

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 12-
)	(Enforcement – Land)
DANIEL LEE SZAFRANSKI, individually and)	
as Trustee of the DANIEL LEE SZAFRANSKI)	
TRUST,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: Daniel Szafranski, trustee
Daniel Lee Szafranski Trust
2346 North 23rd Road
Marseilles, IL 61341

PLEASE TAKE NOTICE that today, July 26, 2012, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

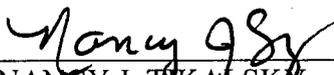
NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20 ILCS 3515/1 *et seq.*) to correct the alleged pollution.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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

BY:

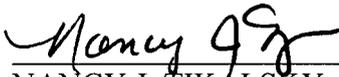


NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-8567

Date: July 26, 2012

CERTIFICATE OF SERVICE

I, Nancy J. Tikalsky, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on July 26, 2012.

BY: 
NANCY J. TIKALSKY

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB No. 12-
)	(Enforcement – Land)
DANIEL LEE SZAFRANSKI, individually and)	
as Trustee of the DANIEL LEE SZAFRANSKI)	
TRUST,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondent, DANIEL LEE SZAFRANSKI, individually and as Trustee of the DANIEL LEE SZAFRANSKI TRUST, as follows:

NATURE OF THE ACTION

1. This complaint is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(2010).

2. Complainant seeks injunctive relief and civil penalties for the violations of the Act and Illinois Pollution Control Board ("Board") regulations for a waste disposal operation on a tract of land owned and operated by DANIEL LEE SZAFRANSKI,

individually and as Trustee of the DANIEL LEE SZAFRANSKI TRUST ("Szafranski"), located at 901 West Marquette, Ottawa, LaSalle County, Illinois ("Site").

THE PARTIES

3. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

4. At all times relevant to this complaint, Respondent Daniel Lee Szafranski is an individual residing in Illinois, and the trustee of the Daniel Lee Szafranski Trust. Daniel Lee Szafranski operates activities at the Site.

5. At all times relevant to this complaint, the Daniel Lee Szafranski Trust owns the real property at the Site.

FACTUAL ALLEGATIONS

6. On May 4, 2011, the Illinois EPA conducted an inspection at the Site ("May 2011 Inspection").

7. During the May 2011 Inspection, there were more than fifty (50) used/waste tires off their rims and uncovered, which allows for water accumulation, at the Site.

8. In addition, during the May 2011 Inspection, there was scrap metal, gas cylinders, old televisions, aerosol cans, chairs, paper debris, a rubber hose, exercise equipment, a used freezer and pieces of other similar appliances, used carpeting, used baby buggy, plastic drum, plastic debris, fifty-five (55) gallon metal drums with unknown contents, bricks, wood and concrete deposited at the Site ("Site debris"). The Site debris was distributed in unkempt, random piles of mixed debris around the Site.

9. During the May 2011 Inspection, there were three (3) areas of dark stained soil near barrels labeled as petroleum substances and other chemicals.

10. On October 17, 2011, the Illinois EPA conducted a second inspection of the Site ("October 2011 Inspection"). Conditions at the Site during the October 2011 Inspection were similar to conditions during the May 2011 Inspection except some used/waste tires had been removed from the Site. More than fifty (50) used/waste off rim tires remained at the Site.

11. On January 25, 2012, the Illinois EPA conducted a third inspection of the Site ("January 2012 Inspection"). Conditions at the Site during the January 2012 Inspection showed scrap metal stored in several containers, some scrap metal still on the ground, and plastic, wood, and paper debris still remained at the Site. In addition, during the January 2012 Inspection, more than fifty (50) used/waste tires off rim remained at the Site.

12. On October 28, 2011, the Illinois EPA received notice from Defendant that it was operating a used tire disposal site.

13. At all times relevant to the Complaint, Szafranski did not have a permit issued from the Illinois EPA to deposit the Site debris at the Site.

CLAIM FOR RELIEF

The following counts are brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois EPA, pursuant to Section 31 of the Illinois Environmental Protection Act, 415 ILCS 5/31(2010), against Respondent, Daniel Lee Szafranski individually and as Trustee of the Daniel Lee Szafranski Trust.

COUNT I
OPEN DUMPING

1- 13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations," as paragraphs 1 through 13 of this Count 1.

14. Section 21(a) of the Act, 415 ILCS 5/21(a) (2010), provides as follows:

No person shall:

a. Cause or allow the open dumping of any waste.

15. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

"PERSON" is an individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust estate, political subdivision, state agency, or other legal entity, or their legal representative, agent or assigns.

16. Szafranski is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.305 (2010).

17. Section 3.305 of the Act, 415 ILCS 5/3.305 (2010), provides the following definition:

"OPEN DUMPING" means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

18. Section 3.385 of the Act, 415 ILCS 5/3.385 (2010), provides the following definition:

"REFUSE" means waste.

19. Section 3.535 of the Act, 415 ILCS 5/3.535 (2010), provides the following definition:

"WASTE" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.135, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant hereto.

20. Section 3.160 of the Act, 415 ILCS 5/3.160 (2010), provides the following definitions:

(a) "General construction or demolition debris" means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of

utilities, structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste.

(b) "Clean construction or demolition debris" means uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed or other asphalt pavement, or soil generated from construction or demolition activities.

Clean construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any clean construction or demolition debris or other waste.

21. Some of the Site debris deposited at the Site was and is "general construction or demolition debris" and some of the Site debris deposited at the Site was and is "clean construction or demolition debris" and therefore "waste" and "refuse" as those terms are defined in the Act.

22. Section 3.185 of the Act, 415 ILCS 5/3.185 (2010), contains the following definition:

"DISPOSAL" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

23. The depositing and dumping of waste at the Site is "disposal" as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2010).

24. Section 3.445 of the Act, 415 ILCS 5/3.445 (2010), provides the following definition:

“SANITARY LANDFILL” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act., P.L. 94-580 and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day’s operation, or by such other methods and intervals as the Board may provide by regulation.

25. The Site is a facility which has never been permitted by the Illinois EPA for the disposal of waste and therefore is not a “sanitary landfill” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445(2010).

26. The depositing, dumping, and accumulation of clean and general construction and demolition debris, and Site debris from one or more sources at the Site, which has never been permitted by the Illinois EPA for the disposal of waste, constitutes “open dumping” as that term is defined in Section 3.305 of the Act, 415 ILCS 5/3.305(2010).

27. From at least May 4, 2011, through January 25, 2012, or a date or dates better known to the Respondent, Szafranski caused or allowed clean and general construction and demolition debris, and Site waste to be deposited and to accumulate on the Site, and failed to take measures to remove such material from the Site, thereby causing or allowing open dumping of waste in violation of Section 21(a) of the Act, 415 ILCS 5/21(a)(2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board ("Board") enter an order against the Respondent, Daniel Lee Szafranski, individually and as Trustee of the Daniel Lee Szafranski Trust, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010);
3. Ordering the Respondent to cease and desist from any further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2010);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2010), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of violation;
5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

CONDUCTING A WASTE DISPOSAL OPERATION

WITHOUT A PERMIT

1 - 15. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations," and paragraphs 15 and 16 of Count I, as paragraphs 1 through 15 of this Count II.

16. Section 21(d) of the Act, 415 ILCS 5/21(d) (2010), provides, in pertinent part, as follows:

No person shall:

d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, ;
2. in violation of any regulations or standards adopted by the Board under this Act;

17. Section 812.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a), provides as follows:

a. All persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch.111 ½, par.1021(d) [415 ILCS 5/21(d)] shall submit to the Agency an application for a permit to develop and operate a landfill

18. Section 810.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 810.103(a), provides the following definitions:

"LANDFILL" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground

injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

"FACILITY" means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage, or disposal operation. All structures used in connection with or to facilitate the waste disposal operation will be considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

"DISPOSAL" means If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation will constitute disposal.

"WASTE PILE" means an area on which non-containerized masses of solid, non-flowing wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can demonstrate that the wastes are not accumulated over time for disposal. At a minimum, such demonstration must include photographs, records, or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposal elsewhere.

"SOLID WASTE" means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

"INERT WASTE" means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with 35 Ill. Adm. Code 811.202(b). Such inert wastes will include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry, and concrete (cured for 60 days or more).

19. The Site debris and the general and clean construction or demolition debris are "inert waste" and "solid waste" as those terms are defined in Section 810.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 810.103(a).

20. The Site, where the solid waste in the form of the Site debris is and has been disposed of, is a "facility" as that term is defined in Section 810.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 810.103(a).

21. The Site, where non-containerized masses of the Site debris is and has been placed for disposal, is a "waste pile" as that term is defined in Section 810.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 810.103(a).

22. The Site is a "landfill" as that term is defined in Section 810.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 810.103(a).

23. From at least May 4, 2011, through January 25, 2012, or a date or dates better known to the Respondent, Szafranski, by allowing site debris to be deposited and to accumulate on the Site over time, has disposed of solid waste at the Site, thereby conducting a waste disposal operation without a permit granted by the Illinois EPA to develop or operate a landfill in violation of Section 812.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a), and Sections 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2)(2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board ("Board") enter an order against the Respondent, Daniel Lee Szafranski, individually and as Trustee of the Daniel Lee Szafranski Trust, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2)(2010), and Section 812.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a);
3. Ordering the Respondent to cease and desist from any further violations of Sections 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2)(2010), and Section 812.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Sections 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2)(2010), and Section 812.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of violation;
5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT III

**FAILURE TO DETERMINE IF WASTE WAS HAZARDOUS OR SPECIAL
WASTE IN VIOLATION OF BOARD REGULATIONS**

1-21. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations," and paragraphs 15 and 16, paragraphs 19 through 23 of Count I, and paragraph 16 of Count II, as paragraphs 1 through 21 of this Count III.

22. Section 21(e) of the Act, 415 ILCS 5/21(e) (2010), provides in pertinent part as follows:

No person shall:

e. dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

23. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

"SITE" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

24. The Site where Szafranski deposited the Site debris is a "site" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

25. Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 722.111, provides, in pertinent part, as follows:

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste . . .

26. Section 720.110 of the Board Waste Disposal Regulations, Definitions 35

Ill. Adm. 720.110, provides the following definitions:

"PERSON" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

"HAZARDOUS WASTE" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"SOLID WASTE" means a solid waste as defined in 35 Ill. Adm. Code 721.102.

27. Szafranski is a "person" as that term is defined in Section 720.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 720.110.

28. Section 721.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.103, provides the following definition:

Definition of Hazardous Waste

a) A solid waste, as defined in Section 721.102, is a hazardous waste if the following is true of the waste:

1) It is not excluded from regulation as a hazardous waste pursuant to Section 721.104(b); and

2) It meets any of the following criteria:

A) It exhibits any of the characteristics of hazardous waste identified in Subpart C of this Part....

B) It is listed in Subpart D of this Part and has not been excluded from the lists in Subpart D of this Part pursuant to 35 Ill. Adm. Code 720.120 and 720.122.

29. Section 721.102 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102, provides the following definition:

a) Solid waste.

1) A solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.

2) A discarded material is any material that is described as follows:

A) Abandoned, as explained in subsection (b) of this Section;

* * *

b) A material is a solid waste if it is abandoned in one of the following ways:

1) It is disposed of;

2) It is burned or incinerated; or

3) It is accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

30. The Site debris accumulated and disposed of at the Site was "solid waste" as that term is defined in Section 721.102 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102, as it is not excluded pursuant to Sections 721.104(a), 721.130, and 721.131, 35 Ill. Adm. Code 721.104(a), 721.130, and 721.131.

31. From May 4, 2011 through the filing of this Complaint, Szafranski failed to make a determination whether the solid waste, in the form of the Site debris, that he

allowed to be deposited at the Site was a hazardous waste in violation of Section 722.111 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 722.111.

32. Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), provides as follows:

Generator Obligations

a) each person who generates waste shall determine whether the waste is a special waste.

33. Section 3.205 of the Act, 415 ILCS 5/3.205 (2010), provides the following definition:

"GENERATOR" means any person whose act or process produces waste.

34. By accepting waste, in the form of the Site debris, at its Site, Szafranski was a "generator" as that term is defined in Section 3.205 of the Act, 415 ILCS 5/3.205 (2010).

35. Section 808.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.110, provides the following definition:

"SPECIAL (NON-RCRA) WASTE" is any special waste that is not hazardous waste as defined in this Section.

"SPECIAL WASTE" means any hazardous waste, and any industrial process waste or pollution control waste which has not been declassified pursuant to Section 808.245. (Section 3.45 of the Act.)

BOARD NOTE: The definition of "hazardous waste" at Section 3.15 of the Act differs from the definition of the same term as used in this Part. The Board intends that the Section 3.15 definition apply to this Part only for the purposes of this definition of special waste. The Board intends that the definition given in this Section apply to all other appearances for the term "hazardous waste" throughout this Part.

36. From May 4, 2011 through the filing of this Complaint, Szafranski failed to make a determination whether the waste in the form of Site debris it allowed to be deposited at the Site was special waste in violation of Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a).

37. By violating Sections 722.111 and 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 and 808.121(a), as alleged herein, Szafranski violated Sections 21(d)(2) and (e) of the Act, 415 ILCS 5/21(d)(2) and (e) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board ("Board") enter an order against the Respondent, Daniel Lee Szafranski, individually and as Trustee of the Daniel Lee Szafranski Trust, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 21(d)(2) and (e) of the Act, 415 ILCS 5/21(d)(2) and (e) (2010), and Sections 722.111 and 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 and 808.121(a);
3. Ordering the Respondent to cease and desist from any further violations of Sections 21(d)(2) and (e) of the Act, 415 ILCS 5/21(d)(2) and (e) (2010), and Sections 722.111 and 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 and 808.121(a);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Sections 21(d)(2) and (e) of the Act, 415 ILCS 5/21(d)(2) and (e) (2010), and Sections 722.111 and 808.121(a) of the Board

Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 and 808.121(a), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of violation;

5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

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

COUNT IV

CAUSING OR ALLOWING LITTER AND THE DEPOSITION OF CONSTRUCTION OR DEMOLITION DEBRIS

1-27. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations," and paragraphs 14 through 27 of Count I, as paragraphs 1 through 27 of this Count IV.

28. Section 21(p) of the Act, 415 ILCS 5/21(p) (2010), provides in pertinent part as follows:

No person shall:

* * *

p. In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

* * *

1. litter;

* * *

7. deposition of:

- i. general construction or demolition debris as defined in Section 3.160(a) of this Act; or
- ii. clean construction or demolition debris as defined in Section 3.160(b) of this Act.

29. From at least May 4, 2011 through January 25, 2012, or a date or dates better known to the Respondent, Szafranski allowed the Site debris to be deposited onto the ground at the Site, where it remained in a disordered, untidy manner and constituting litter in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010).

30. From at least May 4, 2011 through January 25, 2012, or a date or dates better known to the Respondent, Szafranski caused or allowed the dumping of uncovered clean and general construction and demolition debris at the Site in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board ("Board") enter an order against the Respondent, Daniel Lee Szafranski, individually and as Trustee of the Daniel Lee Szafranski Trust, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 21(p)(1) and (7) of the Act, 415 ILCS 5/21(p)(1) and (7) (2010);
3. Ordering the Respondent to cease and desist from any further violations of Section 21(p)(1) and (7) of the Act, 415 ILCS 5/21(p)(1) and (7) (2010);

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 21(p)(1) and (7) of the Act, 415 ILCS 5/21(p)(1) and (7) (2010), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of violation;

5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

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

COUNT V

CAUSING OPEN DUMPING OF USED/WASTE TIRES

1-25. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations," and paragraphs 15 through 26 of Count I, as paragraphs 1 through 25 of this Count V.

26. Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2010), provides as follows:

a. No person shall:

1. allow the open dumping of any used or waste tires.

27. Section 54.13 of the Act, 415 ILCS 5/54.13 (2010), provides the following definition:

"USED TIRE" means a worn, damaged, or defective tire that is not mounted on a vehicle.

28. Section 54.16 of the Act, 415 ILCS 5/54.13 (2010), provides the following definition:

"WASTE TIRE" means a used tire that has been disposed of.

29. During the May 2011 Inspection, October 2011 Inspection and January 2012 Inspection at the Site, there were more than fifty (50) tires with their rims removed that were worn, damaged or defective, which constituted "used tires" and "waste tires" as those terms are defined in Sections 54.13 and 54.16 of the Act, 415 ILCS 5/54.13 and 54.16 (2010).

30. From at least May 4, 2011 through January 25, 2012, or a date or dates better known to the Respondent, where the Site had accumulated more than fifty (50) used tires for disposal, Szafranski allowed the open dumping of used and waste tires at the Site in violation of Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board ("Board") enter an order against the Respondent, Daniel Lee Szafranski, individually and as Trustee of the Daniel Lee Szafranski Trust, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2010);
3. Ordering the Respondent to cease and desist from any further violations of Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2010);

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2010), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of violation;

5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

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

COUNT VI

FAILURE TO REGISTER A TIRE DISPOSAL SITE

1- 20. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations," paragraphs 15, 16, 24 and 25 of Count I, and paragraphs 27 through 29 of Count V, as paragraphs 1 through 20 of this Count VI.

21. Section 55(c) of the Act, 415 ILCS 5/55(c) (2010), provides, in pertinent part, as follows:

(c) Any person who sells new or used tires at retail or operates a tire storage site or a tire disposal site which contains more than 50 used or waste tires shall give notice of such activity to the Agency. Any person engaging in such activity for the first time after January 1, 1990, shall give notice to the Agency within 30 days after the date of commencement of the activity. . . .

22. Section 54.11 of the Act, 415 ILCS 5/54.12 (2010), provides the following definition:

"TIRE DISPOSAL SITE" means a site where used tires have been disposed of other than a sanitary landfill permitted by the Agency.

23. Sec. 54.04 of the Act, 415 ILCS 5/54.04 (2010), provides the following definition:

"DISPOSAL" means the placement of used tires into or on any land or water except as an integral part of systematic reuse or conversion in the regular course of business.

24. The random and disorderly placement of used tires at the Site, where the used tires were not an integral part of systematic reuse or conversion of a business, and where the Site is not a sanitary landfill, constitutes "disposal" at a "tire disposal site" as those terms are defined in Sections 54.11 and 54.04 of the Act, 415 ILCS 5/54.11 and 54.04 (2010).

25. From at least May 4, 2011 through October 28, 2011, or a date or dates better known to the Respondent, when the Site had accumulated more than fifty (50) used/waste tires for disposal, Szafranski failed to give notice to the Illinois EPA that he was operating a used tire disposal site in violation of Section 55(c) of the Act, 415 ILCS 5/55(c) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board ("Board") enter an order against the Respondent, Daniel Lee Szafranski, individually and as Trustee of the Daniel Lee Szafranski Trust, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 55(c) of the Act, 415 ILCS 5/55(c) (2010);

3. Ordering the Respondent to cease and desist from any further violations of Section 55(c) of the Act, 415 ILCS 5/55(c) (2010);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 55(c) of the Act, 415 ILCS 5/55(c) (2010), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of violation;
5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT VII

CAUSING OR ALLOWING STORAGE OF USED/WASTE TIRES IN VIOLATION OF BOARD REGULATIONS

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations," and paragraphs 15, 16, 22 and 23 of Count I, and paragraphs 27 through 29 of count V, as paragraphs 1 through 20 of this Count VII.

21. Section 55(e) of the Act, 415 ILCS 5/55(e) (2010), provides in pertinent part, as follows:

- e. No person shall cause or allow the storage, disposal, treatment or processing of any used or waste tire in violation of any regulation or standard adopted by the Board.

22. Section 848.202(b) of the Board Waste Disposal regulations, 35 Ill. Adm.

Code 848.202(b), provides, in pertinent part, as follows:

b) At sites at which more than 50 used or waste tires are located the owner or operator shall comply with the following requirements:

4) Used or waste tires shall be drained of water on the day of generation or receipt.

5) Used or waste tires received at the site shall not be stored unless within 14 days after the receipt of any used tire the used tire is altered, reprocessed, converted, covered or otherwise prevented from accumulating water. . . .

23. Sections 54.01, 54.02, 54.03 and 54.07 of the Act, 415 ILCS 5/54.01,

54.02, 54.03 and 54.07 (2010), provides the following definitions, consecutively:

"ALTERED TIRE" means a used tire which has been altered so that it is no longer capable of holding accumulations of water, including, but not limited to, used tires that have been shredded, chopped, drilled with holes sufficient to assure drainage, slit longitudinally and stacked so as not to collect water, or wholly or partially filled with cement or other material to prevent the accumulation of water. "Alteration" or "altering" means action which produces an altered tire.

"CONVERTED TIRE" means a used tire which has been manufactured into a usable commodity other than a tire.

"Conversion" or "Converting" means action which produces a converted tire. Usable products manufactured from tires, which products are themselves capable of holding accumulations of water, shall be deemed to be "Converted" if they are stacked, packaged, boxed, containerized or enclosed in such a manner as to preclude exposure to precipitation prior to sale or conveyance.

"COVERED TIRE" means a used tire located in a building, vehicle or facility with a roof extending over the tire, or securely located under a material so as to preclude exposure to precipitation.

"REPROCESSED TIRE" means a used tire which has been recapped, retreaded or regrooved and which has not been placed on a vehicle wheel rim.

24. The waste/used tires at the Site that were off their rims but otherwise in their original shape disposed at the Site, did not constitute "altered tires," "converted tires," "covered tires," or "reprocessed tires" as those terms are defined in Sections 54.01, 54.02, 54.03 and 54.07 of the Act, 415 ILCS 5/54.01, 54.02, 54.03 and 54.07 (2010).

25. From at least May 4, 2011 through January 25, 2012, or a date or dates better known to the Respondent, Szafranski disposed of and failed to prevent accumulating water in the more than fifty (50) uncovered used/waste tires at the Site by failing to alter, reprocess, convert or cover the used tires in violation of Sections 848.202(b)(4) and (5) of the Board Waste Disposal regulations, 35 Ill. Adm. Code 848.202(b)(4) and (5).

26. As alleged herein, by violating Sections 848.202(b)(4) and (5) of the Board Waste Disposal regulations, 35 Ill. Adm. Code 848.202(b)(4) and (5), Szafranski thereby violated Section 55(e) of the Act, 415 ILCS 5/55(e) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board ("Board") enter an order against the Respondent, Daniel Lee Szafranski, individually and as Trustee of the Daniel Lee Szafranski Trust, as follows:

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

2. Finding that the Respondent has violated Section 55(e) of the Act, 415 ILCS 5/55(e) (2010), and Sections 848.202(b)(4) and (5) of the Board Waste Disposal regulations, 35 Ill. Adm. Code 848.202(b)(4) and (5);

3. Ordering the Respondent to cease and desist from any further violations of Section 55(e) of the Act, 415 ILCS 5/55(e) (2010), and Sections 848.202(b)(4) and (5) of the Board Waste Disposal regulations, 35 Ill. Adm. Code 848.202(b)(4) and (5);

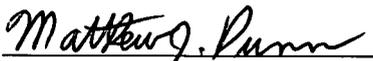
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 55(e) of the Act, 415 ILCS 5/55(e) (2010), and Sections 848.202(b)(4) and (5) of the Board Waste Disposal regulations, 35 Ill. Adm. Code 848.202(b)(4) and (5), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of violation;

5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

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

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

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