

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

MOTION TO COMPEL

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to 35 Ill. Adm. Code 101.616 respectfully requests that the Hearing Officer direct Respondents SIX M CORPORATION, INC. (“Six M”) and WILLIAM MAXWELL, to provide complete and accurate answers to the Complainant’s Interrogatories, and produce all responsive documents, in accordance with Illinois Supreme Court discovery rules and the procedural requirements of the Illinois Pollution Control Board (“Board”). In support thereof, Complainant states as follows:

I. BACKGROUND

On April 8, 2016, Complainant served counsel for Respondents with its Interrogatories and Request for Production by mail (*Exhibit A*) and email (*Exhibit B*). The Respondents failed to respond to either the Interrogatories or the Request to Produce Documents, and therefore did not comply with the requirements of the Supreme Court and Board discovery rules.

On June 15, 2016, Complainant sent a letter to Respondents' counsel pursuant to Supreme Court Rule 201(k), requesting responses to its Interrogatories and Request to Produce Documents (*Exhibit C*). Since that date, counsel for the parties have spoken in an attempt to resolve discovery issues. But Respondents have still failed to adequately submit its responses. Finally, on June 22, 2016, counsels for Complainant and Respondents spoke and Complainant requested that Respondents submit responses by June 28, 2016. The Respondents failed to do so.

II. DISCOVERY STANDARDS

The Board's Procedural Rules allow discovery of: "All relevant information and information calculated to lead to relevant information...." 35 Ill. Adm. Code 101.616.

Supreme Court Rule 201 provides:

- 1) *Full Disclosure Required.* Except as provided in these rules, a party may obtain by discovery full disclosure regarding any matter relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking disclosure or of any other party....

Discovery is intended to be a mechanism for the ascertainment of truth, for the purpose of promoting either a fair settlement or a fair trial. *Ostendorf v. International Harvester Company*, 89 Ill. 2d 273, 282 (1982).

III. MOTION TO COMPEL COMPLETE RESPONSES TO INTERROGATORIES

Complainant served its written discovery 82 days ago. However, Respondents have still failed to adequately respond.

IV. MOTION TO COMPEL PRODUCTION OF DOCUMENTS

Complainant served its written discovery 82 days ago. However, Respondents have still failed to adequately respond.

WHEREFORE, complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Hearing Officer:

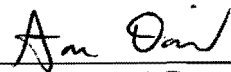
1. Order the Respondents to investigate and provide full and responsive answers to Complainant's Interrogatories.
2. Order the Respondents to search for and produce all documents responsive to Complainant's Production Requests.
3. Order such other relief as the Hearing Officer deems appropriate.

RESPECTFULLY SUBMITTED

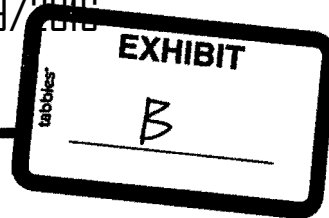
PEOPLE OF THE STATE OF ILLINOIS
by LISA MADIGAN,
Attorney General of the State of Illinois

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

BY:



SAMMY DAVID
Environmental Bureau
Assistant Attorney General
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-3816
Primary email: sdavid@atg.state.il.us
Secondary email: cgrant@atg.state.il.us



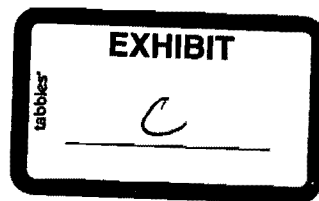
David, Sammy

From: David, Sammy
Sent: Friday, April 08, 2016 1:33 PM
To: Patrick Shaw (pdshaw1law@gmail.com)
Cc: Grant, Christopher J.
Subject: 1st interrogatories and Document Production Request
Attachments: 1st Interrogatories to Six M and Maxwell.pdf; Request POD to Respondents.pdf; COS 1st Interrog and Request for POD to Six M and Maxwell.pdf

Hi Patrick,

Attached are our First Interrogatories and Document Productions Requests for your client, which I also sent you in the mail. Our hope is that you will continue to work with Mr. Van Ness to come up with an acceptable site access agreement and eventually we can reach a settlement in our matter. However, we will begin the discovery process in the meantime. Also, please respond to email I sent on April 4th regarding the discovery schedule. Let me know if you have any questions or concerns. Talk to you soon.

Sammy David
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, IL 60602
Ph: (312) 814-3816
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sdavid@atg.state.il.us



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 15, 2016

Patrick Shaw
Law Office of Patrick D. Shaw
80 Bellerive Road
Springfield, IL 62704
217-299-8484

Re: Six M Corporation, PCB 12-35, request for complete discovery responses

Dear Patrick:

We have not received Six M Corporation's ("Six M's") responses to the State's First Set of Interrogatories and Request for Production of documents. You have thus far been non-responsive and have not complied with Illinois Pollution Control Board ("Board") or Illinois Supreme Court discovery provisions. This letter is sent pursuant to Illinois Supreme Court Rule 201(k) and is intended to resolve a discovery-related dispute. We request that complete and responsive answers to interrogatories and document production request be provided to us no later than seven (7) days from the date of this letter.

If you have any questions regarding this letter, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Sammy David".

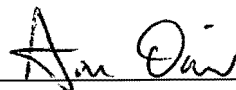
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JAMES MCILVAINE,)	
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Necessary Party.)	

CERTIFICATE OF SERVICE BY FIRST CLASS MAIL

I, SAMMY DAVID, an attorney, do certify that I caused to be served this 29th day of June, 2016, Complainant's Motion to Compel to Respondents Six M. Corporation, Inc. and William Maxwell, upon the person listed below by placing same in an envelope bearing sufficient first class mail postage with the United States Postal Service located at 100 W. Randolph, Chicago, Illinois, and via email.



SAMMY DAVID

SERVICE LIST:

Patrick Shaw
Law Office of Patrick D. Shaw
80 Bellerive Road
Springfield, IL 62704
pdshaw1law@gmail.com