

Electronic Filing - Received, Clerk's Office, August 26, 2008

State of Illinois
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

In the Matter of:)	
CASEYVILLE SPORT CHOICE, LLC,)	
An Illinois Limited Liability Company,)	
)	
Complainant,)	
)	
vs.)	PCB 2008-030
)	
ERMA I. SEIBER, ADMINISTRATRIX)	
OF THE ESTATE OF JAMES A. SEIBER,)	
DECEASED, AND ERMA I. SEIBER,)	
IN HER INDIVIDUAL CAPACITY, and)	
FAIRMOUNT PARK, INC. (formerly)	
known as OGDEN FAIRMOUNT, INC.,)	
A Delaware Corporation,)	
)	
Respondents.)	

**COMPLAINANT'S MOTION TO ADD PARTY DEFENDANT
AND FOR LEAVE TO AMEND COMPLAINT**

Comes now the complainant, Caseyville Sport Choice, LLC, by its attorneys, Belsheim & Bruckert, L.L.C., pursuant to Section 103.206(a) and (b) of the General Rules of the Illinois Pollution Control Board, and moves this honorable Board to give it leave to add a party defendant and to amend its Complaint to state a cause of action against the additional party defendant. In support of its motion, the complainant, Caseyville Sport Choice, LLC, states the following:

1. Fairmount Park, Inc., (formerly known as Ogden Fairmount, Inc.) a Delaware Corporation, which operated a horse racing track, was the source of the huge amount of horse

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manure and intermixed “municipal trash” on the land involved in this case, for the cleaning up of which the complainant seeks reimbursement of its costs.

2. Fairmount Park, Inc., (formerly known as Ogden Fairmount, Inc.) a Delaware Corporation, repeatedly paid James Seiber d/b/a Seiber Hauling and Contracting to haul away, from its horse racing track, large amounts of horse manure and intermixed “municipal trash,” with the expectation that Seiber would dump the horse manure and “municipal trash” on his own land rather than at a properly permitted waste-disposal site or facility.

3. Fairmount Park, Inc., (formerly known as Ogden Fairmount, Inc.) a Delaware Corporation, was thus an off-site generator of waste, within the meaning of the decision in *People ex rel Ryan vs. McFalls*, 313 Ill. App. 223, 728 N.E. 2d 1152, 245 Ill. Dec. 795 (3d Dist 2000), that caused or allowed the open dumping of the waste on the land involved in this case, in violation of §21(a) of the Illinois Environmental Protection Act (415 ILCS 5/21(a)).

4. Consequently, the complainant desires to add Fairmount Park, Inc., (formerly known as Ogden Fairmount, Inc.) a Delaware Corporation, to this proceeding as a party defendant.

5. The complainant also desires to amend its Complaint by filing a First Amended Complaint, Count II of which is directed against Fairmount Park, Inc., (formerly known as Ogden Fairmount, Inc.) a Delaware Corporation. See copy of the proposed First Amended Complaint attached hereto as Exhibit A.

WHEREFORE the complainant, Caseyville Sport Choice, LLC, prays that the Board will give it leave to add Fairmount Park, Inc., (formerly known as Ogden Fairmount, Inc.) a Delaware Corporation, as a party defendant, and leave to amend its Complaint by filing a First

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Amended Complaint, Count II of which is directed against Fairmount Park, Inc., (formerly known as Ogden Fairmount, Inc.) a Delaware Corporation.

CASEYVILLE SPORT CHOICE, LLC,
An Illinois Limited Liability Company,

By /s/ John P. Long
John P. Long #1687832
Belsheim & Bruckert, L.L.C.
1002 E. Wesley Drive, Suite 100
O'Fallon, Illinois 62269
618-624-4221/618-624-1812 Fax
Attorney for Complainant

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served a copy of the foregoing document by depositing the copy of the document in the United States mail at the post office in O'Fallon, Illinois, on August 26, 2008, enclosed in an envelope, with first-class postage thereon fully prepaid, plainly addressed to:

Donald Urban
Sprague and Urban
Attorneys at Law
26 E. Washington Street
Belleville, IL 62220

and

Illinois Corporation Service Co.
801 Adlai Stevenson Drive
Springfield, IL 62703

/s/ John P. Long
John P. Long #1687832
Belsheim & Bruckert, L.L.C.
1002 E. Wesley Drive, Suite 100
O'Fallon, Illinois 62269
618-624-4221/618-624-1812 Fax
Attorney for Complainant