

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 23 –
)	(Enforcement – Land)
)	
KIRK V. FELLER, an individual, and FELLER)	
OILFIELD SERVICE, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: See attached service list.

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Notice of Filing, Complaint, and Certificate of Service, copies of which are attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

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 violations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General
of the State of Illinois

BY: /s/ Kevin D. Bonin
Kevin D. Bonin, #6294877
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office

500 South 2nd Street
Springfield, Illinois 62706
Ph: (217) 782-5055
Fax: (217) 524-7740
kevin.bonin@ilag.gov

Service List

For the Respondents:

Feller Oilfield Service, Inc.
Attn: Kirk V. Feller, Registered Agent
Route 40 West
PO Box 67
St. Elmo, Illinois 62458-0067

Kirk V. Feller
Route 40 West
PO Box 67
St. Elmo, Illinois 62458-0067

Service List

For the Respondents:

Feller Oilfield Service, Inc.
Attn: Kirk V. Feller, Registered Agent
Route 40 West
PO Box 67
St. Elmo, Illinois 62458-0067

Kirk V. Feller
Route 40 West
PO Box 67
St. Elmo, Illinois 62458-0067

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 23 –
)	(Enforcement – Land)
)	
KIRK V. FELLER, an individual, and FELLER)	
OILFIELD SERVICE, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondents, KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation (“Respondents”), as follows:

COUNT I
OPEN DUMPING

1. This Count is brought on behalf of the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”).
2. Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2022), and is charged, *inter alia*, with the duty of enforcing the Act.
3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2022), and is charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. At all times relevant to the Complaint, Respondent Kirk V. Feller (“Respondent Feller”) was a resident of Illinois.

5. At all times relevant to the Complaint, Respondent Feller owned the 67-acre property located northwest of 1008 West Cumberland Road, Saint Elmo, Fayette County, Illinois (the “Site”), Property Identification Number 01-12-28-200-009.

6. At all times relevant to the Complaint, Respondent Feller Oilfield Service, Inc. (“Respondent Oilfield Service”) was and is an active Illinois corporation registered to do business in the State of Illinois and in good standing with the Illinois Secretary of State.

7. At all times relevant to the Complaint, Respondent Oilfield Service operated an oil field services, transportation, road grading, and excavating company.

8. At a date or dates better known to Respondents, Respondent Oilfield Service was hired by the Lewis Jordan Living Trust (LPC #0518085005) (“Trust”), to remediate an open dump site in Beecher City approximately 1/8 mile south of County Road 2600 North (“Remediation Job”).

9. At a date or dates better known to Respondents, Respondent Oilfield Service deposited waste from the Remediation Job at the Site.

10. At a date or dates better known to Respondents, Doug Waldo, Respondent Oilfield Service’s employee, provided the Trust with a falsified invoice indicating that 336 tons of Remediation Job waste had been disposed of at a landfill.

11. On October 9, 2019, the Trust submitted the falsified invoice it had received from Doug Waldo, Respondent Oilfield Service’s employee, to Illinois EPA.

12. On October 24, 2019, Doug Waldo, Respondent Oilfield Service’s employee, provided Illinois EPA with a falsified spreadsheet indicating that waste from the Remediation Job

had been disposed of at Landfill 33 in Effingham, Illinois (“Landfill 33”).

13. On October 24, 2019, an Illinois EPA inspector spoke by phone with a Landfill 33 representative, who informed the Illinois EPA inspector that the Remediation Job invoice and spreadsheet provided by Respondent Oilfield Service were inaccurate.

14. On October 25, 2019, Doug Waldo, Respondent Oilfield Service’s employee, explained to an Illinois EPA inspector that Respondent Oilfield Service had falsified the Landfill 33 receipts, and that Respondent Oilfield Service had dumped the Remediation Job waste at the Site.

15. On November 5, 2019, Illinois EPA conducted an inspection of the Site.

16. At the time of the November 5, 2019, inspection, Illinois EPA observed approximately 100 cubic yards of waste in standing water at the southeastern corner of the Site (“Waste Pit”).

17. On November 6, 2019, Respondents removed the water from the Waste Pit.

18. On November 7, 2019, Illinois EPA re-inspected the Site.

19. At the time of the November 7, 2019, inspection, the Waste Pit appeared to be 25 feet by 50 feet by 12 feet deep.

20. At the time of the November 7, 2019, inspection, Illinois EPA observed railroad ties, at least two (2) tires, plastic pipe, mattress springs, and other various wastes in the Waste Pit.

21. On December 13, 2019, Illinois EPA conducted a re-inspection of the Site.

22. At the time of the December 13, 2019, inspection, Illinois EPA observed that the Waste Pit was empty. Receipts submitted by Respondent Feller and Doug Waldo, Respondent Oilfield Service’s employee, to Illinois EPA showed that 360.09 tons of waste had been removed from the Waste Pit and disposed of at Landfill 33.

23. On January 13, 2020, Illinois EPA issued Violation Notices L-2019-0001 and L-20019-0002 to Respondents, requesting that Respondents dig test pits at the Site.

24. On May 28, 2020, Illinois EPA conducted a re-inspection of the Site to observe the excavation of test pits.

25. At the time of the May 28, 2020, inspection, Respondents had excavated four test pits at the Site.

26. At the time of the May 28, 2020, inspection, Illinois EPA observed no waste in the first test pit.

27. At the time of the May 28, 2020, inspection, Illinois EPA observed small amounts of plastic and roofing felt in the second test pit.

28. At the time of the May 28, 2020, inspection, Illinois EPA observed fibrous waste debris, a piece of blue plastic, wood timbers, and a petroleum odor in the third test pit.

29. At the time of the May 28, 2020, inspection, Illinois EPA observed siding, carpet, other housing debris, and a petroleum odor in the fourth test pit.

30. On November 5, 2020, Illinois EPA conducted a re-inspection of the Site.

31. At the time of the November 5, 2020, inspection, Illinois EPA observed that the identified waste had been removed from the Site.

32. Section 21(a) of the Act, 415 ILCS 5/21(a) (2022), provides as follows:

No person shall:

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

33. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides as follows:

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

34. Respondent Feller, an individual, is a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

35. Respondent Oilfield Service, a corporation, is a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

36. Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), provides, in pertinent part, as follows:

“Waste” means any garbage . . . other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. . . .

37. Section 3.385 of the Act, 415 ILCS 5/3.385 (2022), provides as follows:

“Refuse” means waste.

38. Materials present at the Site, including but not limited to railroad ties, tires, plastic pipe, mattress springs, plastic, roofing felt, fibrous waste debris, wood timbers, siding, carpet, housing debris, and petroleum-contaminated soil, are “discarded material” and therefore “waste,” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), and are therefore also “refuse,” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2022).

39. Section 3.305 of the Act, 415 ILCS 5/3.305 (2022), provides as follows:

“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.

40. Section 3.460 of the Act, 415 ILCS 5/3.460 (2022), provides as follows:

“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.

41. The Site is a “site,” as that term is defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2022).

42. Section 3.185 of the Act, 415 ILCS 5/3.185 (2022), provides as follows:

“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.

43. Waste was discharged, deposited, dumped, spilled, leaked, and/or placed on the land at the Site in such a manner that waste, or constituents thereof, could enter the environment, be emitted into the air, or be discharged into waters or groundwater. Therefore, “disposal” occurred on the Site, as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2022), and the Site is a “disposal site” within the meaning of the Act.

44. Section 3.445 of the Act, 415 ILCS 5/3.445 (2022), provides, in pertinent part, as follows:

“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, [42 U.S.C.A. § 6901 et seq.,] 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.

45. Section 3.105 of the Act, 415 ILCS 5/3.105 (2022), provides as follows:

“Agency” is the Environmental Protection Agency established by this Act.

46. Respondents have never applied for or been granted a permit from Illinois EPA for the storage or disposal of wastes on the Site.

47. At all times relevant to the Complaint, the Site was not permitted by Illinois EPA for the disposal of wastes, and therefore was not a “sanitary landfill,” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2022).

48. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents consolidated refuse at a disposal site not meeting the requirements of a sanitary landfill, and therefore caused or allowed open dumping of waste at the Site.

49. By causing or allowing the open dumping of waste at the Site, Respondents violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation, on Count I:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT II
OPEN DUMPING RESULTING IN LITTER

1-49. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 49 of Count I as paragraphs 1 through 49 of this Count II.

50. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022), provides 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;

51. Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2022), contains the following definition:

“Litter” means any discarded, used or unconsumed substance or waste. “Litter” may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned vehicle (as defined in the Illinois Vehicle Code), motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, potentially infectious medical waste as defined in Section 3.360 of the Environmental Protection Act, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

52. The accumulated refuse at the Site constituted litter.

53. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents caused or allowed the open dumping of waste at the Site in a manner that resulted in litter, and thereby violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully

requests that the Board enter an order against Respondents KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation, on Count II:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT III
CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-48. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 48 of Count I as paragraphs 1 through 48 of this Count III.

49. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022), 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, . . .

50. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents conducted a waste-disposal operation at the Site without a permit granted by Illinois EPA.

51. By conducting a waste-disposal operation at the Site without a permit granted by Illinois EPA, Respondents violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation, on Count III:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), including any attorney, expert witness, and consultant fees expended by the

State in its pursuit of this action; and

- F. Granting such other relief as the Board may deem appropriate.

COUNT IV
CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT
SUBMITTING A PERMIT APPLICATION TO ILLINOIS EPA

1-48. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 48 of Count I as paragraphs 1 through 48 of this Count IV.

49. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2022), provides, in pertinent part, as follows:

No person shall:

* * *

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

* * *

- (2) in violation of any regulations or standards adopted by the Board under this Act; . . .

50. Section 812.101(a) of the Illinois Pollution Control Board's ("Board") regulations provides, in pertinent part, 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 1/2, par. 1021(d)) [415 ILCS 5/21(d)] shall submit to the Agency an application for a permit to develop and operate a landfill. . . .

51. Section 810.103 of the Board's regulations, 35 Ill. Adm. Code 810.103, provides, in pertinent part, as follows:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. [415 ILCS 5/3.185] 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.

“Landfill” means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, . . . For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

52. The Site where waste has been placed and accumulated over time for disposal constitutes a “landfill,” as that term is defined in Section 810.013 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

53. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents operated the Site and/or portions thereof as a landfill without applying for a permit from Illinois EPA to develop or operate a landfill.

54. By operating a landfill without applying for a permit from Illinois EPA to develop or operate a landfill, Respondents violated Section 812.101(a) of the Board’s regulations, 35 Ill. Adm. Code 812.101(a).

55. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents conducted a waste-disposal operation at the Site in violation of a regulation adopted by the Board under the Act, and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation, on Count IV:

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

- B. Finding that Respondents violated the Act and Board regulations as alleged herein;
- C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;
- D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);
- E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT V
WASTE DISPOSAL AT AN IMPROPER SITE

1-59. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 49 of Count I, paragraphs 49 through 51 of Count III, and paragraphs 49 through 55 of Count IV, as paragraphs 1 through 59 of this Count V.

60. Section 21(e) of the Act, 415 ILCS 5/21(e) (2022), provides 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.

61. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents disposed of, stored, and/or abandoned wastes at the Site.

62. The Site is not a waste disposal site or facility that meets the requirements of the Act and of the regulations and standards promulgated thereunder.

63. By disposing, storing, and/or abandoning wastes at the Site, Respondents violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation, on Count V:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT VI
OPEN DUMPING OF USED OR WASTE TIRES

1-48. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 48 of Count I as paragraphs 1 through 48 of this Count VI.

49. Section 55(a) of the Act, 415 ILCS 5/55(a) (2022), provides, in pertinent part, as follows:

- (a) No person shall:
 - (1) Cause or allow the open dumping of any used or waste tire.
 - * * *
 - (5) Abandon, dump or dispose of any used or waste tire on private or public property, except in a sanitary landfill approved by the Agency pursuant to regulations adopted by the Board.

50. Sections 54.02, 54.04, 54.06a, 54.08, 54.09, 54.13 and 54.16 of the Act, 415 ILCS 55/54.02, 5/54.06a, 5/54.08, 5/54.09, 5/54.13, and 5/54.16 (2022), respectively, provide, in relevant part, the following definitions:

“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.

“Disposal” means the placement of used tires into or on any land or water except as an integral part of systemic reuse or conversion in the regular course of business.

“Recyclable tire” means a used tire which is free of permanent physical damage and maintains sufficient tread depth to allow its use through resale or repairing.

“Reused tire” means a used tire that is used again, in part or as a whole, by being employed in a particular function or application as an effective substitute for a commercial product or fuel without having been converted.

“Storage” means any accumulation of used tires that does not constitute disposal. At a minimum, such an accumulation must be an integral part of the systematic alteration, reuse, reprocessing or conversion of the tires in the regular course of business.

“Used tire” means a worn, damaged, or defective tire that is not mounted on a vehicle.

“Waste tire” means a used tire that has been disposed of.

51. The unmounted and worn tires at the Site constituted “used tires,” as that term is defined in Section 54.13 of the Act, 415 ILCS 5/54.13 (2022).

52. Respondents had neither “converted” nor “reused” the used tires observed at the Site, as these terms are defined in Sections 54.02 and 54.08 of the Act, 415 ILCS 5/54.02 and 5/54.08 (2022).

53. Respondents failed to conduct systemic reuse or conversion of the used tires placed on the land at the Site, constituting “disposal” of the tires, as that term is defined in Section 54.04 of the Act, 415 ILCS 5/54.04 (2022).

54. Upon their disposal, the used tires at the Site constituted “waste tires” and “refuse,” as these terms are defined in Sections 54.16 and 3.385 of the Act, 415 ILCS 5/54.16 and 5/3.385 (2022), respectively.

55. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents caused or allowed used and/or waste tires to be deposited and to accumulate at the Site, and thereby caused the open dumping of used and/or waste tires at the Site.

56. By causing and allowing the open dumping of used and/or waste tires at the Site, Respondents violated Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2022).

57. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents abandoned, dumped, or disposed of used and/or waste tires at the Site, which was not

permitted by Illinois EPA as a sanitary landfill.

58. By abandoning, dumping, and/or disposing of used and/or waste tires at the Site, Respondents violated Section 55(a)(5) of the Act, 415 ILCS 5/55(a)(5) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation, on Count VI:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT VII
WATER POLLUTION

1-35. Complainant realleges and incorporates by reference herein paragraphs 1 through 35 of Count I as paragraphs 1 through 35 of this Count VII.

36. Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

37. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

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

38. Household waste, landscape waste, railroad ties, tires plastics, metal, and other wastes are each a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

39. Section 3.545 of the Act, 415 ILCS 5/3.545 (2022), provides the following definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

40. Section 3.550 of the Act, 415 ILCS 5/3.550 (2022), provides the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

41. At the time of the November 5, 2019 and November 7, 2019 inspections, household waste, landscape waste, railroad ties, tires, plastics, metal, and other waste was located in a pit full of water (“Pond”) at the Site.

42. The Pond at the Site is “waters,” as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2022).

43. The presence of household waste, landscape waste, railroad ties, tires, plastics, metal, and other waste in the Pond constituted the alteration of the physical and chemical properties of waters that would or would be likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life, and therefore is “water pollution,” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2022).

44. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents caused, threatened, and allowed the discharge of waste into the environment so as to cause or tend to cause water pollution in the Pond, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation, on Count VII:

- A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
- B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT VIII
WATER POLLUTION HAZARD

1-42. Complainant realleges and incorporates by reference herein paragraphs 1 through 35 of Count I, and paragraphs 37 through 43 of Count VII, as paragraphs 1 through 42 of this Count VIII.

43. Section 12(d) of the Act, 415 ILCS 5/12(d) (2022), provides as follows:

No person shall:

* * *

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

44. Beginning prior to November 5, 2019, and on dates better known to Respondents, Respondents deposited household waste, landscape waste, railroad ties, tires, plastics, metal, and other wastes upon the land at the Site in and near the Pond, and thereby created a water pollution hazard.

45. By depositing contaminants upon the land so as to create a water pollution hazard, Respondents violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation, on Count VIII:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT IX
OPEN DUMPING RESULTING IN
DEPOSITION OF WASTE IN STANDING OR FLOWING WATERS

1-53. Complainant realleges and incorporates by reference herein paragraphs 1 through 49 of Count I and paragraphs 39 through 42 of Count VII as paragraphs 1 through 53 of this Count IX.

54. Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2022), provides 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:

* * *

(4) deposition of waste in standing or flowing waters;

55. On or before November 5, 2019, and on dates better known to Respondents, Respondents caused or allowed the open dumping of waste at the Site in a manner which resulted in waste being deposited into the Pond.

56. By causing or allowing the open dumping of waste at the Site in a manner which resulted in deposition of waste in standing or flowing waters at the dump site, Respondents violated Section 21(p)(4) of the Act, 415 ILCS 21(p)(4) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, KIRK V. FELLER, an individual, and FELLER OILFIELD SERVICE, INC., an Illinois corporation, on Count IX:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional Ten Thousand

Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General
of the State of Illinois

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

BY: /s/ Andrew Armstrong
ANDREW B. ARMSTRONG, Chief
ARDC #6282447
Environmental Bureau
Assistant Attorney General

Kevin D. Bonin, #6294877
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South 2nd Street
Springfield, Illinois 62701
Ph: (217) 782-5055
Fax: (217) 524-7740
kevin.bonin@ilag.gov

CERTIFICATE OF SERVICE

I hereby certify that I did on July 19, 2023, send by Certified Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the document entitled NOTICE OF FILING and COMPLAINT to:

Feller Oilfield Service, Inc.
Attn: Kirk V. Feller, Registered Agent
Route 40 West
PO Box 67
St. Elmo, Illinois 62458-0067

Kirk V. Feller
Route 40 West
PO Box 67
St. Elmo, Illinois 62458-0067

/s/ Lilia M. Brown
Lilia M. Brown
Administrative Secretary

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

/s/ Lilia M. Brown
Lilia M. Brown
Administrative Secretary