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STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

October 6, 2004

PCB05-64

The Honorable Dorothy Gunn  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: *People v. Auto Recyclers - C. & D. Ent., Inc.*

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, COMPLAINT and APPEARANCE in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Jennifer Bonkowski".

Jennifer Bonkowski  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

JB/pp  
Enclosures

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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
AUTO RECYCLERS - C. & D. )  
ENTERPRISES, INC., an Illinois )  
corporation, )  
 )  
Respondent. )

PCB No. 0564  
(Enforcement)

NOTICE OF FILING

To: Auto Recyclers - C. & D. Enterprises, Inc.  
c/o Cheryl L. Hayes, R.A.  
920 E. Phillips  
Springfield, IL 62702

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this 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.

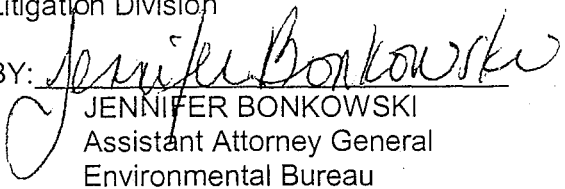
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2002), to correct the pollution alleged in the Complaint filed in this case.

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:   
JENNIFER BONKOWSKI  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 6, 2004


**CERTIFICATE OF SERVICE**

I hereby certify that I did on October 6, 2004, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Auto Recyclers - C. & D. Enterprises, Inc.  
c/o Cheryl L. Hayes, R.A.  
920 E. Phillips  
Springfield, IL 62702

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

  
Jennifer Bonkowski  
Assistant Attorney General

This filing is submitted on recycled paper.



OCT - 8 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 AUTO RECYCLERS - C. & D. ENTERPRISES, )  
 INC., an Illinois corporation, )  
 )  
 Respondent. )

PCB NO. 05-64  
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, AUTO RECYCLERS - C. & D. ENTERPRISES, INC., as follows:

COUNT I  
LAND POLLUTION VIOLATIONS

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

2. 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 (2002), and charged *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Defendant Auto Recyclers - C. & D. Enterprises, Inc. ("ARCD"), is an Illinois

corporation in good standing and currently operates a facility at 920 East Phillips Street, Springfield, Sangamon County, Illinois ("ARCD site"). ARCD's registered agent is Cheryl Hayes, 920 East Phillips Street, Springfield, Illinois, 62702.

5. At all times relevant to this Complaint, automotive salvage operations have been conducted at the ARCD site, generally involving the removal of engines, radiators, and other components, with the vehicle carcass being sold for scrap and removed from the site. Additionally, automotive fluids such as gasoline and antifreeze, are drained from the vehicles during salvage operations.

6. Section 21 of the Act, 415 ILCS 5/21 (2002), provides in pertinent part, as follows:

No person shall:

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

\* \* \*

(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;

\* \* \*

(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.

\* \* \*

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

(1) litter;

\* \* \*

(3) open burning;

\* \* \*

7. Section 3.300 of the Act, 415 ILCS 5/3.300 (2002), 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.

8. Section 3.535 of the Act, 415 ILCS 5/3.535 (2002), provides as follows:

“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. . . .

9. On July 2, 1998, the Illinois EPA conducted an inspection of the ARCD site in order to investigate a complaint and observed waste fluids, including gasoline and oil, had been spilled upon the ground. The spillage of such fluids stained and contaminated the ground and gravel.

10. On November 24, 1998, the Illinois EPA conducted an inspection of the ARCD site and noted that the stained and contaminated ground and gravel resulting from the spillage of fluids had not been removed for proper disposal.



11. On October 18, 2000, the Illinois EPA conducted an inspection of the ARCD site. The stained and contaminated ground and gravel resulting from the spillage of fluids had not been removed for proper disposal.

12. On January 7, 2003, the Illinois EPA conducted an inspection of the ARCD site. The stained and contaminated ground and gravel resulting from the spillage of fluids had not been removed for proper disposal.

13. On January 9, 2004, the Illinois EPA conducted an inspection of the ARCD site. The stained and contaminated ground and gravel resulting from the spillage of fluids had not been removed for proper disposal.

14. On or before July 2, 1998, and continuing through January 9, 2004, the Defendant has caused or allowed the open dumping of waste at the ARCD site through the consolidation of refuse from numerous sources. The site is not permitted by the Illinois EPA as a sanitary landfill nor does the site meet the requirements of the Act and of the regulations and the standards promulgated thereunder.

15. By causing or allowing the open dumping of waste, the Defendant has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2002).

16. By disposing or abandoning waste at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder, the Defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2002).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Auto Recyclers - C. & D. Enterprises, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding the Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

**COUNT II**

**WASTE SAMPLING VIOLATIONS**

1-14. Plaintiff realleges and incorporates herein paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count II.

15. Section 722.111 of the Pollution Control Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.111, provides, in pertinent part, as follows:

A person who generates solid waste, as defined in 35 Ill. Adm. Code 721.102, shall determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in 35 Ill. Adm. Code 721.Subpart D.

\* \* \*

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in 35 Ill. Adm. Code 721.Subpart D, the generator shall then determine whether the waste is identified in 35 Ill. Adm. Code 721.Subpart C by either:
  - 1) Testing the waste according to the methods set forth in 35 Ill. Adm. Code 721.Subpart C, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121;

\* \* \*

16. Section 808.121 of the Pollution Control Board's Waste Disposal Regulations, 35

Ill. Adm. Code 808.121, provides, in pertinent part, as follows:

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

\* \* \*

17. From at least July 2, 1998 until January 3, 2001, ARCD failed to determine whether the stained and contaminated ground and gravel resulting from the spillage of waste fluids were hazardous or special wastes, and thereby violated Sections 722.111 and 808.121 of the Pollution Control Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 and 808.121.

18. By violating Sections 722.111 and 808.121 of the Pollution Control Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 and 808.121, ARCD has also violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Auto Recyclers - C. & D. Enterprises, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding the Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* LISA MADIGAN,  
Attorney General  
of the State of Illinois

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

BY: \_\_\_\_\_  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel  
JENNIFER BONKOWSKI  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: 10/05/04