and travel underground to nearby properties downhill from the station without negligence on the part of the owner or operator of the station.”) Nonetheless, the broad remedial

purpose to be served by the LUST Program is served by making its provisions applicable to mere accidents, both sudden and nonsudden. (415 ILCS 5/57.2 (definition of “occurrence”)).

In any event, there is no evidence that William Maxwell actively participated in any of the alleged violations. All of the documents regarding these LUST incidents are filed with the Illinois EPA by a corporate entity, signed by someone other than William Maxwell or mailed by the Illinois EPA to someone other than William Maxwell. Moreover, William Maxwell was never served with notice of a violation pursuant to 415 ILCS 5/31(a)(1), which is further evidence that the Illinois EPA does not truly believe that he violated the Act.

WHEREFORE, Respondents, SIX M. CORPORATION, INC. and WILLIAM MAXWELL, pray for an order granting William Maxwell summary judgment in full, or for such further relief as the Board deems meet and just.

Respectfully submitted by

SIX M. CORPORATION, INC. and WILLIAM  
MAXWELL, respondents,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Law Office of Patrick D. Shaw  
80 Bellerive Road  
Springfield, IL 62704  
217-299-8484  
[pdshaw1law@gmail.com](mailto:pdshaw1law@gmail.com)

THIS FILING IS SUBMITTED ON RECYCLED PAPER

**BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS**

<b>PEOPLE OF THE STATE OF ILLINOIS)</b>	)	
<b>Complainant,</b>	)	
v.	)	<b>PCB NO. 12-35</b>
	)	<b>(Enforcement — Water)</b>
<b>SIX M CORPORATION, INC., and</b>	)	
	)	
<b>WILLIAM MAXWELL,</b>	)	
<b>Respondents.</b>	)	

**COMPLAINANT'S RESPONSE TO RESPONDENTS' REQUESTS TO ADMIT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS ("People"), ex rel. LISA MADIGAN, Attorney General of the State of Illinois, hereby furnishes its responses to Respondents SIX M CORPORATION, INC. and WILLIAM MAXWELL's requests to admit:

1. Admit that on August 17, 2012, the People of the State of Illinois forwarded to opposing counsel in this matter a letter and computer disk of documentation regarding the LUST remediation project.

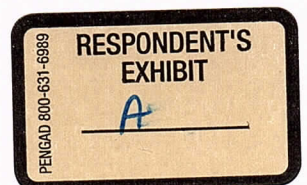
**Answer:**

**The term "LUST remediation project" is undefined in Respondents' Requests to Admit. However, Complainant admits that former Assistant Attorney General Thomas Davis sent such a letter dated August 17, 2012 and a computer disk purportedly containing information regarding the leaking underground storage tank incident that is the subject of this litigation.**

2. Admit that a true and correct copy of that letter is attached hereto as Exhibit A.

**Answer:**

**Admit**



3. Admit that the computer disk accompanying Exhibit A contained a true and correct copy of documentation regarding the LUST remediation project from the files of the Illinois Environmental Protection Agency.

**Answer:**

**Admit**

Respectfully submitted,

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

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

BY: 

SAMMY DAVID  
Environmental Bureau  
Assistant Attorney General  
69 West Washington Street, 18<sup>th</sup> Floor  
Chicago, Illinois 60602  
(312) 814-3816  
Primary email: [sdavid@atg.state.il.us](mailto:sdavid@atg.state.il.us)  
Secondary: [mcacaccio@atg.state.il.us](mailto:mcacaccio@atg.state.il.us)



03 90150003 - DeWitt  
Walker Tire Co. #2  
LSS

MAY-13-96 MON 17:24

P.01/01



### Illinois Emergency Management Agency

Incident Number 4 6 0 8 1 0

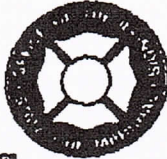
Notify: ILLINOIS EMERGENCY MANAGEMENT AGENCY  
1-800/782-7860 or 217/782-7860

### FIELD REPORT

Date: 5 / 13 / 96  
Time: 1717  
Received by: TW

1. Caller: TOM MAXWELL
  2. Call back phone#: 309/978-9291
  3. Caller represents: WALKER TIRE
  4. Type of incident:  Fire  Leak or Spill  
 Explosion  Water Involvement  
 Gas or Vapor cloud  Other
  5. Incident Location:  
Street 430 W. CLINTON AVE.  
City FARMER CITY  In  Near  
County DEWITT  
Milepost       RR  River  Highway  
Sec.      Twp.      Range
  6. Area Involved:  Highway  Rail  Fixed Facility  
 Waterway  Air  Other
  7. Material (s) Involved: GASOLINE  
 Gas  Liquid  Semi-Solid  Solid  
 Pesticide  Radioactive  
CAS #:       
UN/NA #:       
Is this a 302 (a) Extremely Hazardous Substance?  
 Yes  No  Unknown  
Is this a RCRA Hazardous Waste?  
 Yes  No  Unknown  
If Yes, is this a RCRA regulated facility?  
 Yes  No
  8. Container:  Truck  RR car  Drum  
 Aboveground tank  Pipeline  
 Underground tank  Other  
container size: UNK
  9. Amount released: UNK  
Rate of release:      / min.
  10. Cause of release: UNK
  11. Estimated spill extent: UNK  
 square feet  square yards
  12.  Occurred Date:      /      /      Time:       
 Discovered Date: 5 / 13 / 96 Time: 1700
  13. Emergency units contacted  
 Fire       
 Sheriff       
 Police       
 ESDA       
 Other
  14. On Scene Contact:       
On Scene Phone#:
  15. No. injured:       Haz-mar related  
Where taken:
  16. Public health risks and/or precautions taken,  
including # evacuated: -0-
  17. Assistance needed from State Agencies:  
-0-
  18. Containment/cleanup actions and plans:  
WILL HIRE CONTRACTOR
  19. Weather:  sunny  overcast  night  
 pty. cldy.  rain  snow  
Temp.      F wind dir.      speed      mph.
  20. Responsible Party: #3  
Contact person: #1  
Phone #: #2  
Mailing address: #5 61842
- Notifications: 1722 FAXED IEPA/SEM/IDPH/REG. 7  
WILL ADV. SEM AS THEY ADV. FUMES IN HOME
- On scene  
 Fire       
 Sheriff       
 Police       
 ESDA       
 Other STW

SCREENED  
RESPONDENT'S EXHIBIT  
A-1  
PENGAD 800-631-6889



# Office of the Illinois State Fire Marshal

General Office  
217-785-0869  
FAX  
217-782-1062

CERTIFIED MAIL - RECEIPT REQUESTED #Z 760 970 520

**Divisions**

ARSON INVESTIGATION  
217-782-6856

October 28, 1996

BOILER and PRESSURE VESSEL SAFETY  
217-782-2696

FIRE PREVENTION  
217-785-4714

MANAGEMENT SERVICES  
217-782-9889

Walker Service Station  
430 West Clinton Ave  
Farmer City, IL 61842

INFIRS  
217-785-1016

PERSONNEL  
217-785-1009

PERSONNEL STANDARDS and EDUCATION  
217-782-4542

In Re:

Facility No. 4-029427  
IEMA Incident No. 96-0810  
Walker Service Station  
430 West Clinton Ave  
Farmer City, DEWITT CO., IL

PETROLEUM and CHEMICAL SAFETY  
217-785-9878

PUBLIC INFORMATION  
217-785-1021

Dear Tom Maxwell:

The Reimbursement Eligibility and Deductible Application, received on 9-17-96 for the above referenced occurrence has been reviewed. The following determinations have been made based upon this review.

It has been determined that you are eligible to seek payment of costs in excess of \$15,000. The costs must be in response to the occurrence referenced above and associated with the following tanks:

**Eligible Tanks**

- Tank 1 10,000 gallon gasoline
- Tank 2 4,000 gallon gasoline
- Tank 3 500 gallon gasoline

You must contact the Illinois Environmental Protection Agency to receive a packet of Agency billing forms for submitting your request for payment.

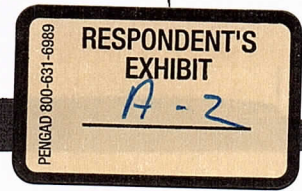
An owner or operator is eligible to access the Underground Storage Tank Fund if the eligibility requirements are satisfied:

1. Neither the owner nor the operator is the United States Government;
2. The tank does not contain fuel which is exempt from the Motor Fuel Tax Law;

1035 Stevenson Drive • Springfield, Illinois 62703-4259

Printed on Recycled Paper

Chicago, Illinois 60601





10/31/1990 17:20

00373207401

WALNUTS TIME

3. The costs were incurred as a result of a confirmed release of any of the following substances:
  - "Fuel", as defined in Section 1.10 of the Motor Fuel Tax Law
  - Aviation fuel
  - Heating-oil
  - Kerosene
  - Used oil, which has been refined from crude oil used in a motor vehicle, as defined in Section 1.3 of the Motor Fuel Tax Law.
4. The owner or operator registered the tank and paid all fees in accordance with the statutory and regulatory requirements of the Gasoline Storage Act.
5. The owner or operator notified the Illinois Emergency Management Agency of a confirmed release, the costs were incurred after the notification and the costs were a result of a release of a substance listed in this Section. Costs of corrective action or indemnification incurred before providing that notification shall not be eligible for payment.
6. The costs have not already been paid to the owner or operator under a private insurance policy, other written agreement, or court order.
7. The costs were associated with "corrective action".

This constitutes the final decision as it relates to your eligibility and deductibility. We reserve the right to change the deductible determination should additional information that would change the determination become available. An underground storage tank owner or operator may appeal the decision to the Illinois Pollution Control Board (Board), pursuant to Section 57.9 (c) (2). An owner or operator who seeks to appeal the decision shall file a petition for a hearing before the Board within 35 days of the date of mailing of the final decision (35 Illinois Administrative Code 105.102(a)(2)).

For information regarding the filing of an appeal, please contact:

Dorothy Gunn, Clerk  
 Illinois Pollution Control Board  
 State of Illinois Center  
 100 West Randolph, Suite 11-500  
 Chicago, Illinois 60601  
 (312)814-3620

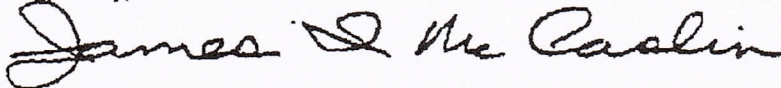
The following tanks are also listed for this site:

- Tank 3 2,000 gallon diesel
- Tank 4 1,000 gallon waste oil
- Tank 6 200 gallon diesel
- Tank 7 300 gallon heating oil

Your application indicates that there has not been a release from these tanks. You may be eligible to seek payment of corrective action costs associated with these tanks if it is determined that there has been a release from one or more of these tanks. Once it is determined that there has been a release from one or more of these tanks you may submit a separate application for an eligibility determination to seek corrective action costs associated with this/these tanks.

If you have any questions regarding the eligibility or deductibility determinations, please contact our Office at (217)785-1020 or (217)785-5878 between 3:00 - 4:00 p.m.

Sincerely,



James I. McCaslin  
Director  
Division of Petroleum and Chemical Safety

JIM:ct

cc: IEPA  
Facility File





Illinois Environmental Protection Agency

Federal Taxpayer Identification Number and Legal Status Disclosure Certification Requirements

In order to comply with requirements mandated by Internal Revenue Service Rules and Regulations, the tank owner/operator must complete the section entitled TAXPAYER IDENTIFICATION NUMBER AND LEGAL STATUS DISCLOSURE CERTIFICATION below.

Enter your taxpayer identification number (TIN) in the appropriate space. For individuals and sole proprietors, this is your social security number. For other entities, it is your employer identification number. Federal Employer Identification Numbers (FEINs) must not be used for sole proprietorships.

If you do not have a TIN, apply for one immediately. To apply, get Form SS-5, Application for a Social Security Number Card (for individuals) from your local office of the Social Security administration, or Form SS-4, Application for Employer Identification Number (for businesses and all other entities), from your local Internal Revenue Service office.

To complete the certification if you do not have a TIN, fill out the certification indicating that a TIN has been applied for, sign and date the form, and return it to this Agency. As soon as you receive your TIN, fill out another such form including your TIN, sign and date the form, and send it to this Agency.

If you fail to furnish your correct TIN to this Agency, you are subject to an IRS penalty of \$50.00 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

WILLFULLY FALSIFYING CERTIFICATIONS OR AFFIRMATIONS MAY SUBJECT YOU TO CRIMINAL PENALTIES INCLUDING FINES AND/OR IMPRISONMENT.

Please return the completed form to the Bureau of Land, Remedial Projects, Accounting & Procurement Unit, P.O. Box 19276, Springfield, Illinois 62794-9276.

TAXPAYER IDENTIFICATION NUMBER AND LEGAL STATUS DISCLOSURE CERTIFICATION.

Under penalties of perjury, I certify that the FEIN or Social Security Number indicated below is my correct Federal Taxpayer Identification Number. I am doing business as a (please check one):

RECEIVED  
SEP 27 1996  
IEPA/DLPC

- Individual, Partnership, Corporation, Trust or Estate, Sole Proprietorship, Governmental Entity, Tax Exempt Organization (IRC 501(a) only), Real Estate Agent, Not-for-Profit Corp., Medical & Health Care Services Provider Corp.

Taxpayer Identification Number: [redacted] Signed: Tom McFarrell Date: 9-24-96

Walker Service Station  
Name of Firm (Please print or type)

Note: Original signature required.

This Agency is authorized to request this information under the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. (formerly Ill Rev.Stat Ch 111 1/2, 1001 et seq.). Disclosure of this information is required. Failure to properly complete this form in its entirety may result in the delay or denial of any payment requested hereunder. This form has been approved by the Forms Management Center.

RESPONDENT'S EXHIBIT A-3





# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762  
TDD 217/782-9143

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

7004 2510 0001 8648 3322

**NOV 02 2005**

Walker's Service Station  
Attn: Tom Maxwell  
430 West Clinton Avenue  
Farmer City, Illinois 61842

Re: **Violation Notice, L-2005-01452**  
LPC #0390150003 -- DeWitt County  
Farmer City/Walker's Service Station  
430 West Clinton Avenue  
LUST Incident No. 960810  
Compliance File

Dear Mr. Maxwell:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Environmental Protection Act (Act), 415 ILCS 5/31(a)(1), and is based upon a record review completed on October 20, 2005 by a representative of the Illinois Environmental Protection Agency (Illinois EPA).

The Illinois EPA hereby provides notice of violations of environmental statutes, regulations, or permits as set forth in Attachment A to this letter. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the violations cited, please be advised that resolution of the violations may require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. The response must address each violation specified in Attachment A and include for each an explanation of the activities that will be implemented and the time schedule for the completion of that activity. The written response will constitute a proposed Compliance Commitment Agreement (CCA) pursuant to Section 31 of the Act. The Illinois EPA will review the proposed CCA and will accept or reject it within 30 days of receipt.

RELEASABLE

NOV 04 2005

REVIEWER MD

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (708) 294-4000  
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463  
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

PRINTED ON RECYCLED PAPER

PENGAD 800-631-6889  
**RESPONDENT'S  
EXHIBIT**  
A-4

If a timely written response to this Violation Notice is not provided, it shall be considered to be a waiver of the opportunity to respond and to meet and the Illinois EPA may proceed with a referral to the prosecutorial authority.

Written communications should be directed to:

Illinois Environmental Protection Agency  
Attention: DENISE PATTON  
Bureau of Land #24  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

All communications must include reference to this **VIOLATION NOTICE NUMBER, L-2005-01452.**

Questions regarding this matter should be directed to **Valerie Davis** at 217-785-7492.

Sincerely,



Clifford L. Wheeler  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

CLW:VAD\

Attachment: Attachment A

Enclosure

c: Applied Environmental Solutions, Inc.(w/ enclosure)  
Division File



Attachment A

Re: **Violation Notice, L-2005-01452**  
LPC #0390150003 -- DeWitt County  
Farmer City/Walker's Service Station  
430 West Clinton Avenue  
LUST Incident No. 960810  
Compliance File

NOTE: Citations in this Attachment are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

1. Pursuant to 35 Ill. Adm. Code 732.100(c), owners or operators subject to this Part by law or by election shall proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the "No Further Remediation" letter signifying final disposition of the site for purposes of this Part. The Illinois EPA may use its authority pursuant to the Act and 35 Ill. Adm. Code 732.105 to expedite investigative, preventive or corrective action by an owner or operator or to initiate action.

A violation of 35 Ill. Adm. Code 732.100(c) is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

2. Pursuant to 35 Ill. Adm. Code 732.200, owners and operators of underground storage tanks shall, in response to all confirmed releases of petroleum, comply with all applicable statutory and regulatory reporting and response requirements.

A violation of 35 Ill. Adm. Code 732.200 is alleged for the following reasons:

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

3. Pursuant to 35 Ill. Adm. Code 732.400(a), following approval of the site evaluation and classification by the Illinois EPA pursuant to Subpart C of this Part and except as provided in subsection (b) or (c) of this Section, the owner or operator of an UST system subject to the requirements of this Part shall develop and submit a corrective action plan and perform corrective action activities in accordance with the procedures and requirements contained in this Subpart D.

A violation of 35 Ill. Adm. Code 732.400(a) is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

4. Pursuant to 35 Ill. Adm. Code 732.404(a), the owner or operator of a site that has been certified by a Licensed Professional Engineer or Licensed Professional Geologist as a "High Priority" site and approved as such by the Illinois EPA shall develop a corrective action plan and perform corrective action in accordance with the requirements of this Section. The purpose of the corrective action plan shall be to remediate or eliminate each of the criteria set forth in subsection (b) of this Section that caused the site to be classified as "High Priority."

A violation of 35 Ill. Adm. Code 732.404(a) is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

5. Pursuant to 35 Ill. Adm. Code 732.405(a), prior to conducting any corrective action activities pursuant to this Subpart D, the owner or operator shall submit to the Illinois EPA a "Low Priority" groundwater monitoring plan or a "High Priority" corrective action plan satisfying the minimum requirements for such activities as set forth in 35 Ill. Adm. Code 732.403 or 732.404 of this Part, as applicable. Groundwater monitoring and corrective action plans shall be submitted on forms prescribed and provided by the Illinois EPA.

A violation of 35 Ill. Adm. Code 732.405 is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

6. Pursuant to Section 57.6(a) of the Act, owners and operators of underground storage tanks shall, in response to all confirmed releases, comply with all applicable statutory and regulatory reporting and response requirements.

A violation of Section 57.6(a) of the Act is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

7. Pursuant to Section 57.7(c)(1)(A) of the Act, for a High Priority site, prior to performance of any corrective action, beyond that required by Section 57.6 and Section 57.7(a), the owner or operator shall prepare and submit to the Illinois EPA for the Illinois EPA's approval or modification, a corrective action plan designed to mitigate any threat to human health, human safety or the environment resulting from the underground storage tank release.

A violation of Section 57.7(c)(1)(A) of the Act is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.



8. Pursuant to Section 57.7(c)(1)(C) of the Act, the high priority corrective action plan shall do all of the following:
- a. Provide that applicable indicator contaminant groundwater quality standards or groundwater objectives will not be exceeded in groundwater at the property boundary line or 200 feet from the excavation, whichever is less, or other level if approved by the Illinois EPA, for any contaminant identified in the groundwater investigation after complete performance of the corrective action plan.
  - b. Provide that Class III special resource groundwater quality standards for Class III special resource groundwater within 200 feet of the excavation will not be exceeded as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation after complete performance of the corrective action plan.
  - c. Remediate threats due to the presence or migration, through natural or manmade pathways, of petroleum in concentrations sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.
  - d. Remediate threats to a potable water supply.
  - e. Remediate threats to a surface water body.

A violation of Section 57.7(c)(1)(C) of the Act is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan that addresses the above and remaining contamination.

9. Pursuant to Section 57.7(c)(1)(D) of the Act, within 30 days of completion of the corrective action, the owner or operator shall submit to the Illinois EPA such a completion report that includes a description of the corrective action plan and a description of the corrective action work performed and all analytical sampling results derived from performance of the corrective action plan.

A violation of Section 57.7(c)(1)(D) of the Act is alleged for the following reason(s):

The owner or operator has failed to report on continuing corrective action activities and to submit an amended High Priority Corrective Action Plan to address remaining contamination.

10. Pursuant to Section 12(a) of the Act, no person shall 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.



A violation of Section 12(a) of the Act is alleged for the following reason(s):

For discharging contaminant(s) into the environment so as to cause or tend to cause water pollution.

- 11. Pursuant to Section 12(d) of the Act, no person shall deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

A violation of Section 12(d) of the Act is alleged for the following reason(s):

For depositing contaminants upon the land in such a place and manner so as to create a water pollution hazard.

- 12. Pursuant to 35 Ill. Adm. Code 620.405, no person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard to be exceeded.

A violation of 35 Ill. Adm. Code 620.405 is alleged for the following reason(s):

For causing, threatening or allowing the release of any contaminant to groundwater so as to cause a groundwater quality standard to be exceeded.

- 13. Pursuant to 35 Ill. Adm. Code 620.410(c), concentrations of the following chemical constituents of gasoline, diesel fuel, or heating fuel must not be exceeded in Class I groundwater.

<u>Constituent</u>	<u>Standard (mg/L)</u>
Benzene	0.005
BETX	11.705

A violation of 35 Ill. Adm. Code 620.410(c) is alleged for the following reason(s):

For exceeding the above constituents' standards.

- 14. Pursuant to 35 Ill. Adm. Code 620.302(c), corrective action is necessary if a contaminant exceeds a standard set forth in 35 Ill. Adm. Code 620.410.

A violation of 35 Ill. Adm. Code 620.302(c) is alleged for the following reason(s):

For not conducting corrective action.

## SUGGESTED RESOLUTIONS

**The written response to this Violation Notice must be submitted within 45 days of receipt of the letter. As part of the written response to this Violation Notice, the owner and/or operator must submit the following information, or if any of the suggested resolutions extend beyond the 45 days, the information must be addressed within the 45-day response and included within the proposed Compliance Commitment Agreement.**

**Submit a complete and approvable High Priority Corrective Action Plan and budget satisfying the minimum requirements of 35 Ill. Adm. Code 732.404(b). The submission of a budget is not required if the owner or operator does not intend to seek reimbursement from the Underground Storage Tank Fund. The Plan must include an approvable tentative schedule for corrective action activities, reporting, and request for a No Further Remediation Letter. The Corrective Action Plan form to assist the owner and/or operator in preparing this plan was provided by the Illinois EPA after the initial release was reported. (57.7(c)(1)(A) of the Act and 35 Ill. Adm. Code 732.404(a))**

**The written response to this Violation Notice must include information in rebuttal, explanation, or justification of each alleged violation. The written response must also include a proposed Compliance Commitment Agreement that commits to specific remedial actions, includes specified times for achieving each commitment, and may include a statement that compliance has been achieved. Within this Violation Notice, the Illinois EPA has included an estimate of a reasonable time period to complete the suggested resolutions. As part of the required Compliance Commitment Agreement, either include these time periods or propose alternate time periods that commit to specific remedial actions.**

**Technical forms to assist the owner and/or operator in meeting the reporting requirements of 35 Ill. Adm. Code 731 and/or 732 were previously provided by the Illinois EPA. Should additional forms be required, please call 217/782-6762 and request a technical reporting forms packet.**

VAD/





Illinois  
Environmental  
Protection Agency

Bureau of Land  
1021 North Grand Avenue East  
Springfield, IL 62794-9276

September 1997

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## VIOLATION NOTICE FACT SHEET

### Introduction

A Violation Notice (VN) is a written notice sent to owners/operators by the Illinois EPA informing them of alleged violations of environmental regulations and the [Illinois] Environmental Protection Act (Act). A VN provides the owner/operator an opportunity to develop a Compliance Commitment Agreement (CCA) with the Illinois EPA in an effort to resolve the alleged violations prior to the filing of a formal complaint. The VN identifies each alleged violation and suggests actions necessary to resolve those violations.

### Background

In the past, the Illinois EPA notified owners/operators of alleged violations via Compliance Inquiry Letters and Pre-Enforcement Conference Letters. However, on August 1, 1996, Public Act 89-596 amended Section 31 of the Act requiring different notification steps and timeframes in the pre-enforcement process. The Compliance Inquiry and Pre-Enforcement Conference Letters are no longer used. Section 31 of the Act now requires the Illinois EPA to notify owners/operators of certain alleged violations by sending a VN within 180 days of becoming aware of the violation. In addition, Section 31 of the Act now includes deadlines for the owner/operator to respond to a VN and for the Illinois EPA to approve, modify or deny any VN response.

### Written Response

An owner/operator has 45 days from receipt of the VN to provide a written response to the VN. In the written response, the owner/operator must:

1. *Specifically address each violation.* Information should be provided by the owner/operator in rebuttal, explanation or justification of each alleged violation.
2. *Propose a Compliance Commitment Agreement.* The owner/operator must provide a schedule to resolve each violation. If the owner/operator believes compliance has been achieved for a violation, this must be stated in the CCA. The VN will contain suggested resolution actions necessary to achieve compliance. Specific resolution actions must be incorporated into the CCA. The VN will also suggest a reasonable time period for the owner/operator to resolve each violation. However, the owner/operator may propose alternative time periods if justification is provided.
3. *Request a meeting with the Illinois EPA if desired.* If the owner/operator wishes to meet with the Illinois EPA, a meeting must be requested as part of the written response and must be held within 60 days of receipt of the VN. The owner/operator has 21 days following the meeting to supply the information in numbers 1 and 2 above.

The written response must be mailed via certified mail to the Illinois EPA contact person identified in the VN. Failure to respond adequately to the VN may result in the referral of the case to the Illinois Attorney General's Office or State's Attorney for formal enforcement.

## Violation Notice Fact Sheet

Page 2

Below are some of the frequently asked questions concerning VNs.

*Q: What constitutes a "violation"?*

A: A violation is any noncompliance with the Environmental Protection Act and/or the adopted regulations.

*Q: What do I do if I think the VN is a mistake or if I have complied already?*

A: All VNs require a written response from the owner/operator. The owner/operator may state within the written response that compliance has been achieved. You may also contact the project manager listed on the VN by telephone to explain the situation; however, you must follow up with a written response within the 45-day timeframe.

*Q: If my proposed CCA is rejected, what do I do?*

A: In many cases, you may have the opportunity to continue negotiating with the Illinois EPA regarding resolution of the alleged violations identified in the VN. However, the Illinois EPA may issue a written notice that informs you of the Illinois EPA's intent to pursue legal action.

*Q: What happens if I do not respond to the VN at all?*

A: Failure to submit a written response to the VN will indicate your waiver of the requirements of Section 31(a) of the Act and may result in the Illinois EPA issuing a notice informing the owner/operator of the Illinois EPA's intent to pursue legal action.

*Q: To whom do I submit my "written response"?*

A: The written response contact will be identified in the VN. Please note, the written response contact may be different from the telephone contact project manager. Please read the VN thoroughly. All written responses must be submitted to the Illinois EPA via certified mail.



**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

7004 2510 0001 8648 3322

VJF F 9 @ 8 A L C W / S E Z

Postage \$	2.30
Certified Fee	1.75
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Postmark Here  
NOV 7 2005  
FARMER CITY, ILL.

To: LPC# 0390150003- DeWitt County  
 VN# L- 2005-01452 Lust Tech 960810  
 Walker's Service Station  
 Attn: Tom Maxwell  
 430 West Clinton Avenue  
 Farmer City, IL 61842

PS Form 3800, June 2002 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece or on the front if space permits.

1. Article Addressed to:  
 LPC# 0390150003- DeWitt County  
 VN# L- 2005-01452 Lust Tech 960810  
 Walker's Service Station  
 Attn: Tom Maxwell  
 430 West Clinton Avenue  
 Farmer City, IL 61842

2. Article Number (Transfer from service label)  
 7004 2510 0001 8648 3322

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X Sally Shelby  Agent  Addressee

B. Received by (Printed Name)  
 SALLY SHELBY

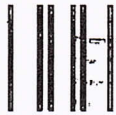
C. Date of Delivery  
 11-3-05

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

◦ Sender: Please print your name, address, and ZIP+4 in this box ◦

Illinois Environmental Protection Agency

P.O. Box 19276 Mail Code #

Springfield, IL 62794-9276







# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR      RENEE CIPRIANO, DIRECTOR

217.782.5544  
TDD: 217.782.9143

February 1, 2006

**CERTIFIED MAIL**  
Return Receipt Requested  
7002 3150 0000 1109 1501

Walker's Service Station  
Attn: Tom Maxwell  
430 West Clinton Avenue  
Farmer City, Illinois 61842

**Re: Notice of Intent Letter for Violation Notice, L-2005-01425**  
LPC#0390150003— DeWitt County  
Walker's Service Station  
Compliance File

Dear Mr. Maxwell:

This Notice of intent to Pursue Legal Action ("Notice") is provided pursuant to Section 31(b) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(b). The Illinois Environmental Protection Agency ("Illinois EPA") is providing this Notice due to the nature and seriousness of the allegations within Violation Notice L-2005-01425.

The Illinois EPA is providing this letter because it may pursue legal action against you for the violations of environmental statutes, regulations, or permits specified in the Violation Notice above as well as Attachment A. This Notice provides you the opportunity to schedule a meeting with representative of the Illinois EPA to attempt to resolve the violations of the Act, regulations and permits specified in Attachment A. If a meeting is requested, it must be held within thirty (30) days of receipt of this Notice, unless an extension of time is agreed to by the Illinois EPA.

Please be advised that resolution of the violations may require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

If you wish to schedule a meeting with representatives of the Illinois EPA, or if you have any questions, please contact me at (217) 782-5544 within 20 days of your receipt of this Notice.

Very truly yours,

Kyle N. Davis, Esq.  
Assistant Counsel

RELEASEABLE  
FEB 08 2006  
REVIEWER WJM

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5462  
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 244-2000  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62231 - (618) 993-7200  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

RESPONDENT'S  
EXHIBIT  
A-5

Attachment A

Re: **Violation Notice, L-2005-01452**  
LPC #0390150003 -- DeWitt County  
Farmer City/Walker's Service Station  
430 West Clinton Avenue  
LUST Incident No. 960810  
Compliance File

NOTE: Citations in this Attachment are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

1. Pursuant to 35 Ill. Adm. Code 732.100(c), owners or operators subject to this Part by law or by election shall proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the "No Further Remediation" letter signifying final disposition of the site for purposes of this Part. The Illinois EPA may use its authority pursuant to the Act and 35 Ill. Adm. Code 732.105 to expedite investigative, preventive or corrective action by an owner or operator or to initiate action.

A violation of 35 Ill. Adm. Code 732.100(c) is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

2. Pursuant to 35 Ill. Adm. Code 732.200, owners and operators of underground storage tanks shall, in response to all confirmed releases of petroleum, comply with all applicable statutory and regulatory reporting and response requirements.

A violation of 35 Ill. Adm. Code 732.200 is alleged for the following reasons:

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

3. Pursuant to 35 Ill. Adm. Code 732.400(a), following approval of the site evaluation and classification by the Illinois EPA pursuant to Subpart C of this Part and except as provided in subsection (b) or (c) of this Section, the owner or operator of an UST system subject to the requirements of this Part shall develop and submit a corrective action plan and perform corrective action activities in accordance with the procedures and requirements contained in this Subpart D.

A violation of 35 Ill. Adm. Code 732.400(a) is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.



4. Pursuant to 35 Ill. Adm. Code 732.404(a), the owner or operator of a site that has been certified by a Licensed Professional Engineer or Licensed Professional Geologist as a "High Priority" site and approved as such by the Illinois EPA shall develop a corrective action plan and perform corrective action in accordance with the requirements of this Section. The purpose of the corrective action plan shall be to remediate or eliminate each of the criteria set forth in subsection (b) of this Section that caused the site to be classified as "High Priority."

A violation of 35 Ill. Adm. Code 732.404(a) is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

5. Pursuant to 35 Ill. Adm. Code 732.405(a), prior to conducting any corrective action activities pursuant to this Subpart D, the owner or operator shall submit to the Illinois EPA a "Low Priority" groundwater monitoring plan or a "High Priority" corrective action plan satisfying the minimum requirements for such activities as set forth in 35 Ill. Adm. Code 732.403 or 732.404 of this Part, as applicable. Groundwater monitoring and corrective action plans shall be submitted on forms prescribed and provided by the Illinois EPA.

A violation of 35 Ill. Adm. Code 732.405 is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

6. Pursuant to Section 57.6(a) of the Act, owners and operators of underground storage tanks shall, in response to all confirmed releases, comply with all applicable statutory and regulatory reporting and response requirements.

A violation of Section 57.6(a) of the Act is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

7. Pursuant to Section 57.7(c)(1)(A) of the Act, for a High Priority site, prior to performance of any corrective action, beyond that required by Section 57.6 and Section 57.7(a), the owner or operator shall prepare and submit to the Illinois EPA for the Illinois EPA's approval or modification, a corrective action plan designed to mitigate any threat to human health, human safety or the environment resulting from the underground storage tank release.

A violation of Section 57.7(c)(1)(A) of the Act is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan to address remaining contamination.

8. Pursuant to Section 57.7(c)(1)(C) of the Act, the high priority corrective action plan shall do all of the following:
- a. Provide that applicable indicator contaminant groundwater quality standards or groundwater objectives will not be exceeded in groundwater at the property boundary line or 200 feet from the excavation, whichever is less, or other level if approved by the Illinois EPA, for any contaminant identified in the groundwater investigation after complete performance of the corrective action plan.
  - b. Provide that Class III special resource groundwater quality standards for Class III special resource groundwater within 200 feet of the excavation will not be exceeded as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation after complete performance of the corrective action plan.
  - c. Remediate threats due to the presence or migration, through natural or manmade pathways, of petroleum in concentrations sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.
  - d. Remediate threats to a potable water supply.
  - e. Remediate threats to a surface water body.

A violation of Section 57.7(c)(1)(C) of the Act is alleged for the following reason(s):

The owner or operator failed to submit an amended High Priority Corrective Action Plan that addresses the above and remaining contamination.

9. Pursuant to Section 57.7(c)(1)(D) of the Act, within 30 days of completion of the corrective action, the owner or operator shall submit to the Illinois EPA such a completion report that includes a description of the corrective action plan and a description of the corrective action work performed and all analytical sampling results derived from performance of the corrective action plan.

A violation of Section 57.7(c)(1)(D) of the Act is alleged for the following reason(s):

The owner or operator has failed to report on continuing corrective action activities and to submit an amended High Priority Corrective Action Plan to address remaining contamination.

10. Pursuant to Section 12(a) of the Act, no person shall 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.



A violation of Section 12(a) of the Act is alleged for the following reason(s):

For discharging contaminant(s) into the environment so as to cause or tend to cause water pollution.

- 11. Pursuant to Section 12(d) of the Act, no person shall deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

A violation of Section 12(d) of the Act is alleged for the following reason(s):

For depositing contaminants upon the land in such a place and manner so as to create a water pollution hazard.

- 12. Pursuant to 35 Ill. Adm. Code 620.405, no person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard to be exceeded.

A violation of 35 Ill. Adm. Code 620.405 is alleged for the following reason(s):

For causing, threatening or allowing the release of any contaminant to groundwater so as to cause a groundwater quality standard to be exceeded.

- 13. Pursuant to 35 Ill. Adm. Code 620.410(c), concentrations of the following chemical constituents of gasoline, diesel fuel, or heating fuel must not be exceeded in Class I groundwater.

<u>Constituent</u>	<u>Standard (mg/L)</u>
Benzene	0.005
BETX	11.705

A violation of 35 Ill. Adm. Code 620.410(c) is alleged for the following reason(s):

For exceeding the above constituents' standards.

- 14. Pursuant to 35 Ill. Adm. Code 620.302(c), corrective action is necessary if a contaminant exceeds a standard set forth in 35 Ill. Adm. Code 620.410.

A violation of 35 Ill. Adm. Code 620.302(c) is alleged for the following reason(s):

For not conducting corrective action.

MAR-08-2006 WED 03:13 PM IEMA

FAX NO. 2175574865

P. 01/02

0390150003-DeWitt  
Walker service station

Entered by: Robinson, Matt/IEMA On 3/8/06 2:53 PM

Chusateck

Incident Date/Time: Mar 8, 2006 2:53 PM  
Incident #: H-2006-0291  
Incident Type: Hazmat Report  
Status:  Open  Closed  
Level:  Main-Incident  Sub-Incident  
Leaking Underground Storage Tank (LUST):

1. Caller Name: TODD HOGAN  
2. Callback Phone: 618-533-5953  
3. Caller Represents: APPLIED ENVIRONMENTAL SOLUTIONS  
4. Type of Incident: Leak or Spill  
5. Incident Location: Street: 430 W CLINTON AVE, City: FARMER CITY, Milepost: , Sec. , Range:   
6. Area Involved: Fixed Facility  
County: DeWitt, Twp. W1842

Weather Information  
Temp (deg F) Wind Dir/Speed m.p.h

Material Name: GASOLINE AND DIESEL  
Material Type: Liquid  
CHRIS Code: UNK  
CAS#: UNK  
UN/NA#: UNK  
Is this a 302(a) Extremely Hazardous Substance?  Yes  No  Unknown  
Is this a RCRA Hazardous Waste?  Yes  No  Unknown  
Is this a RCRA regulated facility?  Yes  No  Unknown  
Container Type: Underground Storage Tank, Container Size: 3 TANKS, 1 - 10000 GASOLINE / 1- 4000 GALLON DIESEL / 1- 2000 GALLON GASOLINE  
Amount Released: UNK, Rate of Release/min:   
Cause of Release: OVERFILLS AND SPILLS  
Estimated Spill Extent Occurred: UNK, Spill Extent Units Discovered: 3/7/06 4:00 PM

Number Injured:   
Where Taken:   
Public health risks and/or precautions taken, including # evacuated:   
Assistance needed from State Agencies:   
Containment/cleanup actions and plans:   
On Scene Contact: TODD HOGAN  
On Scene Phone #: 618-533-5953

RELEASABLE

MAR 15 2006

REVIEWER M

RESPONDENT'S EXHIBIT  
A-6  
PENGAD 800-631-6889



MAR-08-2008 WED 03:13 PM IEMA

FAX NO. 2175574885

P. 02/02

APPLIED ENVIRONMENTAL SOLUTIONS WILL BE CONDUCTING REMEDIATION

Responsible Party Information

Responsible Party: WALKER SERVICE STATION  
Contact Person: TOM MAXWELL  
Callback Number: 309-928-9291

Address: 430 W CLINTON // FARMER CITY III IL 61842

Emergency Units Contacted

Agencies Contacted

ESDA	<input checked="" type="checkbox"/> Contacted	<input checked="" type="checkbox"/> On Scene
Fire	<input checked="" type="checkbox"/> Contacted	<input checked="" type="checkbox"/> On Scene
Other	<input checked="" type="checkbox"/> Contacted	<input checked="" type="checkbox"/> On Scene
Police	<input checked="" type="checkbox"/> Contacted	<input checked="" type="checkbox"/> On Scene
Sheriff	<input checked="" type="checkbox"/> Contacted	<input checked="" type="checkbox"/> On Scene

Narrative

1506 - FAXED IEPA, NRTP, OSFM AND REGION 7

Notifications (On Call personnel auto populated - double click to create Notification Record):

Group	Full Name	Region	County	Email	Business #	Cell #	EOC #	On-Call St
OSFM	Bill Alderson							



Office of the Illinois State Fire Marshal "Partnering With the Fire Service to Protect Illinois"

General Office 217-785-0969 FAX 217-782-1062 Divisions

CERTIFIED MAIL - RECEIPT REQUESTED #7003 3110 0004 1274 7190

ARSON INVESTIGATION 217-782-9116 BOILER and PRESSURE VESSEL SAFETY 217-782-2696 FIRE PREVENTION 217-785-4714 MANAGEMENT SERVICES 217-782-9889 INFIRS 217-785-5826 HUMAN RESOURCES 217-785-1026 PERSONNEL STANDARDS and EDUCATION 217-782-4542 PETROLEUM and CHEMICAL SAFETY 217-785-5878 PUBLIC INFORMATION 217-785-1021 WEB SITE www.state.il.us/osfm

April 3, 2006

Walker Tire Service 430 W. Clinton Farmer City, IL 61842

In Re:

Facility No. 4-029427 IEMA Incident No. 06-0291 Walker Tire Service 430 W. Clinton Farmer City, Dewitt Co., IL

Dear Applicant:

The Reimbursement Eligibility and Deductible Application received on March 17, 2006 for the above referenced occurrence has been reviewed. The following determinations have been made based upon this review.

It has been determined that you are eligible to seek payment of costs in excess of \$15,000. The costs must be in response to the occurrence referenced above and associated with the following tanks:

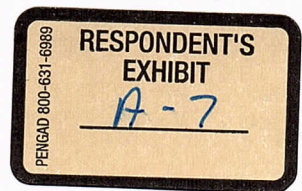
Eligible Tanks

- Tank 1 10,000 gallon Gasoline Tank 2 4,000 gallon Diesel Tank 3 2,000 gallon Gasoline

You must contact the Illinois Environmental Protection Agency to receive a packet of Agency billing forms for submitting your request for payment.

An owner or operator is eligible to access the Underground Storage Tank Fund if the eligibility requirements are satisfied:

- 1. Neither the owner nor the operator is the United States Government, 2. The tank does not contain fuel which is exempt from the Motor Fuel Tax Law, 3. The costs were incurred as a result of a confirmed release of any of the following substances: Fuel as defined in Section 1-19 of the Motor Fuel Tax Law, Aviation fuel





Heating oil

Kerosene

Used oil, which has been refined from crude oil used in a motor vehicle, as defined in Section 1.3 of the Motor Fuel Tax Law.

4. The owner or operator registered the tank and paid all fees in accordance with the statutory and regulatory requirements of the Gasoline Storage Act.
5. The owner or operator notified the Illinois Emergency Management Agency of a confirmed release, the costs were incurred after the notification and the costs were a result of a release of a substance listed in this Section. Costs of corrective action or indemnification incurred before providing that notification shall not be eligible for payment.
6. The costs have not already been paid to the owner or operator under a private insurance policy, other written agreement, or court order.
7. The costs were associated with "corrective action".

This constitutes the final decision as it relates to your eligibility and deductibility. We reserve the right to change the deductible determination should additional information that would change the determination become available. An underground storage tank owner or operator may appeal the decision to the Illinois Pollution Control Board (Board), pursuant to Section 57.9 (c) (2). An owner or operator who seeks to appeal the decision shall file a petition for a hearing before the Board within 35 days of the date of mailing of the final decision, (35 Illinois Administrative Code 105.102(a) (2)).

For information regarding the filing of an appeal, please contact:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
(312) 814-3620

The following tanks are also listed for this site:

Tank 4 1,000 gallon Used Oil  
Tank 5 500 gallon Gasoline  
Tank 6 200 gallon Diesel  
Tank 7 300 gallon Heating Oil

Your application indicates that there has not been a release from these tanks under this incident number. You may be eligible to seek payment of corrective action costs associated with these tanks if it is determined that there has been a release from one or more of these tanks. Once it is determined that there has been a release from one or more of these tanks you may submit a separate application for an eligibility determination to seek corrective action costs associated with this/these tanks.

If you have any questions, please contact our Office at (217) 785-1020 or (217) 785-5878.

Sincerely,

A handwritten signature in cursive script that reads "Deanne Lock". The signature is written in black ink and is positioned above the typed name.

Deanne Lock  
Administrative Assistant  
Division of Petroleum and Chemical Safety

cc: IEPA  
Facility File



**ADDENDUM TO THE  
 45 DAY REPORT  
 FOR  
 LPC # 0390150003 - DEWITT COUNTY  
 FARMER CITY / WALKER TIRE SERVICE  
 430 W. CLINTON AVENUE  
 LUST INCIDENT # 20060291, 20060868  
 LUST Tech**

Project No: AS98016

Prepared For:

Mr. Tom Maxwell  
 Walker Tire Service  
 430 W. Clinton Avenue  
 Farmer City, IL 61842  
 (309) 928-9291

Prepared By:

Mr. Todd M. Hogan  
 Applied Environmental Solutions, Inc.  
 P. O. Box 1225  
 Centralia, IL 62801  
 (618) 533-5953

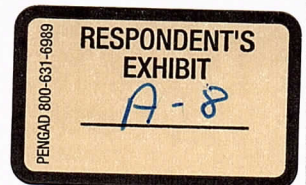
**RECEIVED**  
 SEP 11 2006  
 IEPA/BOL

**RELEASABLE**

OCT 03 2007

**REVIEWER JW**

August 1, 2006



The Agency is authorized to require this information under Section 4 and Title XVI of the Environmental Protection Act (415 ILCS 5/4, 5/57 - 57.17). Failure to disclose this information may result in a civil penalty of not to exceed \$50,000.00 for the violation and an additional civil penalty of not to exceed \$10,000.00 for each day during which the violation continues (415 ILCS 5/42). Any person who knowingly makes a false material statement or representation in any label, manifest, record, report, permit, or license, or other document filed, maintained or used for the purpose of compliance with Title XVI commits a Class 4 felony. Any second or subsequent offense after conviction hereunder is a Class 3 felony (415 ILCS 5/57.17). This form has been approved by the Forms Management Center.

## Illinois Environmental Protection Agency Leaking Underground Storage Tank Program 45-Day Report

### A. Site Identification

IEMA Incident # (6- or 8-digit): 60291, 60868 IEPA LPC# (10-digit): 0390150003  
 Site Name: Walker Tire Service  
 Site Address (Not a P.O. Box): 430 W. Clinton Avenue  
 City: Farmer City County: Dewitt ZIP Code: 61842  
 Leaking UST Technical File

### B. Release Information

UST Volume (gallons)	Material Stored in UST	Release Yes / No	Type of Release Tank Leak / Overfill / Piping Leak	Product removed? Yes / No	Tank Status Repaired / Removed / Abandoned / In Use
10,000.0	Gasoline	Yes	Overfill	Yes	Removed
4,000.0	Diesel	Yes	Overfill	Yes	Removed
2,000.0	Gasoline	Yes	Overfill	Yes	Removed

### C. Early Action

- Does this report demonstrate that the most stringent Tier 1 remediation objectives have been met? Yes  No
- Was free product encountered? Yes  No   
 If **yes**, the owner or operator must submit a Free Product Removal Report (form LPC 504). If free product removal will be conducted for more than 45 days, a Free Product Removal Plan (and budget, if applicable) must be submitted (form LPC 504).
- Have any fire or safety hazards posed by vapors or free product or contamination to a potable water supply been identified? Yes  No

**RECEIVED**  
 SEP 11 2006  
 IEPA/BOL

- |    |   |   |
|----|---|---|
| 4. | What was the volume of backfill material excavated? | <u>804.8</u> yds <sup>3</sup>                                       |
| 5. | What was the volume of native soil excavated?       | <u>0.0</u> yds <sup>3</sup>   |
| 6. | Was groundwater encountered at the site?            | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| 7. | Did the groundwater exhibit a sheen?                | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |

**D. Site/Release Information**

Provide the following:

1. Data on the nature and estimated quantity of release;
2. Data from available sources or site investigations concerning the following factors:
  - a. Surrounding populations;
  - b. Water quality;
  - c. Use and approximate locations of wells potentially affected by the release;
  - d. Subsurface soil conditions;
  - e. Location of subsurface sewers;
  - f. Climatological conditions; and
  - g. Land use;
3. A discussion of what was done to measure for the presence of a release where contamination was most likely to be present at the UST site;
4. The results of the free product investigations;
5. A discussion of the action taken to prevent further release of the regulated substance into the environment;
6. A discussion of the action taken to monitor and mitigate fire and safety hazards posed by vapors or free product that has migrated from the UST excavation zone and entered subsurface structures; and
7. Any other information collected while performing initial abatement measures pursuant to 35 Ill. Adm. Code 731.162, 732.202(b), or 734.210(b).

**E. Other Information**

Provide the following:

1. An area map showing the site in relation to surrounding properties;
2. A cross section, to scale, showing the UST(s) and the excavation;
3. Analytical/screening results in tabular format including the results of soil samples required pursuant to 35 Ill. Adm. Code 732.202(h) or 734.210(h) and the most stringent Tier 1 remediation objectives;
4. Site map meeting the requirements of 35 Ill. Adm. Code 732.110(a) or 734.440 and including sample locations;
5. Soil boring logs;



6. Chain of custody forms;
7. Laboratory analytical reports;
8. Laboratory certifications;
9. A copy of the Office of the State Fire Marshal Permit for Removal, Abandonment-in-Place, or other OSFM permits or notifications;
10. A narrative of tank removal and cleaning operations; describe how wastes generated during the tank removal were managed, treated, and disposed of;
11. Photographs of UST removal activities and the excavation; and
12. Copies of manifests for soil and groundwater transported off-site.

**F. Early Action Tier 1 Remediation Objectives Compliance Report**

If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met and a groundwater investigation is not required, in addition to the information provided above, provide the following:

1. Site characterization;
2. If water was encountered in the excavation, provide a demonstration pursuant to 35 Ill. Adm. Code 732.202(h)(4)(C) or 734.210(h)(4)(C) that it is not representative of actual groundwater; and
3. Property Owner Summary (form LPC 568).

**G. Signatures**

**UST Owner or Operator Signature:**

All plans, budgets, and reports must be signed by the owner or operator and list the owner's or operator's full name, address, and telephone number.

**UST Owner or Operator and Licensed Professional Engineer or Licensed Professional Geologist Certification of Stage 1 Site Investigation Plan and Budget (applies to Part 734 sites continuing beyond early action):**

Pursuant to 35 Ill. Adm. Code 734.315(b) and 734.310(b), I certify that the Stage 1 site investigation will be conducted in accordance with 35 Ill. Adm. Code 734.315 and that the costs of the Stage 1 site investigation will not exceed the amounts set forth in 35 Ill. Adm. Code 734.Subpart H, Appendix D, and Appendix E. This certification is intended to meet the requirements for a plan and budget for the Stage 1 site investigation required to be submitted pursuant to 35 Ill. Adm. Code 734.315 and 734.310.

A summary of the actual costs for conducting the Stage 1 site investigation will be submitted concurrently with the results of the Stage 1 site investigation and the Stage 2 site investigation plan and budget.

**Continue onto next page.**

**Licensed Professional Engineer or Licensed Professional Geologist Certification:**

I certify under penalty of law that all activities that are the subject of this plan, budget, or report were conducted under my supervision or were conducted under the supervision of another Licensed Professional Engineer or Licensed Professional Geologist and reviewed by me; that this plan, budget, or report and all attachments were prepared under my supervision; that, to the best of my knowledge and belief, the work described in this plan, budget, or report has been completed in accordance with the Environmental Protection Act [415 ILCS 5], 35 Ill. Adm. Code 731, 732, or 734, and generally accepted standards and practices of my profession; and that the information presented is accurate and complete. I am aware there are significant penalties for submitting false statements or representations to the Illinois EPA, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].

**UST Owner or Operator**

Name: Walker Tire Service  
Contact: Tom Maxwell  
Address: 430 W. Clinton Avenue  
City: Farmer City  
State: IL  
ZIP Code: 61842  
Phone: (309) 928-9291  
Signature: Tom Maxwell  
Date: 8-4-06

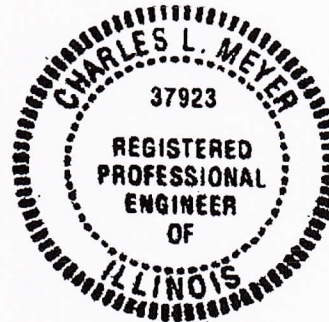
**Consultant**

Company: Applied Environmental Solutions  
Contact: Todd M. Hogan  
Address: P O Box 1225  
City: Centralia  
State: IL  
ZIP Code: 62801  
Phone: (618) 533-5953  
Signature: Todd M. Hogan  
Date: 8-4-06

**Licensed Professional Engineer or Geologist**

**L.P.E. or L.P.G. Seal**

Name: Charles L. Meyer  
Company: Applied Environmental Solutions  
Address: P O Box 1225  
City: Centralia  
State: IL  
ZIP Code: 62801  
Phone: (618) 533-5953  
Ill. Registration No.: 37923  
License Expiration Date: 11/30/07  
Signature: Charles Meyer  
Date: 8-23-06



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# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR      DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

**CERTIFIED MAIL**

7007 0220 0000 0153 4058

DEC 04 2007

Walker Tire Service  
Attn: Tom Maxwell  
430 W. Clinton Avenue  
Farmer City, Illinois 61842

Re: LPC #0390150003 -- DeWitt County  
Farmer City/Walker Service Station  
430 W. Clinton Avenue  
Leaking UST Incident No. 960810  
Leaking UST Technical File

Dear Mr. Maxwell:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated October 8, 2007, was received by the Illinois EPA on October 16, 2007. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The Illinois EPA requires modification of the plan; therefore, the plan is conditionally approved with the Illinois EPA's modifications. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act (Sections 57.7(b)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)):

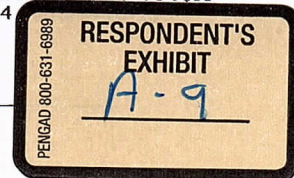
1. Since heating oil, diesel, and used oil are listed as USTs having a release under the current incident, PNAs must be included in all soil and groundwater sampling. The READ should be updated in order to be eligible for reimbursement for costs associated with those USTs.
2. An updated map should be submitted including the locations of all current and former USTs indicating accurate property boundary locations and all soil and groundwater sampling locations.

**RELEASABLE**

DEC 08 2007

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760      • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
 ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131      • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5462  
 BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462      • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5000  
 SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892      • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234  
 MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

PRINTED ON RECYCLED PAPER





Page 2

3. The extent of soil and groundwater contamination must be defined to Tier 1 residential objectives off-site. Remediation of soil and groundwater should be proposed to meet the Tier 1 objectives off-site unless an Environmental Land Use Control, Highway Authority Agreement, or other Institutional Control is proposed in accordance with Part 742. Modeled migration of contamination on-site should meet Tier 1 objectives at the property boundary, unless the above Institutional Controls are proposed.

Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, the total budget is approved for the amounts listed in Attachment A. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of payment from the Fund may be limited by Sections 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

If the owner or operator agrees with the Illinois EPA's modifications, submittal of an amended plan and/or budget, if applicable, is not required (Section 57.7(c) of the Act).

NOTE: Pursuant to Section 57.8(a)(5) of the Act, if payment from the Fund will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted. Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be paid from the Fund.

Further, pursuant to 35 Ill. Adm. Code 734.145, it is required that the Illinois EPA be notified of field activities prior to the date the field activities take place. This notice must include a description of the field activities to be conducted; the name of the person conducting the activities; and the date, time, and place the activities will be conducted. This notification of field activities may be done by telephone, facsimile, or electronic mail.

Pursuant to Sections 57.7(b)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires that a Corrective Action Completion Report that achieves compliance with applicable remediation objectives be submitted within 30 days after completion of the plan to:

Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

Page 3

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

Please note that, if within four years after the approval of this plan, compliance with the applicable remediation objectives has not been achieved and a Corrective Action Completion Report has not been submitted, the Illinois EPA requires the submission of a status report pursuant to Section 57.7(b)(6) of the Act.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

If you have any questions or need further assistance, please contact Valerie Davis at 217-785-7492.

Sincerely,

*Clifford L. Wheeler*

Clifford L. Wheeler  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

CLW:VAD\

Attachment: Attachment A  
Appeal Rights

c: CSD Environmental Services, Inc.  
BOL File



Attachment A

Re: LPC #0390150003 -- DeWitt County  
Farmer City/Walker Service Station  
430 W. Clinton Avenue  
Leaking UST Incident No. 960810  
Leaking UST Technical File

The following amounts are approved:

\$ 2,001.30	Drilling and Monitoring Well Costs
\$ 4,175.77	Analytical Costs
\$ 1,058.72	Remediation and Disposal Costs
\$ -0-	UST Removal and Abandonment Costs
\$ -0-	Paving, Demolition, and Well Abandonment Costs
\$ 33,028.94	Consulting Personnel Costs
\$ 1,260.00	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.8(f) of the Environmental Protection Act and 35 Illinois Administrative Code 734.635.

\*\*\*Please note, the previous High Priority budgets were approved using the old budget forms. Any remaining bill packages related to those previously approved costs should be submitted on the appropriate forms. Bill packages associated with the current approval, as well as future approved budgets, should be submitted on the newest forms.



### Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276  
217/782-5544

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For delivery information visit our website at [www.usps.com](http://www.usps.com)

7007 0220 0000 0153 4058

Postage \$  
 Certified Fee 2.65  
 Return Receipt Fee (Endorsement Required) 2.15  
 Restricted Delivery Fee (Endorsement Required)

Postmark Here  
 IL 61842  
 17

Walker Tire Service  
 Attn: Tom Maxwell  
 430 W. Clinton Avenue  
 Farmer City, IL 61842

PS Form 3800, August 2006 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mail piece, or on the front if space permits.

1. Article Addressed to:

Walker Tire Service  
 Attn: Tom Maxwell  
 430 W. Clinton Avenue  
 Farmer City, IL 61842

960810 CW/UD

2. Article Number  
 (Transfer from service label)

7007 0220 0000 0153 4058

PS Form 3811, February 2004

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 Sally J. Shelby  Agent  
 Addressee

B. Received by (Printed Name)  
 SALLY J. SHELBY

C. Date of Delivery  
 12-5-07

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes



UNITED STATES POSTAL SERVICE



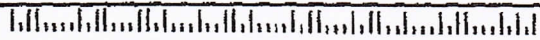
First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Illinois Environmental Protection Agency

P.O. Box 19276 Mail Code #

Springfield, IL 62794-9276





**BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS**

**PEOPLE OF THE STATE OF ILLINOIS)**

**Petitioner,** )

**v.** )

**PCB NO. 12-35  
(Enforcement – Water)**

**SIX-M CORPORATION, INC.,** )

**WILLIAM MAXWELL, and** )

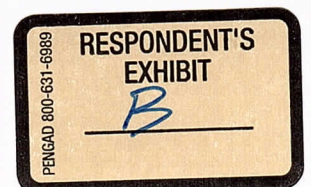
**MARILYN MAXWELL,** )

**Respondent.** )

**AFFIDAVIT OF TOM MAXWELL**

Tom Maxwell, on oath says:

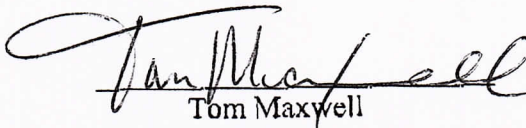
1. I am over twenty-one years old and a resident of DeWitt County, Illinois.
2. I manage daily operations at Walker Tire Service, and am Secretary of Six-M Corporation, Inc..
3. Walker Tire Service is located at 430 West Clinton, Farmer City, Illinois, and is owned and operated by Six-M Corporation, Inc.
4. My parents are William and Marilyn Maxwell.
5. My mother, Marilyn Maxwell, passed away on July 20, 2009, at the age of 77.
6. I have managed operations at Walker Tire Service since my father, William Maxwell, retired.
7. I can't remember the exact date that I took over management of Walker Tire Service from my father, but it was prior to May 13, 1996, when I called the Illinois Emergency Management Agency to report a suspected release of gasoline from one or more underground storage tanks at the property.
8. Since May 13, 1996, I have directed all aspects of the environmental response of Six-M Corporation, which primarily has meant retaining an environmental consultant to perform the work, and signing any necessary paperwork on behalf of Six-M Corporation, Inc. necessary for reimbursement from the LUST Fund or for otherwise complying with the business' regulatory obligations.
9. By reason and belief, the Illinois Environmental Protection Agency and the Office of the State Fire Marshall identify myself as the contact person for Walker Tire Service.



10. William Maxwell, being retired, has not managed or directly overseen any aspect of any environmental issues at the service station.

FURTHER AFFIANT SAYETH NOT.

The undersigned certifies, under penalty of perjury, that the statements set forth in this instrument are true and correct, except as to matters stated to be on information and belief, which the undersigned believes to be true.

  
Tom Maxwell





# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

BRUCE RAUNER, GOVERNOR

LISA BONNETT, DIRECTOR

217/524-3300

CERTIFIED MAIL

7013 2630 0001 4708 9045

JAN 07 2016

Maxwell Tire  
Attn: Tom Maxwell  
430 West Clinton Ave.  
Farmer City, IL 61842

RECEIVED  
JAN 11 2016  
BY: CR

Re: LPC #0390150003 -- DeWitt County  
Farmer City/Walker Tire  
430 West Clinton Ave.  
Leaking UST Incident No. 20060291  
Leaking UST Technical File

Dear Mr. Walker:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Stage 3 Site Investigation Plan (plan) submitted for the above-referenced incident. This plan, dated December 2, 2015, was received by the Illinois EPA on December 2, 2015. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

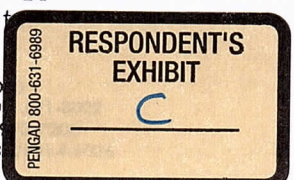
The Illinois EPA has determined that the activities proposed in this plan are appropriate to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 734 (Sections 57.7(a)(1) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(a)). Therefore, the plan is approved.

The actual costs for Stage 2 are approved for the amounts listed in Section 1 of Attachment A (Sections 57.7(a)(2) and 57.7(c) of the Act and 35 Ill. Adm. Code 734.505(b) and 734.510(b)). Be aware that the amount of payment from the Fund may be limited by Sections 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

In addition, the proposed budget for Stage 3 is approved for amounts determined in accordance with Subpart H, Appendix D, and Appendix E of 35 Ill. Adm. Code 734 (35 Ill. Adm. Code 734.310(b)). Costs must be incurred in accordance with the approved plan. Please be advised that costs associated with materials, activities, and services must be reasonable, must be consistent with the associated technical plan, must be incurred in the performance of corrective action activities, must not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payment amounts set forth in Subpart H, Appendix D, and Appendix E of Part 734 (Section 57.7(c) of the Act and 35 Ill. Adm. Code 734.510(b)).

NOTE: Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be paid from the Fund.

Pursuant to Sections 57.7(a)(5) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100 and 734.125, the Illinois EPA requires submittal of a Stage 3 Site Investigation Plan, and budget if applicable, or Site Investigation Completion Report within 30 days after completing the site investigation.



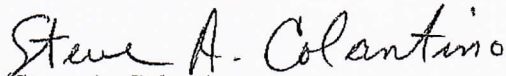


Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276


Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

If you have any questions or need further assistance, please contact the Illinois EPA project manager, Steve Jones, at 217/524-1253 or Steve.Jones@illinois.gov.

Sincerely,



Steve A. Colantino  
Acting Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

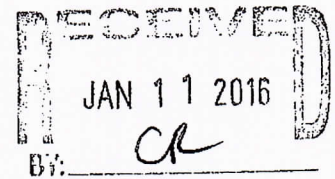
SAC:  SJWalker Tire (#20060291) Stage 3 SIP & Budget 12-02-15.doc

Attachment: Attachment A

c: CWM  
BOL File

Attachment A

Re: LPC #0390150003 -- DeWitt County  
Farmer City/Walker Tire  
430 West Clinton Ave.  
Leaking UST Incident No. 20060291  
Leaking UST Technical File



SECTION 1

Stage 2 Actual Costs

The following amounts are approved:

\$5,348.85	Drilling and Monitoring Well Costs
\$8,738.51	Analytical Costs
\$2,733.57	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$32,040.09	Consulting Personnel Costs
\$1,083.75	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

<sup>d</sup>  
SJWalker Tire (#20060291) Stage 3 SIP & Budget 12-02-15.doc