

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
MACON COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 WASTE HAULING LANDFILL, INC.,)
 JERRY CAMFIELD, A. E. STALEY)
 MANUFACTURING CO., ARCHER)
 DANIELS MIDLAND, INC., ARAMARK)
 UNIFORM SERVICES, INC., BELL)
 SPORTS, INC., BORDEN CHEMICAL, CO.,)
 BRIDGESTONE/FIRESTONE, INC.,)
 CLIMATE CONTROL, INC.,)
 CATERPILLAR INC., COMBE)
 LABORATORIES, INC., GENERAL)
 ELECTRIC RAILCAR SERVICES)
 CORPORATION, P & H)
 MANUFACTURING, INC., TRINITY RAIL)
 GROUP, INC., TRIPLE S REFINING)
 CORPORATION, and ZEXEL ILLINOIS,)
 INC.)
)
 Respondents.)

**PCB NO. 2010-009
(Cost Recovery)**

RECEIVED
CLERK'S OFFICE
SEP 28 2009
STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

The undersigned certifies that I did on the 25th day of September, send by U.S. Mail, postage prepaid, the attached Answer and Affirmative Defenses and Notice of Filing, by depositing same in the U.S. Mail at St. Louis, Missouri addressed to:

Mr. John Therriault Assistant Clerk of the Board Illinois Pollution Control Board 100 West Randolph Street Suite 11-500 Chicago, Illinois 60601	Carol Webb, Esq. Hearing Officer Illinois Pollution Control Board 1021 North Grand Avenue East P.O. Box 19274 Springfield, Illinois 62794-9274
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<p>James L. Morgan, Esq. Matthew L. Morgan Office of the Attorney General Litigation Division 500 South Second Street Springfield, Illinois 62706</p>	<p>James L. Curtis, Esq. Jeryl L. Olson, Esq. Elizabeth Leifel Ash, Esq. Seyfarth Shaw LLP 131 South Dearborn Street Suite 2400 Chicago, Illinois 60603 Attorneys for Tate & Lyle Ingredients Americas, Inc. and A.E. Staley Manufacturing Co.</p>
<p>Edward W. Dwyer, Esq. Hodge Dwyer & Driver 3150 Roland Avenue P.O. Box 5776 Springfield, Illinois 62705-5776 Attorneys for P&H Manufacturing, Inc.</p>	<p>Edward Q. Costa Samuels, Miller, Schroeder, Jackson & Sly, LLP 225 North Water, Suite 301 P.O. Box 1400 Decatur, IL 62525-1400 Attorneys for Climate Control, Inc.</p>
<p>Kevin G. Desharnis Jennifer A. Simon Mayer Brown LLP 71 S. Wacker Drive Chicago, Illinois 60606 Attorneys for Caterpillar, Inc.</p>	<p>Jeffrey J. Zeiger David H. DeCelles Kirkland & Ellis LLP 300 North LaSalle Chicago, Illinois 60654-3406 Attorneys for Triple S Refining Corporation</p>
<p>Theresa Duckett Locke Lord Bissell & Liddell 111 South Wacker Drive Chicago, IL 60606 Combe Laboratories, Inc.</p>	

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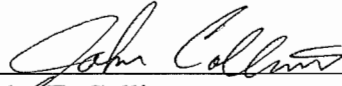
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Theresa Duckett Locke Lord Bissell & Liddell 111 South Wacker Drive Chicago, IL 60606 Combe Laboratories, Inc.	

Please take notice that on this date I mailed for filing with the Clerk of the Pollution Control Board my Respondent Bell Sports, Inc.'s Answer And Affirmative Defenses in this cause.

I verify this filing is submitted on recycled paper.

Respectfully submitted,

BELL SPORTS, INC., Respondent



John E. Collins
HUSCH BLACKWELL SANDERS LLP
190 Carondelet Plaza, Ste. 600
St. Louis, MO 63105
(314) 480-1500 – (telephone)
(314) 480-1505 (facsimile)
Attorneys for Bell Sports, Inc.

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RESPONDENT BELL SPORTS, INC.’S ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW Defendant Bell Sports, Inc. (“Bell Sports”), by and through its undersigned attorneys, and for its Answer to Plaintiff’s First Amended Complaint states as follows:

COUNT I: COST RECOVERY

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 Title VIII (Sections 30-34) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/30-34 (2008).

ANSWER

1. Bell Sports admits that Plaintiff's Complaint purports to be brought pursuant to the terms and provisions of Title VIII (Sections 30-34) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/30-34 (2008).

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 (2008), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

ANSWER

2. On information and belief, Bell Sports admits the allegations contained in Paragraph 2 of Plaintiff's Complaint.

3. This Complaint is brought pursuant to Section 22.2(f)-(k) of the Act, 415 ILCS 5/22.2(f)-(k) (2008).

ANSWER

3. Bell Sports admits that Plaintiff's Complaint purports to be brought pursuant to Section 22.2(f)-(k) of the Act, 415 ILCS 5/22.2(f)-(k) (2008) but denies that it is liable under said sections of the Act.

4. Respondent, Waste Hauling Landfill, Inc., is a corporation formerly authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Waste Hauling Landfill, Inc., operated the Waste Hauling Landfill (the "Landfill"), a former sanitary landfill located in the Northwest Quarter of the Northwest Quarter of Section 26, Township 16 North, Range 1 East (Blue Mound Township), Macon County, Illinois.

ANSWER

4. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of Plaintiff's Complaint and therefore denies each and every one of them.

5. Respondent, Jerry Camfield, is an individual and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Jerry Camfield owned Waste Hauling Landfill, Inc., and personally directed its operations.

ANSWER

5. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of Plaintiff's Complaint and therefore denies each and every one of them.

6. Respondent, A. E. Staley Manufacturing Co., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). A. E. Staley Manufacturing Co., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

6. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of Plaintiff's Complaint and therefore denies each and every one of them.

7. Respondent, Aramark Uniform Services, Inc., is a corporation no longer authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Aramark Uniform Services is a successor to Means Uniform Services. Means Uniform Services sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

7. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of Plaintiff's Complaint and therefore denies each and every one of them.

8. Respondent, Archer Daniels Midland, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Archer Daniels Midland, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

8. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of Plaintiff's Complaint and therefore denies each and every one of them.

9. Respondent, Bell Sports, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Bell Sports, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

9. Bell Sports admits that it is a corporation authorized to do business in the State of Illinois. Bell Sports further states that the remaining allegations contained in Paragraph 9 of Plaintiff's Complaint contain legal conclusions for which no response is required. To the extent a response is required, Bell Sports denies the remaining allegations contained in Paragraph 9 of Plaintiff's Complaint.

10. Respondent, Borden Chemical Co., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Borden Chemical Co., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

10. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of Plaintiff's Complaint and therefore denies each and every one of them.

11. Respondent, Caterpillar Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Caterpillar Inc. sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

11. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of Plaintiff's Complaint and therefore denies each and every one of them.

12. Respondent, Climate Control, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Climate Control, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

12. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of Plaintiff's Complaint and therefore denies each and every one of them.

13. Respondent, Combe Laboratories, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Combe Laboratories, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

13. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of Plaintiff's Complaint and therefore denies each and every one of them.

14. Respondent, Bridgestone/Firestone Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Bridgestone/Firestone Inc., is a successor to Firestone Tire & Rubber Company. Firestone Tire & Rubber Company, sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

14. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of Plaintiff's Complaint and therefore denies each and every one of them.

15. Respondent, General Electric Railcar Services Corporation, is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). General Electric Railcar Services Corporation acquired the North

American Car Corporation. The North American Car Corporation sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

15. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of Plaintiff's Complaint and therefore denies each and every one of them.

16. Respondent, Triple S Refining Corporation, is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Triple S Refining Corporation is a successor to Kerr-McGee Refining Corporation. Kerr-McGee Refining Corporation sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

16. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of Plaintiff's Complaint and therefore denies each and every one of them.

17. Respondent, P & H Manufacturing, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). P & H Manufacturing, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

17. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of Plaintiff's Complaint and therefore denies each and every one of them.

18. Respondent, Trinity Rail Group, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Trinity Rail Group, Inc., acquired Thrall Car Manufacturing Co., which had previously acquired the rail car division of Portec, Inc. Thrall Car Manufacturing Co. and the rail car division of Portec, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

18. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of Plaintiff's Complaint and therefore denies each and every one of them.

19. Respondent, Zexel Illinois, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Zexel Illinois, Inc., acquired Borg-Warner Corp. Borg-Warner Corp. sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

ANSWER

19. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of Plaintiff's Complaint and therefore denies each and every one of them.

20. Section 22.2 of the Act, 415 ILCS 5/22.2 (2008), provides that:

f. Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (j) of this Section, the following persons shall be liable for all costs of removal or remedial action incurred by the State of Illinois or any unit of local government as a result of a release or substantial threat of a release of a hazardous substance or pesticide:

1. the owner and operator of a facility or vessel from which there is a release or substantial threat of a release of a hazardous substance or pesticide;
2. any person who at the time of disposal, transport, storage or treatment of a hazardous substance or pesticide owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of a hazardous substance or pesticide;
3. any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of such hazardous substances owned or possessed by such person, by any other party or entity, at any facility, * * *, owned or operated by another party or entity and containing such hazardous substances,

* * *

ANSWER

20. Bell Sports denies each and every one of the allegations contained in paragraph 20 of Plaintiff's Complaint that is inconsistent with the Act as cited and denies that it has violated the Act. The provisions of Section 22.2 of the Act, 415 ILCS 5/22.2 (2008), speak for themselves.

21. The wastes and other materials disposed of at the Landfill include hazardous substances as defined by 3.14 of the Act, 415 ILCS 5/3.14 (2008).

ANSWER

21. The allegations contained in paragraph 21 of Plaintiff's Complaint are legal conclusions to which no response is required. All such allegations are therefore denied.

22. The State has incurred and will continue to incur removal costs, as defined by the Act, associated with the releases and threatened releases of hazardous substances at the Facility.

ANSWER

22. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of Plaintiff's Complaint and therefore denies each and every one of them.

23. Respondents are each a responsible party as described in Section 22.2(f)(1), (2), or (3) of the Act, 415 ILCS 4/22.2(f)(1), (2), or (3). Respondents are each liable for past, present, and future removal costs, as defined by the Act, incurred by the State resulting or arising out of the releases and threatened releases at the Landfill.

ANSWER

23. Bell Sports is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of Plaintiff's Complaint as they relate to parties other than Bell Sports and therefore denies each and every one of them. Bell Sports denies the remaining allegations contained in paragraph 23 of Plaintiff's Complaint and specifically denies that it is a responsible party as described in Section 22.2(f)(1), (2), or (3) of the Act, 415 ILCS 4/22.2(f)(1), (2), or (3), and denies that it is responsible for past, present, or future removal costs at the Landfill.

AFFIRMATIVE DEFENSES

Bell Sports asserts the following affirmative defenses without waiving Complainant's obligation to meet its burden of proof and without assuming any burden of proof not otherwise imposed by law. Respondent reserves the right to raise other defenses of which it may become aware of during discovery or at the time of hearing.

1. The State's Complaint is barred by the doctrine of laches, in that the State has known of the presence of alleged hazardous materials at the Waste Hauling Landfill and initiated remediation activities in 1998. Nevertheless, the State waited over 10 years before filing the present action.

2. The State's decision not to pursue this action until more than a decade after its remediation efforts began has materially compromised Bell Sports' ability to defend this action.

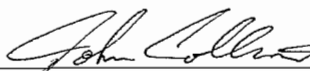
Accordingly, by failing to pursue this matter in a timely fashion, the State has deprived Bell Sports of its due process rights.

3. To the extent it is determined by the Board that Bell Sports bears responsibility for any portion of the State's response costs, which Bell Sports specifically denies, Bell Sports' liability, if any, is strictly limited by Section 58.9 of the Act, which prohibits the State from bringing an action to require any person to conduct remedial activity or seek recovery of remedial action costs beyond such person's proportionate degree of responsibility. 415 ILCS 5/58.9(a).

DATED: September 25, 2009

Respectfully submitted,

BELL SPORTS, INC., Respondent



John E. Collins
HUSCH BLACKWELL SANDERS LLP
190 Carondelet Plaza, Ste. 600
St. Louis, MO 63105
(314) 480-1500 – (telephone)
(314) 480-1505 (facsimile)
Attorneys for Bell Sports, Inc.